

Ly, Bora

**From:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Sent:** Monday, April 07, 2014 2:12 PM  
**To:** Ly, Bora  
**Cc:** Dwyer, Deborah; 'zinnera@nwattorney.net'  
**Subject:** RE: In PRP of Gregory Thomas/88921-0

*Appendices to Respondent's  
Supp Brief*

Received 4/7/2014

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

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**From:** Ly, Bora [<mailto:Bora.Ly@kingcounty.gov>]  
**Sent:** Monday, April 07, 2014 2:10 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** Dwyer, Deborah; 'zinnera@nwattorney.net'  
**Subject:** In PRP of Gregory Thomas/88921-0

Dear Supreme Court Clerk,

Attached please find the Supplemental Brief of Respondent, and the Motion for Permission to File Overlength Brief, to be filed in the above-referenced case.

Please note that the appendices will follow by messenger service and should arrive at the Court, tomorrow.

Thank you,

Bora Ly  
Paralegal  
Criminal Division, Appellate Unit  
King County Prosecutor's Office  
W554 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104  
Phone: 206-296-9489  
Fax: 206-205-0924  
E-Mail: [bora.ly@kingcounty.gov](mailto:bora.ly@kingcounty.gov)

*E* Received  
Washington State Supreme Court

APR 8 2014  
*MT*  
Ronald R. Carpenter  
Clerk

For

Debbie Dwyer  
Senior Deputy Prosecuting Attorney  
Attorney for Respondent

# **APPENDIX A**

HFV/DNOT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

FILED

Plaintiff } No. 95-1-02081-6  
MAR 11 PM 2:45

JUDGMENT AND SENTENCE

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

v.

GREGORY O. THOMAS

Defendant.

MAR 11 1996

MAR 11 1996

CERTIFIED COPY TO COUNTY JAIL  
COPY TO SENTENCING GUIDELINES COMMISSION

I. HEARING

1.1 The defendant, the defendant's lawyer, Eric Lindell and Jim Conroy, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: Diane Novicky (Doc), family &

friends of defendant & victims

1.2 The state has moved for dismissal of count(s) \_\_\_\_\_

II. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report(s) and case record to date, and there being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on (date): 11-14-95 by jury verdict of:

Count No.: <u>II</u>	Crime: <u>Murder in the First Degree (felony murder)</u>
RCW <u>9A.32.030(1)(c)</u>	Crime Code <u>00128</u>
Date of Crime <u>1-9-95</u>	Incident No. _____
And by guilty plea on <u>10-26-95</u> to:	
Count No.: <u>III</u>	Crime: <u>Attempted Residential Burglary</u>
RCW <u>9A.28.020, 9A.52.025</u>	Crime Code _____
Date of Crime <u>12-21-94</u>	Incident No. _____

Count No.: _____	Crime: _____
RCW _____	Crime Code _____
Date of Crime _____	Incident No. _____

Additional current offenses are attached in Appendix A.

SPECIAL VERDICT/FINDING(S):

- (a)  A special verdict/finding for being armed with a deadly weapon was rendered on Count(s): \_\_\_\_\_
- (b)  A special verdict/finding was rendered that the defendant committed the crimes(s) with a sexual motivation in Count(s): II
- (c)  A special verdict/finding was rendered for Violation of the Uniform Controlled Substances Act offense taking place  in a school zone  in a school  on a school bus  in a school bus route stop zone  in a public park  in public transit vehicle  in a public transit stop shelter in Count(s): \_\_\_\_\_
- (d)  Vehicular Homicide; Violent Offense (D.W.I. and/or reckless) or  Nonviolent (disregard safety of others)
- (e)  Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score (RCW 9.94A.400(1)(a)) are: \_\_\_\_\_

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number); \_\_\_\_\_  
(Current offenses not listed here are not encompassed)

96 9 06574

ACCT

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POSTED 772A

2.3 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
(a)				
(b)				
(c)				
(d)				

- Additional criminal history is attached in Appendix B.
- Prior convictions (offenses committed before July 1, 1986) served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(6)(c)): \_\_\_\_\_
- One point added for offense(s) committed while under community placement for count(s) \_\_\_\_\_

2.4 SENTENCING DATA: OFFENDER SCORE      SERIOUSNESS LEVEL      RANGE      MAXIMUM TERM

Count II : Murder 1      1      XIV      250-333 mos.      20 - Life

Count III : Att. Res. Burg. 1      II      4.5 - 9 mos.      5 yrs.

Count \_\_\_\_\_ : \_\_\_\_\_

- Additional current offense sentencing data is attached in Appendix C.

2.4 EXCEPTIONAL SENTENCE:

Substantial and compelling reasons exist which justify a sentence above below the standard range for Count(s) II

Findings of fact and conclusion(s) are attached in Appendix B, will be presented 3-15-96 at 8:30 am.

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

- The Court DISMISSES Count(s) \_\_\_\_\_

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION AND VICTIM ASSESSMENT:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.142(2), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future hearing on (Date) 4-2-96 at 8:30 a. m.  Date to be set.
- Defendant waives presence at future restitution hearing(s).

Defendant shall pay \$100 Victim Assessment, pursuant to RCW 7.68.035.

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a)  \$ \_\_\_\_\_, Court costs;  Court costs are waived;
- (b)  \$ \_\_\_\_\_, Recoupment for attorney's fees to King County Public Defense Programs, 2015 Smith Tower, Seattle, WA 98104;  Recoupment is waived (RCW 10.01.160);
- (c)  \$ \_\_\_\_\_, Fine;  \$1,000, Fine for VUCSA;  \$2,000, Fine for subsequent VUCSA;  VUCSA fine waived (RCW 69.50.430);
- (d)  \$ \_\_\_\_\_, King County Interlocal Drug Fund;  Drug Fund payment is waived;
- (e)  \$ \_\_\_\_\_, State Crime Laboratory Fee;  Laboratory fee waived (RCW 43.43.690);
- (f)  \$ \_\_\_\_\_, Incarceration costs;  Incarceration costs waived (9.94A.145(2));
- (g)  \$ \_\_\_\_\_, Other cost for: \_\_\_\_\_

4.3 PAYMENT SCHEDULE: Defendant's TOTAL FINANCIAL OBLIGATION is: \$ 100 + restit. . The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms:

- Not less than \$ \_\_\_\_\_ per month;  On a schedule established by the defendant's Community Corrections Officer.  \_\_\_\_\_
- The defendant shall remain under the Court's jurisdiction and the supervision of the Department of Corrections for up to ten years from date of sentence or release from confinement to assure payment of financial obligations.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing:  Immediately;  (Date): \_\_\_\_\_ by \_\_\_\_\_ m.

999 months on Count No. II

9 months on Count No. III

\_\_\_\_\_ months on Count No. \_\_\_\_\_

The terms in Count(s) No. 1 & 2 are concurrent consecutive. The sentence herein shall run concurrently/consecutively with the sentence in cause number(s) \_\_\_\_\_ but consecutive to any other cause not referred to in this Judgment.

Credit is given for ~~1000~~ days served  days as determined by the King County Jail solely for conviction under this cause number pursuant to RCW 9.94A.120(13), to include custody in King Co. Jail & Juvenile Detention.

4.5  NO CONTACT: For the maximum term of life years, defendant shall have no contact with any witness

Violation of this no contact order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

4.6 BLOOD TESTING: (sex offense, violent offense, prostitution offense, drug offense associated with the use of hypodermic needles) Appendix G is a blood testing and counseling order that is part of and incorporated by reference into this Judgment and Sentence.

4.7 COMMUNITY PLACEMENT: Community Placement is ordered for sex offense, serious violent offense, second degree assault, deadly weapon finding, Chapter 69.50 or 69.52 RCW offense, and standard mandatory conditions are ordered. Community placement is ordered for the maximum period of time provided by law.  Appendix H (for additional conditions) is attached and incorporated by reference in this Judgment and Sentence.

4.8  WORK ETHIC CAMP: The court finds that the defendant is eligible for work ethic camp and is likely to qualify under Sec. 4(3), Chap. 338, Laws of 1993 and the Court recommends that the defendant serve the sentence at a work ethic camp. If the defendant successfully completes the program, the Department of Corrections shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp confinement to three days of total standard confinement. Upon completion of the work ethic camp program, the defendant shall be released on community custody for any remaining time of total confinement.

4.9  SEX OFFENDER REGISTRATION (sex offender crime conviction): Appendix J is attached and incorporated by reference into this Judgment and Sentence.

4.10  OTHER: \_\_\_\_\_

The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: 3-1-96

Presented by:

K. Richardson  
Deputy Prosecuting Attorney,  
Office WSBA ID #91002

Mary W. Bucker  
Judge, King County Superior Court  
Approved as to form:

[Signature]  
Attorney for Defendant, WSBA # 18972

934

HIV/DNA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

*Gregory Thomas,*

Defendant.

No. 95-1-02081-6

APPENDIX G  
ORDER FOR BLOOD TESTING  
AND COUNSELING

(1)  HIV TESTING AND COUNSELING:

(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense committed after March 23, 1988. RCW 70.24.340):

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 296-4848 to make arrangements for the test to be conducted within 30 days.

(2)  DNA IDENTIFICATION:

(Required for defendant convicted of sexual offense or violent offense. RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention and/or the State Department of Corrections in providing a blood sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangement for the test to be conducted within 15 days.

If both (1) and (2) are checked, two independent blood samples shall be taken.

Date:

3-1-95

*Marjorie Buech*  
Judge, King County Superior Court

APPENDIX G

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

Gregory Thomas;

Defendant.

No. 95-1-02081-6

APPENDIX H  
COMMUNITY PLACEMENT

The Court having found the defendant guilty of offense(s) qualifying for community placement, it is further ordered as set forth below.

**COMMUNITY PLACEMENT:** Defendant additionally is sentenced on convictions herein, for each sex offense and serious violent offense committed on or after 1 July 1990 to community placement for two years or up to the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2) whichever is longer and on conviction herein for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, to a one-year term of community placement.

Community placement is to begin either upon completion of the term of confinement or at such time as the defendant is transferred to community custody in lieu of early release.

(a) **MANDATORY CONDITIONS:** Defendant shall comply with the following conditions during the term of community placement:

- (1) Report to and be available for contact with the assigned community corrections officer as directed;
- (2) Work at Department of Corrections-approved education, employment, and/or community service;
- (3) Not consume controlled substances except pursuant to lawfully issued prescriptions;
- (4) While in community custody not unlawfully possess controlled substances; and
- (5) Pay community placement fees as determined by the Department of Corrections.
- (6) Defendant shall not own, use, or possess a firearm or ammunition when sentenced to community service, community supervision or both. (RCW 9.94A.120(13))

**WAIVER:** The following above-listed mandatory conditions are waived by the court: (5) fees & related interest

(b)  **OFF-LIMITS ORDER (SODA):** The Court finds that the defendant is a known drug trafficker as defined in RCW 10.66.010(3) who has been associated with drug trafficking in an area described in Attachment A. Attachment A is incorporated by reference into the Judgment and Sentence and the Court also finds that the area described in Attachment A is a Protected Against Drug Trafficking area (PADT). As a condition of community placement, the defendant shall neither enter nor remain in the PADT area described in Attachment A.

(c) **OTHER CONDITIONS:** Defendant shall comply with the following other conditions during the term of community placement:

Date: 8-10-96  
APPENDIX H - COMMUNITY PLACEMENT

[Signature]  
Judge, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

*Gregory Thomas*

Defendant.

No. 95-1-02081-6

APPENDIX J  
JUDGMENT AND SENTENCE -  
SEX OFFENDER NOTICE OF  
REGISTRATION REQUIREMENTS

The defendant having been convicted of a sex offense ((a) Violation of Chapter 9A.44 RCW or RCW 9A.64.020 or RCW 9.68A.090 or that is, under Chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes or (b) a felony with a finding of sexual motivation under RCW 9.94A.127, the defendant is hereby notified of sex offender registration requirements of RCW 9A.44.130-.140 and is ordered to register with the county sheriff in accordance with the following registration requirements.

REGISTRATION REQUIREMENTS

1. The defendant must register with the Sheriff of the county in Washington state where he resides. When registering, the defendant shall provide the county sheriff with the following: (a) name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; (h) social security number; (i) photograph; and (j) fingerprints. The defendant must register immediately upon completion of being sentenced if not sentenced to begin serving a term of confinement immediately upon completion of being sentenced. Otherwise, he must register within 24 hours of the time of his release if sentenced to the custody of the Department of Corrections, Department of Social and Health Services, a local division of youth services, a local jail, or a juvenile detention facility.
2. If defendant does not now reside in Washington, but subsequently moves to this state, he must register within 24 hours of the time he begins to reside in this state, if at the time of the move he is under the jurisdiction of the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services. If at the time of defendant's move to this state he is not under the jurisdiction of one of those agencies, then he must register within 30 days of the time defendant begins to reside in this state.
3. If defendant subsequently changes residences within a county in this state, he must notify the county sheriff of that change of residence in writing within 10 days of the change of residence. If defendant subsequently moves to a new county within this state, he must register all over again with the sheriff of the new county and must notify the former county sheriff (i.e. the county sheriff of his former residence) of that change of residence in writing, and defendant must complete both acts within 10 days of the change of residence.
4. It is a crime to knowingly fail to register in accordance with the above registration requirements.

I have read and understand these sex offender registration requirements.

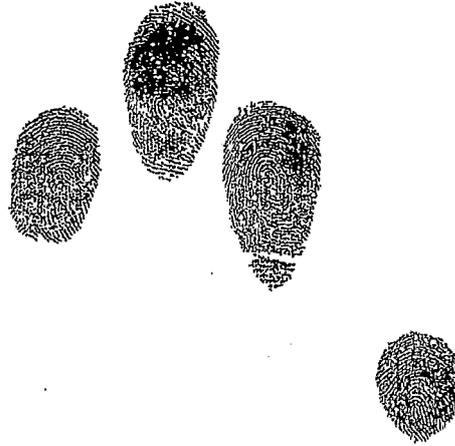
*Gregory Thomas*  
Defendant  
Date: 3/1/96

Presented by:  
*K Richardson*  
Deputy Prosecuting Attorney 91002

*Meredith Bluck*  
JUDGE KING COUNTY SUPERIOR COURT  
Approved as to form:  
*S D* #18972  
Defense Attorney

APPENDIX J

FINGERPRINTS



Right Hand  
Fingerprints of:

Defendant's Signature: Gregory Thomas  
Defendant's Address: \_\_\_\_\_

Dated: 3-1-96  
[Signature]  
JUDGE, KING COUNTY SUPERIOR COURT

Attested by:  
M. Janice Michels, Superior Court Clerk  
By: [Signature]  
Deputy Clerk

CERTIFICATE

OFFENDER IDENTIFICATION

I, \_\_\_\_\_,  
Clerk of this Court, certify that the  
above is a true copy of the Judgment and  
Sentence in this action on record in my  
office.

S.I.D. No. WA 17450436

Date of Birth: 5/26/1979

Sex: M

DATED: \_\_\_\_\_

Race: B

CLERK

By: \_\_\_\_\_  
Deputy Clerk

## **APPENDIX B**

FILED

1995 MAR 29 PM 4:12

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

1 THE STATE OF WASHINGTON, )

2 )  
3 Plaintiff, )

No. 95-1-02081-6

4 v.

5 GREGORY O. THOMAS )

6 INFORMATION

7 )  
8 )  
9 Defendant. )

WARRANT ISSUED  
CHARGE COUNTY \$110.00

10  
11 COUNT I

12 I, Norm Maleng, Prosecuting Attorney for King County in the  
13 name and by the authority of the State of Washington, do accuse  
14 GREGORY O. THOMAS of the crime of Murder in the First Degree,  
15 committed as follows:

16 That the defendant GREGORY O. THOMAS in King County, Washington  
17 on or about January 9, 1995, while committing and attempting to  
18 commit the crime of Rape in the First Degree, Rape in the Second  
19 Degree, and Rape in the Third Degree, and in the course of and in  
20 furtherance of said crime and in the immediate flight therefrom, and  
21 with premeditated intent to cause the death of another person, did  
22 cause the death of Ruth Lamere, a human being, who died on or about  
23 January 9, 1995;

24 Contrary to RCW 9A.32.030(1)(a) and (c), and against the peace  
25 and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid further do  
accuse GREGORY O. THOMAS of the crime of Attempted Residential  
Burglary, based on a series of acts connected together with another  
crime charged herein, which crimes were part of a common scheme or  
plan, committed as follows:

That the defendant GREGORY O. THOMAS in King County, Washington  
on or about December 21, 1994, did attempt to enter and remain

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unlawfully in the dwelling of Mary Jo Stout, located at 1235  
Northeast 100th Street, Seattle, in said county and state, with  
intent to commit a crime against a person or property therein;

Contrary to RCW 9A.28.020 and 9A.52.025, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: K Richardson  
Kristin Richardson, WSBA #91002  
Senior Deputy Prosecuting Attorney

2  
3 CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

4 That Kristin Richardson is a Senior Deputy Prosecuting Attorney  
5 for King County and is familiar with the police report and  
6 investigation conducted in Seattle Police Department case No.  
7 94-13772 and 95-575829;

8 That this case contains the following upon which this motion  
9 for the determination of probable cause is made;

10 Mrs. Ruth Lamere, age 71 years, was bludgeoned to death in her  
11 home on January 9, 1995. She was also sexually assaulted. The  
12 defendant, Gregory O. Thomas (date of birth May 26, 1979), confessed  
13 to the crime after his arrest on January 10, 1995. He attacked Mrs.  
14 Lamere after she arrived home from work. He had been hiding in a  
15 closet.

16 Mrs. Lamere died of blunt-force injury to the brain. The  
17 Medical Examiner (ME) reports that her skull was fractured and her  
18 brain was lacerated. The ME found three separate areas of impact  
19 caused by multiple blows to the right of the back of the head.  
20 These injuries are consistent with having been inflicted with a  
21 hammer. Other injuries noted by the ME were a laceration to the  
22 right breast, probably inflicted after death; bruises on the right  
23 wrist consistent with being grabbed by a hand; and multiple bruises  
24 on both legs consistent with having been dragged.

25 Mrs. Lamere was found by neighbors in a bedroom of her  
residence at 10:30 p.m. on January 9, 1995. She was naked from the  
waist down. There was blood on both sides of her legs which the ME  
believes was transferred from her head wounds. The victim had  
contusions and abrasions of her vaginal and anal areas, consistent  
with penetration. There was a condom found near the body.

The defendant lives at 11029 53rd Avenue South in Seattle,  
Washington. Mrs. Lamere was his neighbor and resided at 5349 South  
Leo Street in Seattle, King County, Washington. The defendant  
forced entry into the Lamere home by prying off a board covering a  
back window. At the point of entry, investigators found personal  
items belonging to the defendant. Some of the items bore his name.  
Also found at the point of entry were Maxx-brand condoms and a  
ripped pocket.

Mrs. Lamere had reported an early-morning prowler on January 7,  
1995. She described the prowler as a black male, five foot eleven  
and 150 pounds. The defendant is a black male, five foot ten, and

Certification for Determination  
of Probable Cause - 1

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

1 152 pounds. The defendant admitted to entering Mrs. Lamere's back  
2 yard on January 6, 1995, when, in fact, a window to her house  
shattered. This window became the entry point for the murder.

3 Investigators prepared a search warrant for the defendant's  
4 residence and executed it at 3:50 a.m. on January 10, 1995.  
5 Investigators found bloody clothing and shoes in the defendant's  
6 bedroom. A bloody hammer was found in the yard. Condoms matching  
7 the kind found at the point of entry were also retrieved from the  
pockets of the pants the defendant reported wearing the night  
before. Also found in the bedroom were many used and new condoms,  
including Maxx-brand condoms.

8 The defendant was arrested at 3:50 a.m. on January 10, 1995.  
9 After Miranda warnings, he admitted to striking Mrs. Lamere three  
10 times with the hammer. The defendant told detectives he entered the  
11 Lamere home by prying off a wooden board which covered a recently  
12 broken window. He entered the house and admitted ripping his jacket  
at the point of entry. Mrs. Lamere was not at home when the  
defendant entered. He told detectives he remained in the house for  
approximately thirty minutes when he heard Mrs. Lamere's garage door  
open. He then hid in a closet and watched Mrs. Lamere for a period  
of time. The defendant told detectives he brought the hammer into  
the home with him.

13 After thirty to forty-five minutes, the defendant said, he came  
14 out of the closet and attacked Mrs. Lamere. He admitted hitting her  
15 in the head three times. He remained in the residence for some  
16 time, then left and replaced the plywood over the point of entry.  
The defendant said he was familiar with Mrs. Lamere's schedule and  
knew when she would leave and return from work.

17 Less than three weeks earlier, on or about December 21, 1994,  
18 Mary Jo Stout was home alone at her residence located at 1235  
19 Northeast 100th Street in Seattle, King County, Washington. At  
20 approximately 8:11 p.m., the defendant came to Ms. Stout's front  
21 door selling candy. Since Ms. Stout did not know him, she did not  
22 open the door and instructed him to leave. Ms. Stout heard him  
walking away and went back upstairs to answer her telephone. While  
she was talking on the telephone, she noticed the floodlights go on  
in her back yard. These floodlights are activated by motion  
detectors. Ms. Stout looked out her back window and saw the  
defendant unscrewing the floodlights near her basement door. She  
immediately called 911.

23 Seattle Police Officers Salisbury and Skaar arrived and saw the  
24 defendant walking down the street, approximately three houses east  
25 of Ms. Stout's home. Officer Skaar detained him while Officer  
Salisbury checked Ms. Stout's home and yard. No one was found

Certification for Determination  
of Probable Cause - 2

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

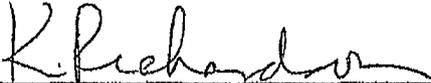
1 around the premises. However, Officer Salisbury observed footprints  
2 in the dew on the rear deck of the house. The clearly visible  
3 footprints had a very distinctive tread and were later found to  
4 match the soles of the defendant's shoes. The footprints led to the  
5 rear sliding glass door, then to the motion sensor lights, and then  
6 back to the sliding door. Upon checking the motion sensor lights,  
7 Officer Salisbury found that the lights had been unscrewed. It was  
8 further found that similar footprints were observed leading to the  
9 rear basement door. The motion sensor lights near the basement door  
10 had also been unscrewed.

11 After waiving his rights, the defendant admitted he unscrewed  
12 the lights and tried the back doors to see if they were unlocked.  
13 At one point, the sliding deck door opened when he tried it.  
14 However, he did not go inside, even though he had thought about it.

15 The police discovered several of the defendant's fingerprints  
16 on the unscrewed floodlights.

17 Bail of \$500,000 is requested. The defendant stalked Mrs.  
18 Lamere before killing her and is a clear danger to the community.  
19 Juvenile Court jurisdiction has been declined by Judge Bobbe Bridge.

20 Under penalty of perjury under the laws of the State of Washington,  
21 I certify that the foregoing is true and correct. Signed and dated  
22 by me this 29 day of March, 1995, at Seattle, Washington.

23  
24  
25  
  
26 Kristin Richardson, WSBA #91002

27 Certification for Determination  
28 of Probable Cause - 3

29 Norm Maleng  
30 Prosecuting Attorney  
31 W 554 King County Courthouse  
32 Seattle, Washington 98104-2312  
33 (206) 296-9000

FILED

95 MAR 30 PM 3:57

KING COUNTY  
SUPERIOR COURT CLERK  
SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 GREGORY O. THOMAS )  
 )  
 Defendant. )

No. 95-1-02081-6

AMENDED INFORMATION

COUNT I

I, Norm Maleng, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse GREGORY O. THOMAS of the crime of Aggravated Murder in the First Degree, committed as follows:

That the defendant GREGORY O. THOMAS in King County, Washington on or about January 9, 1995, with premeditated intent to cause the death of Ruth Lamere, a human being, did cause the death of Ruth Lamere while further aggravating circumstances exist, to-wit: that the defendant committed the murder in the course of, in furtherance of, or in immediate flight from the crimes of Rape in the First Degree, Rape in the Second Degree, and Burglary in the First Degree;

Contrary to RCW 9A.32.030(1)(a) and 10.95.020(b) and (c), and against the peace and dignity of the State of Washington.

COUNT II

And I, Norm Maleng, Prosecuting Attorney aforesaid, do accuse GREGORY O. THOMAS of the alternate crime of Murder in the First Degree, committed as follows:

That the defendant GREGORY O. THOMAS in King County, Washington on or about January 9, 1995, while committing and attempting to commit the crime of Rape in the First Degree, Rape in the Second Degree, and Burglary in the First Degree, and in the course of and in furtherance of said crimes and in immediate flight therefrom, did

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

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1 cause the death of Ruth Lamere, a human being who was not a  
2 participant in the crime, and who died on or about January 9, 1995;

3 Contrary to RCW 9A.32.030(1)(c), and against the peace and  
4 dignity of the State of Washington.

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COUNT III

5 And I, Norm Maleng, Prosecuting Attorney aforesaid further do  
6 accuse GREGORY O. THOMAS of the crime of Attempted Residential  
7 Burglary, based on a series of acts connected together with another  
8 crime charged herein, which crimes were part of a common scheme or  
9 plan, committed as follows:

8 That the defendant GREGORY O. THOMAS in King County, Washington  
9 on or about December 21, 1994, did attempt to enter and remain  
10 unlawfully in the dwelling of Mary Jo Stout, located at 1235  
11 Northeast 100th Street, Seattle, in said county and state, with  
12 intent to commit a crime against a person or property therein;

11 Contrary to RCW 9A.28.020 and 9A.52.025, and against the peace  
12 and dignity of the State of Washington.

13 NORM MALENG  
14 Prosecuting Attorney

15 By: Kristin Richardson  
16 Kristin Richardson, WSBA #91002  
17 Senior Deputy Prosecuting Attorney

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Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

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KING COUNTY  
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SEATTLE, WA.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 95-1-02081-6
	)	
v.	)	SECOND AMENDED INFORMATION
GREGORY O. THOMAS	)	
	)	
	)	
	)	
Defendant.	)	

COUNT I

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Contrary to RCW 9A.32.030(1)(a) and 10.95.020(9)(a)(b) and (c), and against the peace and dignity of the State of Washington.

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Norm Maleng  
 Prosecuting Attorney  
 W 554 King County Courthouse  
 Seattle, Washington 98104-2312  
 (206) 296-9000

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1 and Burglary in the First Degree, and in the course of and in  
2 furtherance of said crimes and in immediate flight therefrom, did  
3 cause the death of Ruth Lamere, a human being who was not a  
4 participant in the crime, and who died on or about January 9, 1995;

5 Contrary to RCW 9A.32.030(1)(c), and against the peace and  
6 dignity of the State of Washington.

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unlawfully in the dwelling of Mary Jo Stout, located at 1235  
Northeast 100th Street, Seattle, in said county and state, with  
intent to commit a crime against a person or property therein;

Contrary to RCW 9A.28.020 and 9A.52.025, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: Kristin Richardson  
Kristin Richardson, WSBA #91002  
Senior Deputy Prosecuting Attorney

FILED

CAUSE NO 95-1-02081-6

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA  
SUPPLEMENTAL CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

That Kristin Richardson is a Senior Deputy Prosecuting Attorney for King County and is familiar with the police report and investigation conducted in Seattle Police Department case No. 95-13772 and 94-575829;

That this case contains the following upon which this motion for the determination of probable cause is made;

On June 29, 1995, Seattle Police Detective Kevin O'Keefe received a call from the King County Police. A King County Jail inmate, Lionel Berrysmith, had telephoned them to report that his cell mate, defendant Gregory Thomas, had confessed to killing Mrs. Lamere.

O'Keefe took a full statement from Berrysmith. He stated that the defendant told him, among other things, that after the slaying the defendant took a fifty-dollar bill from Mrs. Lamere's purse and left the house with it. Police who searched the defendant's bedroom on January 10, 1995 had found a fifty-dollar bill hidden under his mattress.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 3 day of ~~July~~, 1995, at Seattle, Washington.

*August,*

K Richardson  
Kristin Richardson, WSBA #91002

*ha*

OCT 11 1995

SUPERIOR COURT CLERK  
BY BENJAMIN S. YOUNG  
DEPUTY

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	No. 95-1-02081-6
	)	
v.	)	THIRD AMENDED INFORMATION
GREGORY O. THOMAS	)	
	)	
	)	
Defendant.	)	

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Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

1 cause the death of Ruth Lamere, a human being who was not a  
2 participant in the crime, and who died on or about January 9, 1995;

3 Contrary to RCW 9A.32.030(1)(c), and against the peace and  
4 dignity of the State of Washington.

5 And I, Norm Maleng, Prosecuting Attorney for King County in the  
6 name and by the authority of the State of Washington further do  
7 accuse the defendant GREGORY O. THOMAS of commission of this crime  
8 with sexual motivation, that is: that one of the purposes for which  
9 the defendant committed this crime was for the purpose of his sexual  
10 gratification, under the authority of RCW 9.94A.127.

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COUNT III

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intent to commit a crime against a person or property therein;

Contrary to RCW 9A.28.020 and 9A.52.025, and against the peace  
and dignity of the State of Washington.

NORM MALENG  
Prosecuting Attorney

By: K Richardson  
Kristin Richardson, WSBA #91002  
Senior Deputy Prosecuting Attorney

## **APPENDIX C**

FILED

SUPERIOR COURT OF THE STATE OF WASHINGTON  
9500 1ST AVENUE S.E.  
FOR KING COUNTY

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

\_\_\_ Accelerated  
\_\_\_ Non Accelerated  
\_\_\_ DPA \_\_\_ Defense

STATE OF WASHINGTON,

Plaintiff,

v.

Gregory O. Thomas

Defendant,

NO. 95-1-02081-6

STATEMENT OF DEFENDANT  
ON PLEA OF GUILTY  
(Felony)

1. My true name is Gregory Otis Thomas

2. My age is 16 Date of Birth 5-26-79

3. I went through the 9<sup>th</sup> grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is Eric Lindell / Jim Connors

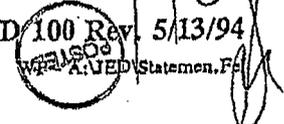
(b) I am charged with the crime(s) of Attempted Residential Burglary (Ch. 3)

The elements of this crime(s) are Knowingly attempt to enter or remain unlawfully in a dwelling with the intent to commit a crime against persons or property therein

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;



(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me:

(e) The right to be presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA(S), I UNDERSTAND THAT:

(a) The crime with which I am charged carries a maximum sentence of 5 years imprisonment and a \$ 5000 fine.

RCW 9.94A.030(21), provides that for a third conviction for a "most serious offense" as defined in that statute, I may be found to be a **Persistent Offender**. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4). The law does not allow any reduction of this sentence.

(b) The standard sentence range is from 9 (days) months to 10.5 (days) months confinement, based on the prosecuting attorney's understanding of my criminal history. The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history always includes juvenile convictions for sex offenses and also for Class A felonies that were committed when I was 15 years of age or older. Criminal history also may include convictions in juvenile court for felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for sex offenses and Class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete.

If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if I was on community placement at the time of the offense to which I am now pleading guilty, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendations may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase.

If the current offense to which I am pleading guilty is a most serious offense as defined by RCW 9.94A.030(21), and additional criminal history is discovered, not only do the conditions of the prior paragraph apply, but also if my discovered criminal history contains two prior convictions, whether in this state, in federal court, or elsewhere, of most serious offense crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4):

Even so, my plea of guilty to this charge may be binding on me. I may not be able to change my mind if additional criminal history is discovered, even though it will result in the mandatory sentence that the law does not allow to be reduced.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$ 100<sup>00</sup> as a victim's compensation fund assessment. If this crime resulted in injury to any person or damages to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_

10.5 months, VPA, ACCOURNMENT, COSTS, NCO Many To Start

12 mo. Community SUPERVISION

(g) The judge does not have to follow anyone's recommendation as to the sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. The law does not allow any reduction of this sentence. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

6-01 The crime of \_\_\_\_\_ is a most serious offense as defined by RCW 9.94A.030(21), and if a fact finder determines that I have at least two prior convictions on separate occasions whether in this state, in federal court, or elsewhere, of most serious offense crimes, I may be found to be a Persistent Offender. If I am found to be a Persistent Offender, the Court must impose the mandatory sentence of life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.120(4).

(i) The sentence imposed on counts I II III will run concurrently unless the judge finds substantial and compelling reason to do otherwise. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

6-01 (j) In addition to confinement, the judge will sentence me to community placement for at least one year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

(k) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

6-01 (l) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

6-01 (m) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

6-01 (n) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

6-01 (o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.]

6-01 (p) If this crime involves a sex offense, I will be required to register with the sheriff of the county in this state where I reside. I must register immediately upon completion of being sentenced if I am not sentenced to begin serving a term of confinement immediately upon completion of being sentenced. Otherwise, I must register within 24 hours of the time of my release if I am sentenced to the custody of the Department of Corrections, Department of Social and Health Services, a local division of youth services, a local jail, or a juvenile detention facility.

If I do not now reside, in Washington, but I subsequently move to this state, I must register within 24

6-07 hours of the time I begin to reside in this state, if at the time of my move I am under the jurisdiction of the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services. If at the time I move to this state I am not under the jurisdiction of one of those agencies, then I must register within 30 days of the time I begin to reside in this state.

6-07 If I subsequently change residences with a county in this state, I must notify the county sheriff of that change of residence in writing within 10 days of my change of residence. If I subsequently move to a new county within this state, I must register all over again with the sheriff of my new county, and I must notify my former county sheriff (that is, the county sheriff of my former residence) of that change of residence in writing, and I must complete both acts within 10 days of my change of residence. [If none of the above three paragraphs is applicable, they should all be stricken and initialed by the defendant and the judge.]

7. I plead Guilty to the crime of Attempted Residential Burglary as charged in the count III of the information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this (these) crime(s). This is my statement:

After consulting with my attorneys I believe there is a substantial likelihood I would be convicted at trial I am pleading guilty to take advantage of the prosecutors plea offer. I substantiate the count to make a factual finding based on Seattle Police Department incident report # 94-575829

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Mary Thomas  
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

K Richardson  
PROSECUTING ATTORNEY 91002

J H 563 / 52 #18973  
DEFENDANT'S LAWYER

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriated box]:

- (a) The defendant had previously read; or
- (b) The defendant's lawyer had previously read to him or her; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

DATED this 26 day of Oct, 1995

Mary G. Miller  
JUDGE

I am fluent in the \_\_\_\_\_ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

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INTERPRETER

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## **APPENDIX D**

SEATTLE POLICE DEPARTMENT

Ex 74

E 1/10/94 TIME 0612 PLACE

STATEMENT OF THOMAS, Gregory

Pretrial

State Exhibit 16  
95-1-02081-6

No. State of Washington

vs. Gregory Thomas  
Defendant

FILED  
KING COUNTY, WASHINGTON

OCT 12 1995

SUPERIOR COURT CLERK  
BY BENJAMIN S. YOUNG  
DEPUTY

O'Keefe: This is Detective O'Keefe, Seattle Police Department Home Unit. Today's date is 10, correction, 1/10/95. The time is 6:12. This interview is going to be in reference to Seattle Police Department Case No. 95-13772. I'm at the Seattle Police Department headquarters with Gregory Otis Thomas. And before the questioning of any statement I'm going to re-advise you of your rights. The first right I've advised you once, is that true Greg?

Thomas: Yes.

O'Keefe: And here's, they advised you and I'm going to advise you of an explanation of my constitutional rights. Before questioning of any statement I, Gregory Otis Thomas, have been advised by Detective K O'Keefe of the following rights. One, I have the right to remain silent. Two, any statement that I do make, either orally or in writing, may be used as evidence against me in a court of law. I understand that if I am a juvenile my statement may be used against me in a criminal prosecution in the event that the juvenile court declines jurisdiction in my case. Now do you understand what that means?

Thomas: Yes, yes, I do.

O'Keefe: Alright, number three - I have the right at this time to an attorney of my own choosing and to have him present before and during questioning and the making of any statement. Number four - if I cannot afford an attorney I am entitled to have one appointed for me by a court without cost to me and to have him present before and during questioning and the making of any statement. Okay, Gregory, could you sign right by this "x" here and right by this "x" here and then initial each right.

Thomas: Okay. Here too, right?

O'Keefe: Right there too. And before you go any further I'm going to read that waiver of constitutional rights too. Okay, it says waiver of my constitutional rights. I have read the above explanation of my constitutional rights and I understand them. I have decided not to exercise these rights at this time. The following statement is made by me freely and voluntarily without threats or promises of any kind. Okay. And I'd like you to sign right down there too. That means we haven't threatened you or anything like that to get you to talk to us here. You're doing this of your own free will.

Lima: Is that correct?

Thomas: Yeah.

O'Keefe: Okay, now one more time. You have the right to remain silent. Okay,

STATEMENT TAKEN BY:

SIGNED:

WITNESS

WITNESS:

SEATTLE POLICE DEPARTMENT

INCIDENT NUMBER  
95-13772

DATE TIME PLACE

STATEMENT OF THOMAS, Gregory

O'Keefe: anything you do say can be used against you in a court of law, okay. It can also be used against you if the juvenile court declines jurisdiction. That means if they say well I want the adult court to have it, alright. Then they can still use the statement, do you understand that part?

Thomas: Yes.

O'Keefe: Okay, and I have the right at this time to an attorney of my own choosing and to have him present before and during questioning and the making of any statement. Do you understand that?

Thomas: Yes.

O'Keefe: And if I cannot afford an attorney you are entitled to have one appointed for you by a court without cost to you and have him present before and during questioning and the making of any statement. Do you understand that?

Thomas: Yes, I do.

O'Keefe: Okay, great. So do you have any questions about your rights?

Thomas: No.

O'Keefe: Okay, alright, Gregory, we started talking earlier today, about 5:00, about the woman over on Leo Street, okay. And you told us that you had hit her with a hammer, is that correct?

Thomas: Yes, it is.

O'Keefe: Okay, I'm going to go into a little bit more detail now and what I'd like you to do is first tell me when did you go over to her house?

Thomas: Let me see..

O'Keefe: And you have to speak up, Greg.

Thomas: Alright. Let me see, it was around, let's see, 4:00.

O'Keefe: 4:00?

Thomas: Yeah.

O'Keefe: Okay, and by the way you're aware I'm tape recording this conversation is that right?

Thomas: Yes, I am.

STATEMENT TAKEN BY SIGNED

WITNESS WITNESS

TE \_\_\_\_\_ TIME \_\_\_\_\_ PLACE \_\_\_\_\_  
STATEMENT OF THOMAS, Gregory

O'Keefe: Okay, and you over to her house at 4:00. Okay, how did you get into the house?

Thomas: Let's see, I took the board down.

O'Keefe: Okay, where was the board?

Thomas: It was on the window.

O'Keefe: Okay, what part, what window?

Thomas: The far window covered by the trees.

O'Keefe: Okay, that's over on the east side of the house?

Thomas: Yes, on the east side.

O'Keefe: And how did you take it off?

Thomas: What I did is, I grabbed the top and I pulled and the board came off.

O'Keefe: Okay and when you got the board off, what did you do?

Thomas: I laid it down and then I just (unintelligible) the window, took off my coat and then I went in and then I brung my coat through.

O'Keefe: Okay, you brought your coat through?

Thomas: Yeah, and it got snugged(sic).

O'Keefe: It got snugged?

Thomas: Yeah.

O'Keefe: You mean snagged?

Thomas: Yeah, caught.

O'Keefe: And what happened?

Thomas: Then the pocket ripped and I didn't feel like going back to the window so I just left it there.

O'Keefe: Okay, did you know if anything dropped out of it at that time?

Thomas: No, I didn't.

O'Keefe: Alright, okay, now you're kind of a soft spoken guy. I'm going to turn

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STATEMENT OF THOMAS, Gregory

O'Keefe: this off for one second and see how we're coming on the recording.

Thomas: Okay.

O'Keefe: The time now is 0618 hours. Okay, it's still 0618 hours and I just tested the recorder. Okay, you're going to have to speak up just a little bit, Greg, okay.

Thomas: Okay.

O'Keefe: Great. Alright, now you got inside and you came inside, you pulled the coat through and it ripped.

Thomas: Yes, the pocket of it ripped off.

O'Keefe: Okay, alright. What kind, what's, describe that coat to me.

Thomas: Alright, it has a fur hood, water resistant, nylon, 100% polyester.

O'Keefe: Alright, what color was it?

Thomas: It sort of bluish color.

O'Keefe: Alright, so when you went inside it's about 4:00 or so. What did you do?

Thomas: First I checked out the place and looked at the time.

O'Keefe: Looked at the time?

Thomas: Yeah.

O'Keefe: Where did you find a..

Thomas: A clock?

O'Keefe: A clock, yes.

Thomas: It was in the kitchen on the TV.

O'Keefe: Okay, what kind of clock is it?

Thomas: It was one of those, not one of those old fashioned clocks but it had where the numbers change, where you see when they change.

O'Keefe: The numbers flip?

Thomas: Yeah, they flip around.

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O'Keefe: And where was that located?

Thomas: It was located by the sliding door on top of the TV next to the phone.

O'Keefe: Okay, and that's in the kitchen.

Thomas: Yes.

O'Keefe: Okay, alright, so you looked at the time. What time was it?

Thomas: It was around 4:10.

O'Keefe: 4:10.

Thomas: I flipped on the TV.

O'Keefe: Okay, what were you watching on TV?

Thomas: Aladdin.

O'Keefe: What channel is that on?

Thomas: 11.

O'Keefe: Okay, so you just watched Aladdin?

Thomas: Yeah, and then it went off.

O'Keefe: I'm sorry, you have to speak up.

Thomas: Oh, then it went off and then I turned off the TV and then I put my stuff in the corner and then I.

O'Keefe: Okay what stuff did you put in which corner?

Thomas: My hat and my book that came from the library and my coat.

O'Keefe: In which corner did you put it in?

Thomas: I put it in far corner from the, the front door.

O'Keefe: The front door? Is that in the living room?

Thomas: Yes.

O'KEefe: Where exactly? Which corner did you put it in?

Thomas: The corner, Let me see, the right corner next to the little TVs.

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## SEATTLE POLICE DEPARTMENT

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STATEMENT OF THOMAS, Gregory

O'Keefe: Both TVs?

Thomas: Yeah, there's..

O'Keefe: You have to speak up a little bit, go ahead.

Thomas: Alright, there's big old TVs in the living room that, by that far window by the car..

O'Keefe: Okay.

Thomas: And then a little tiny corner by the couch and I put my stuff behind the that little bookstand where she put her magazines and then I put it in where it won't be in plain sight and then (unintelligible) when I had my coat on it was making a lot of noise. I took it off (unintelligible) and I was beginning looking for my stuff.

O'Keefe: What stuff?

Thomas: See, she had the pocket, this pocket knife and then she had this (unintelligible)

O'Keefe: You have to speak up, Greg.

Thomas: She had a pocket, a pocket knife, a big one that folded out into a knife and scissors and all kind of stuff and then she had..

O'Keefe: Okay, did you take that?

Thomas: No, I saw it but I was going to take it. I set it down by my coat to take it and then I began to look for the other stuff and I wasn't expecting her to be home so early.

O'Keefe: Okay, did you know what time she usually got home?

Thomas: Yes.

O'Keefe: What time did she usually get home?

Thomas: 6:30.

O'Keefe: So you more or less knew her schedule?

Thomas: Yeah, because I caught the bus, I caught the bus with her a lot and I went over to her house and once knew the address, house, I knew her whereabouts, and I just knew the area of the house.

O'Keefe: Okay, had you ever been in that house before today?

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STATEMENT OF THOMAS, Gregory

Thomas: No, I haven't. Been on the outside of it.

O'Keefe: Okay. You've been on the outside but you've never been in the inside, is that correct?

Thomas: Yeah, I tried to once. Not go in the house but I tried to..

O'Keefe: You've got to speak up, Greg.

Thomas: Oh, I tried to fix the window for, it was perfect, and when she's not home I can come back and get it but every time I did it I guess (unintelligible) in there.

O'Keefe: You got to speak up, Greg.

Thomas: I left, when I fixed the window and then when I came back it was a board over it.

O'Keefe: Okay, so you fixed it so you could get back into it.

Thomas: Yeah. Without breaking the window or anything.

O'Keefe: Alright. Okay, getting back into there, about what time is it now?

Thomas: Let me see now, let's see, 5:00, 5:30.

O'Keefe: 5:00, 5:30.

Thomas: Yeah, and the 30 minutes (unintelligible) quick (unintelligible) I remember I sat on the couch. I looked at the table, or the glasses, wherever she have the crystal.

O'Keefe: She had crystal?

Thomas: Yeah, and then she had these, these gold, these little..

O'Keefe: You've got to speak up.

Thomas: She had rings and stuff.

O'Keefe: What do you mean "rings"?

Thomas: She had like those.

O'Keefe: Oh gold rings?

Thomas: Yeah, she had them all over the place, like those things.

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STATEMENT OF: THOMAS, Gregory

O'Keefe: Bracelets?

Thomas: Yeah. She had, she had them and then I was (unintelligible)

O'Keefe: You've got to speak up, Greg.

Thomas: I was planning to get them but then 30 minutes went by quick and then I heard the bus came and then first I stopped just to see and then I didn't see her and then, then I didn't think nothing of it, went back and then I heard the door open.

O'Keefe: Now which door opened?

Thomas: The garage door. And then..

O'Keefe: Okay, what did you do then?

Thomas: Then I hurried up, you know, and put the chair that was I sitting in back and turned off the TV and then hurried up and made sure that my stuff wasn't out and then I ran, you know.

O'Keefe: You made sure your stuff wasn't out, the stuff that you hid behind the TVs in the living room.

Thomas: Yeah.

O'Keefe: Okay. Now which TV were you watching?

Thomas: The TV in the living room, not in the living room, but the kitchen.

O'Keefe: The TV in the kitchen you were watching, okay.

Thomas: Yeah.

O'Keefe: What did you do then after you stashed your stuff, turned off the TV, put the chair back, what did you do?

Thomas: I ran in the closet.

O'Keefe: Okay, how long were you in that closet?

Thomas: 30 minutes.

O'Keefe: Okay, you got to speak up, Greg.

Thomas: 30 minutes, 45, I'm not, it was a long time because she kept moving. All that time all I did was want to get out the house. And first I tried, when she went in there I tried to open up a different window.

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STATEMENT OF: THOMAS, Gregroy

O'Keefe: Where was the window?

Thomas: There was two windows by the front door but they wouldn't open and so..

O'Keefe: Okay, were you in..

Thomas: I was in this room.

O'Keefe: You're in the, you're in the bedroom.

Thomas: Yeah.

O'Keefe: Okay, so you opened the windows at the front and you're hiding in that closet there.

Thomas: Yeah, I was trying but it wouldn't open. I guess it was stuck or something like it hadn't been opened for a long time. And so it wouldn't open. So I hid in the closet and when she came in the room and I went deep inside the clothes and then I guess she couldn't see me and then after awhile I stayed there and then I finally got out and then (unintelligible). She went in the bathroom and I went across..

O'Keefe: What was she doing in the bathroom?

Thomas: Oh like everyday I notice, usually she come in at 6:30 and she wait a couple of hours and goes in the bathroom and get her hair ready.

O'Keefe: Did you peep at her before?

Thomas: No, I didn't peep at her. I looked at her once to see what she was doing and then I see what she did, what she does and then by then I would leave.

O'Keefe: Okay, so you would just go over to her house and just sit around the house.

Thomas: No, not sit in the house, that's the first time I was in the house.

O'Keefe: Oh, that's the first time you've ever been in the house.

Thomas: Yeah. Always been on the outside (unintelligible) but the only time.

O'Keefe: You got to speak up, Greg.

Thomas: The only time I've been in her house was I was selling them tickets.

O'Keefe: Okay, but where, how far did you go into the house? Did you just do it at the front door?

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STATEMENT OF THOMAS, Gregory

- Thomas: Yeah, only went to front door and then I stepped in, I looked in. I saw the cups and crystals and at the time she had some of her stuff on the table.
- O'Keefe: Okay, on the table was there anything else on the table you remember?
- Thomas: Yeah, she had some candy. She had, she had candies and then I remember what was in the other room (unintelligible) had some chocolates next, in the mirror, by the mirror.
- O'Keefe: Okay, there was some chocolates in the back bedroom there.
- Thomas: Yeah, and then there was some, I don't know, she had some kind of, I think they were, yeah, the Cheetos, yeah.
- O'Keefe: Where were the Cheetos?
- Thomas: In the room by the TVs, living room, and then she had the crys--..the glasses in the cupboard - not the cupboard but the dresser part by the door, on this part and then the door is there.
- O'Keefe: Okay, it's like a cupboard or something?
- Thomas: Yeah, she had all kinds of glasses in there, shiny glasses, glasses that looked like crystal.
- O'Keefe: Okay now, let's get back to you in the closet. YOU're in the closet there. She's walking around. You said she just went into the bathroom to do her hair.
- Thomas: Yeah. So then first I had a chance to go out, I did go out and then I went in the living room.
- O'Keefe: You go out, where did you go out?
- Thomas: I went in the living room.
- O'Keefe: Okay, so you're still in the house.
- Thomas: Yeah, I went, but she didn't know I was in the house because I moved by quick and she didn't have time to see me. And I ran through the house and went and threw on my coat, threw on my hat and then since my coat was dark and my hat was dark then I had (unintelligible) clothes and then she moved, I saw her move in the bathroom. See, and I waited again until she turned around. Then I flew by and I was about to go but then I saw a shadow look about to come out. So I went back in that room and I was sitting in the darkest part of the room by the door.

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STATEMENT OF THOMAS, Gregory

O'Keefe: The lights were out?

Thomas: Yeah. (unintelligible) I stood right there, right by the door.

O'Keefe: You're right here by the door.

Thomas: Yeah.

O'Keefe: And there was like..

Thomas: Yeah, here the door part.

O'Keefe: Okay, you're referring to a diagram here that we wrote out here.

Thomas: And then I was standing right there.

O'Keefe: Alright, put an "x" right there, please.

Thomas: Okay.

O'Keefe: Okay, make it to real dark. There you go. Okay, now you're standing there so what happens?

Thomas: And then the lady she's, first she's in the bathroom here. She was doing her hair, put in the rollers in and stuff. And I don't know what she did after that. I just know I was ready to come, had my stuff on, didn't, I didn't have what I came for because..

O'Keefe: What were you there for?

Thomas: Came there for pocket knife and look at, some of those rings and stuff.

O'Keefe: Look at the rings and the pocket knife.

Thomas: Yeah.

O'Keefe: Okay.

Thomas: I was going to take the pocket knife. I had one like that before but I lost it. It was nice.

O'Keefe: So there's an "x" right here where you, a small "x" where you showed as where she is and a large "X" where you were.

Thomas: Uh huh.

O'Keefe: Okay, now what happened?

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STATEMENT OF THOMAS, Gregory

Thomas: And then first I was coming back, ready to go but then she all came she came out and did something at the closet and then I looked around the corner of the door, I peeped.

O'Keefe: Okay, you're in the bedroom. You peeped around the corner here?

Thomas: Yeah, but I had my hat off because she would have saw my hat. So I looked at her and she was standing there, you know, she started walking toward me so then I just came back and hit her.

O'Keefe: Okay, so you came back to where the "X", the large "X" is here.

Thomas: Yeah.

O'Keefe: Okay.

Thoams: And then she came in the room and usually she just come over here you know and look around but then I guess, she just came in and flipped on the light. And then she looked at me face-to-face.

O'Keefe: Oh, she looked at you face-to-face?

Thoams: Yeah.

O'Keefe: Did she say anything?

Thomas: Yeah, because she was startled, she jumped and I swung.

O'Keefe: Okay, what did you swing with?

Thomas: A hammer.

O'Keefe: I'm sorry, what?

Thomas: A hammer.

O'Keefe: You got to speak up, Greg.

Thomas: A hammer.

O'Keefe: Okay, where did you get the hammer?

Thomas: I got it from my yard.

O'Keefe: From your yard.

Thomas: Yeah.

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STATEMENT OF THOMAS, Gregory

O'Keefe: When you swung the hammer, did you hit her?

Thomas: Yeah, I did.

O'Keefe: Where did you hit her, do you know?

Thomas: First I hit her here.

O'Keefe: That's the side of the head?

thomas: Yeah.

O'Keefe: Okay, that would be the right side.

Thomas: Yeah, the right side.

O'Keefe: Okay, around the temple here.

Thomas: Yeah. Then I heard that if you hit a person hard enough there usually they just fall.

O'Keefe: And you knock them out.

Thomas: Yeah but I guess she was different. I hit her there but she just stayed up, she just screamed. I hit her a second time and she stayed up and then the third time I hit her from the back and then she just fell and so then I just dropped the hammer, went to the bathroom, washed my hands and stuff.

O'Keefe: So did you leave the hammer there?

Thomas: For awhile I did. I left it there.

O'Keefe: How long were you in the house?

Thomas: After that?

O'Keefe: After that.

Thomas: Let me see, I was in there for a long time.

O'Keefe: You were in there for a long time?

Thomas: A long time. I wasn't in the room with her, I was in the..

O'Keefe: You've got to speak up, Greg.

Thomas: I was in the living room and all through the house and I was making sure

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STATEMENT OF THOMAS, Gregory

Thomas: that everything was there how I left it. (unintelligible) and I stayed for, I got something to eat.

O'Keefe: What did you eat?

Thomas: A Dove bar.

O'Keefe: A Dove bar?

Thomas: Yeah. But later on I threw it up.

O'Keefe: You threw up?

Thomas: Yeah, later on I threw it up.

O'Keefe: Where did you throw up?

Thomas: In the bathroom. I flushed the toilet though.

O'Keefe: Okay, you threw up in the bathroom and you flushed the toilet.

Thomas: And I just started, it was just because when I saw her, after that.

O'Keefe: What did she look like when you saw her?

Thomas: After that?

O'Keefe: Yeah.

Thomas: All I did is see..

O'Keefe: You've got to speak up.

Thomas: At first all I did is see..

O'Keefe: Why don't you lean up closer to me here? (beeping noise)

O'Keefe: That's his watch.

Lima: My watch, time to get up.

O'Keefe: Will you cut that thing off? Thank you, Detective Lima. Okay, go ahead, I'm sorry.

Thomas: First of all she just have, I saw her head like, it looked like it was caved in right there.

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STATEMENT OF THOMAS, Gregory

O'Keefe: Okay, on the temple side?

Thomas: Yeah.

O'Keefe: Okay, on the right side.

Thomas: Yeah. But then I touched it and it felt like it was still there but then I turned her over because, all I did is see a puddle, a little puddle and then I turned her to see and then, because I turned her by her head and then I felt (unintelligible) don't know what I felt.

O'Keefe: You felt what?

Thomas: I don't know what I felt. I just knew it was something that was slimy.

O'Keefe: It was slimy?

thomas: Yeah. And then I dropped her head and then I looked at her and ahh, I threw up and I ran in the bathroom and then I put some, I took the cover off the bed and then I just put it on her body, put the hat, in a puddle of blood.

O'Keefe: Put the hat?

Thomas: Yeah.

O'Keefe: What hat?

Thomas: And all kind of clothes around her head.

O'Keefe: You put hats around her head?

Thomas: Yeah, and clothes, I just took it off her bed and around her head.

O'Keefe: Were you trying to stop the bleeding?

Thomas: I was at the time but it didn't stop it then. After awhile I noticed she, I don't know, if she started breathing or not.

O'Keefe: I'm sorry, you got to speak up, Greg.

Thomas: She, I'm not sure if she started breathing or not but I came back, after I was going to call the police and then I waited and then I sit down on the bed and looked at her and I thought about what I was going to do and then all of a sudden, she, because she was still alive for awhile, for like ten or fifteen minutes she was alive but then all of a sudden she stopped breathing, I mean, her nose wasn't moving. So

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STATEMENT OF THOMAS, Gregory

Thomas: then I attempted, I hit her chest.

O'Keefe: You hit her chest?

Thomas: Yeah, right here.

O'Keefe: What did you hit her with?

Thomas: With my hands.

O'Keefe: With your hand?

Thomas: Yeah, like they did in (UNINTELLIGIBLE)

O'Keefe: Okay, like CPR?

Thomas: Yeah, and then first, at first she started breathing again but then, I knew why she stop breathing is all that blood. I mean she was drinking blood or something. Then I just left. I just put the cover over her as soon as she stopped. There was no way I could smother her, I mean..

O'Keefe: What do you mean there was no way that you could smother her?

Thomas: Because she stopped breathing.

O'Keefe: Okay.

Thomas: And then at first she was breathing and then she wasn't and so then I just decided leave it off her head because I wasn't sure if she was breathing or was she just dead and she was, it was like that..

O'Keefe: Did you think she was dead then?

Thomas: Yeah, I thought she was but then when I came back she looked breathing. It was like she stopped for a second and then she started, stopped and started.

O'Keefe: Okay.

Thomas: I attempted to put her on the bed where the clothes were and stuff, put the cover but she was too heavy.

O'Keefe: She was too heavy for you?

Thomas: Uh huh. And so then I just left her there and then I put her down and like she was in her blood.

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STATEMENT OF THOMAS, Gregory		
O'Keefe:	In her, what?	
Thomas:	She was, like she was in her blood and then, then I knew that she lost a lot of blood because when my shoe in her blood it went through it. There was a lot of blood there.	
O'Keefe:	It went through it?	
Thomas:	Yeah.	
O'Keefe:	Like squished into it?	
Thomas:	Yeah, and there was a lot of blood there. Because at first it was just like a little tiny puddle at first but then when I came back it was just (making noise like something gushing out) was all over the place.	
O'Keefe:	All over her head?	
Thomas:	Yeah, it was all over the place. At first a little blood. Then when I dropped her head, all kind of blood just came out. Then I looked at it and then she had contusion; like a hole or something.	
O'Keefe:	A contusion? Like a hole in the back of her head?	
Thomas:	I'm not sure if it was a hole but I just knew something, something was coming out. Brains or clot, clot or something. I just knew it was coming out. I attempted to put something in it. I pulled it in.	
O'Keefe:	Was that the hats and that?	
Thomas:	Yeah, all kinds of clothes and stuff but then it just kept coming out and there was nothing I could so so I just left her there.	
O'Keefe:	Alright now after you hit her how long did you stay in the house? Do you have any idea?	
Thomas:	About an hour.	
O'Keefe:	For about an hour yet.	
Thomas:	(unintelligible)	
O'Keefe:	Now you said you were going to call the police. What did you do with that?	
Thomas:	If she was alive then I was about to call the police but then the phone was ringing.	

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STATEMENT OF THOMAS, Gregory

O'Keefe: The phone was ringing?

Thomas: Yeah, I called the number and picked up the phone and then I hung it up and sat down and was like (unintelligible) let me check again.

O'Keefe: You got to speak up, Greg.

Thomas: I had to go check again.

O'Keefe: You dialed 911 and before they answered you hung up.

Thomas: Yeah.

O'Keefe: And then you went back and checked her?

Thomas: Yeah, yeah, checked but then I didn't, didn't call them. So then when I checked it she was..

O'Keefe: She was dead then?

Thomas: Yeah, she was dead and then I did CPR or something. Did the first time and then she came, you know, I just did right here with the..

O'Keefe: You pumped on her chest?

Thomas: Yeah and nothing worked so then I just pushed her stomach in.

O'Keefe: You pushed her stomach?

Thomas: Yeah, some air came out.

O'Keefe: Air came out where?

Thomas: From her nose.

O'Keefe: Air came out of her nose, okay.

Thomas: Yeah. You see all kind of blood (unintelligible)

O'Keefe: You saw what?

Thomas: Blood vessels or something.

O'Keefe: Blood some, blood something coming out of her nose?

Thomas: Yeah.

O'Keefe: What did it look like?

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STATEMENT OF THOMAS, Gregory

Thomas: for awhile but then she just, she stopped and then it stopped and then her feet turned blue.

O'Keefe: Her feet turned blue?

Thomas: Yeah, they just, like, not like his hands but they were just like..

O'Keefe: Okay, like the vein in the hands.

Thomas: Yeah, but there was like, you see the pink stuff?

O'Keefe: Yeah.

Thomas: There was no more pink (unintelligible) was. There was no more pink. And then I looked at her ankles and I didn't see no kind of blood.

O'Keefe: Okay.

Thomas: And then by then I knew she was dead. There was no way.

O'Keefe: Alright, we're almost out of tape here. I'm going to switch the tape right.

Thomas: Okay.

O'Keefe: The time now is 0643.

O'Keefe: Okay we're back recording now and the time is 0644 hours. Okay is that right, Lima?

Lima: Yes, that's right.

O'Keefe: Alright Greg we're talking, now the lady had died. She had some stuff coming out of her nose, like frothy blood or blood clots. Okay, what did it look like?

Lima: It was very, it was thick and it was like when you have a bloody nose, they be long, you know like..

O'Keefe: Stringy?

Thomas: Yeah, like blood vessels or something.

O'Keefe: Okay.

Thomas: And then first blood was coming out (unintelligible) but then all of a sudden it got real thick and then it just stopped coming out. They just (unintelligible) over her nose.

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STATEMENT OF THOMAS, Gregory

Thomas: Like blood clots.

O'Keefe: Like blood clots? Okay, was it frothy or thick?

Thomas: I'm not sure, I didn't touch it. I just knew it was there. So then I took (unintelligible)

O'Keefe: You what?

Thomas: I took the thing and I moved it.

O'Keefe: You took what thing?

Thomas: The, the back of a knife.

O'Keefe: The back of a knife. Could it have been jewelry?

Thomas: It could have been.

O'Keefe: Okay and you just moved it just to see what it was like.

Thomas: No, I moved it because she wasn't getting no air.

O'Keefe: Okay.

Thomas: Because her nose was clogged and she couldn't breathe out of her mouth. I don't know, her teeth came out or something.

O'Keefe: Okay, her teeth came out?

Thomas: Yeah, so I took her out.

O'Keefe: What did you do with the teeth?

Thomas: I sit them on the floor. And then I put her tongue back and all I did see a lot of blood.

O'Keefe: Okay, you got to speak up, Greg.

Thomas: All I did is see a lot of blood. I tried to put the stuff back, move back.

O'Keefe: Move what back?

Thomas: The blood.

O'Keefe: The clots from her nose?

Thomas: I mean at first, and then I hit her stomach in and then she was breathing

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STATEMENT OF THOMAS, Gregory

O'Keefe: Okay now how was she dressed?

Thomas: Let's see.

O'Keefe: Do you remember that at all?

Thomas: I'm trying to see how was she dressed. I know she came from the bathroom. Hung up her coat. I don't remember. I just know that I pulled some clothing on her to turn her over but it ripped, not sure what I did, where I pulled it and then I turned her over by her head.

O'Keefe: You turned her over by her head?

Thomas: Yeah.

O'Keefe: At one point you took the bedspread off the bed and put it on her.

Thomas: Yeah, yeah. She didn't have no (unintelligible)

O'Keefe: She didn't have any clothes on?

Thomas: No, she had some on but it ripped so..

O'Keefe: I'm sorry, you have to speak up, Greg.

Thomas: It ripped (unintelligible) I just, I turned her, turned her over and saw you know all the stuff.

O'Keefe: The hole in the back of the head?

Thomas: Yeah, it looked a hole but it just, (unintelligible) blood all over the place, I didn't try to stick my hand in her head to see what it was.

O'Keefe: You didn't try to stick your hand in there.

Thomas: No, I didn't touch it, I didn't touch it, I just touched the side of her head.

O'Keefe: Alright, Okay now after, when you decided to leave you were in there for about an hour, is that right? When you decided to leave which way did you go?

Thomas: Went out the back door.

O'Keefe: The back door, okay. And when you opened up the door..

Thomas: The handle fell off.

O'Keefe: The handle what?

Thomas: The handle thing broke off.

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STATEMENT OF THOMAS, Gregory

O'Keefe: The handle thing broke up.

Thomas: Yeah, because I, (unintelligible) like this, instead I was sliding it. I pulled this and it came off.

O'Keefe: Oh, so you were thinking that it's a door that opens on a hinge instead of a slider and you pulled the, pulled them off.

Thomas: Yeah, yeah, I (unintelligible) just grabbed my stuff, just tripping on things in the houser.

O'Keefe: Tripping over things.

Thomas: Yeah.

O'Keefe: Did you take anything from the house?

Thomas: No, I planned, yeah, I took some Dove bar.

O'Keefe: Some what?

Thomas: The Dove..

O'Keefe: The Dove Bar.

Thomas: Yeah.

O'Keefe: Did you take the knife?

Thomas: No, I (unintelligible) house but I didn't take it.

O'Keefe: When you went in there, you went in there to take the knife.

Thomas: Yeah, and to check out the jewelry, the gold stuff I saw.

O'Keefe: Okay, so you went in there to check out the knife, check out the jewelry. If it was nice you were going to take it.

Thomas: Yeah, I was going to (unintelligible)

O'Keefe: I'm sorry, you've got to speak up.

Thomas: I was. I was going to take the you know the necklace thing.

O'Keefe: The bracelet?

Thomas: Yeah, the bracelet.

O'Keefe: Okay, where was the bracelet?

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Thomas: It was in the, the room where she got hit in.

O'Keefe: Okay, it was in the room where she got hit in?

Thomas: Yeah, she had all kind necklace, she had perfume and all that.

O'keefe: She had perfume? Where was the perfume?

Thomas: The perfume was next to all jewelry she had, different kind of jewelry, rings and stuff. I was looking, I was looking for it and then I found the pocket knife. It was next to the TV where it was before so then I went to check on where the other stuff was but I couldn't find it so I just kept looking and I couldn't find it.

O'Keefe: Okay, speak up a little bit.

Thomas: Then I couldn't find it and then I just kept looking you know and then she came home.

O'Keefe: When you left, when you left the place and you opened the door. You broke the handle on the door. Where did you go after you left?

Thomas: What do you, what did I leave, how did I leave?

O'Keefe: Well how did you leave, first of all?

Thomas: I hurry up and ran through the bushes, the side gate.

O'keefe: On the east side gate?

Thomas: Yeah.

O'Keefe: OKay.

Thoams: And then I ran through there and then I (unintelligible) branch, Stepped on that fence that I broke down before.

O'KEefe: You broke the fence down before?

Thomas: Yeah.

O'Keefe: This is on the east side of the house?

Thomas: Yeah, I just, because I tried to jump over before but, like I did the other fence, over, but (unintelligible) fell. So then I just stepped on that fence and then I looked for my, since it was dark outside I looked for my stuff where my pocket got ripped. I couldn't see nothing. And then I saw a person in the house next door.

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O'Keefe: Oh, you saw a person in the house next door.

Thomas: Yeah.

O'Keefe: What did that person look like?

Thomas: It was a lady.

O'Keefe: How old?

Thomas: Probably, she was about, in her late, about 60.

O'Keefe: 60?

Thomas: Yeah, but she had no gray hair,

O'Keefe: Was she a black woman, white woman, Asian woman?

Thomas: She was white but she didn't have no gray hair.

O'Keefe: So you're going through the east side. Were you going out to Leo Street?

Thomas: Yeah. And so then I put the board up and then it was leaning but then I hit it, pushed the board up and then it scraped the window and then I just left it there.

O'Keefe: Okay, so you put the board back up. You just left it there.

Thomas: Yeah. And then I hurry up and ran and then I went through the bushes, the little gate thing through there. At first I stopped because I saw the man across the street.

O'Keefe: The who? You saw men across the street?

Thomas: Yeah, he was doing something in the back, in the side so then I just got on all four, my hands and my feet and I crawled out and then the bus came. So I used that as my, as my little target, the bus came by I just jumped out.

O'Keefe: And you ran along as the bus was going along?

Thomas: Yeah.

O'Keefe: Which way was the bus going?

Thomas: It was going this way.

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STATEMENT OF THOMAS, Gregory

O'Keefe: Towards your house?

Thomas: Na uh, it was going away from my house.

O'Keefe: Going away from your house.

Thomas: See, I went to the bus stop there and then I made it look like I got off the bus, at the bus stop, at the thing and I just walked back and went home and then by then I just..

O'Keefe: Okay, the guy in the yard did he see you walking back?

Thomas: See, I'm not sure if he did because when I seen him before, before when I was here if he did or not because he looked up but I'm not sure if he looked at me.

O'Keefe: Okay, so then you went home. Now what did you do with the hammer?

Thomas: The hammer, let me see, I threw that, threw it in by the back, somewhere by the front and just went by and just threw it.

O'Keefe: Okay, it was in your backyard?

Thomas: Yeah, it was by here.

O'Keefe: Okay, let's get another sheet of paper here, Detective Lima. Would you sign your, your name at the bottom of this one here?

Lima: Let me (unintelligible) first.

O'Keefe: Sure, go ahead, we're fine.

Thomas: Here it is right here. Here's the house and got the back yard and then the side. Like this, came over here and I just threw the hammer.

O'Keefe: Okay, now this is the, this is the house here?

Thomas: Yeah.

O'Keefe: And this is the driveway?

Thomas: The backyard.

O'Keefe: This is the backyard. Okay, you've got to, you better label this for me here.

Thomas: Alright.

O'Keefe: Okay. Driveway, backyard.

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STATEMENT OF THOMAS, Gregory.

Thomas: Side yard here.

O'Keefe: Okay, there's a side yard.

Thomas: And then..

O'Keefe: Where's the front of the house?

Thomas: Here. Stairs and stuff.

O'Keefe: Alright, why don't you put your address down here. And then what street is this one here? What street would that be?

Thomas: 53rd, I believe.

O'Keefe: Okay, 53rd and Leo is down over here and so this is 53rd Street in front of your house.

Thomas: Yeah.

O'Keefe: Okay, now when you're here you went to the side of the house over here.

Thomas: She got bushes and stuff and then all I did is run in here, came over here and (unintelligible)

O'Keefe: Now is there anything else you want to say, Greg?

Thomas: What do you mean?.

O'Keefe: Well anything about this tape that I haven't covered that you think might be important that I haven't mentioned?

Thomas: I think how she be dressed, I'm not sure. I just know that the first lights were off and she turned them on, entered and then she went in the living room, came back, then, oh (unintelligible)

O'Keefe: You got to speak up, Greg.

Thomas: Oh, she was heavy, she weighed more than I did. I know that. And then I tried to turn her over like this. It didn't work. So then I grabbed something. Just turned her over and it said "rip-p-p".

O'Keefe: It said what?

Thomas: It said rip, it ripped.

O'Keefe: What ripped?

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STATEMENT OF THOMAS, Gregory

Thomas: Something.

O'Keefe: Something ripped.

Thomas: I don't know, again, I don't know what I pulled. I just know I pulled something and it ripped and then, so then I let go of that and tried to move her by her head part and that was easier to turn over because..

O'Keefe: You've got to speak up, Greg.

Thomas: It was easier to turn over with. When I turned her over and the (unintelligible) the blood, (unintelligible) her throat it was coming out.

O'Keefe: Coming out of her mouth?

Thomas: Yeah.

O'Keefe: And her nose.

Thomas: Yeah, instead of here it was coming like here and then her eye turned purple.

O'Keefe: Her eye turned purple?

Thomas: Yeah, looked bluish. I went like this to see if she was still there. She blinked once but her other eye was just purple and so then that happened when I turned her over so then I turned her back over and blood started coming back out her head and so I just left her like that.

O'Keefe: Okay Greg, now when we came into the scene, we're policeman, and we looked at the lady there. She didn't have any pants on, okay? Did you take her pants off?

Thomas: No, I just know..

O'Keefe: Now you know everybody has curiosities about sex and things. Was there a point where you just wanted to see what was going on?

Thomas: No, I had that in the beginning, but no I had that all cured.

O'Keefe: You had what at the beginning?

Thomas: I was wondering a woman look like.

O'Keefe: You wondered what a woman looked like?

Thomas: Yeah. But I had that but then I went to counseling and stuff for that and I got that all cured and stuff.

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STATEMENT OF THOMAS, Gregory

O'Keefe: Okay, well do you, how did her pants get off, do you have any idea?

Thomas: Let me see. I remember she came in. She had on a white shirt. I remember that. She had on a white shirt and then her coat. She was going to hang that up.

O'Keefe: What color coat was it?

Thomas: Brown.

O'Keefe: Brown coat.

Thomas: One them kind of coats that you, trenchcoat.

O'Keefe: Trenchcoat, alright.

Thomas: And then I just, then, I lifted up her white shirt to give her CPR but..

O'Keefe: You lifted up her shirt to give her CPR.

Thomas: Yes, right here.

O'Keefe: Up to where?

Thomas: Here, I put it up to here.

O'Keefe: Up to her shoulders.

Thomas: Yeah, and then I did CPR here.

O'Keefe: Okay, so all the way up over..

Thomas: No, right here.

O'Keefe: Okay, up here. Could you see her breasts?

Thomas: Yeah, they were there.

O'Keefe: Okay, so you could see her breasts when you were going to give her CPR.

Thomas: Yeah, and then I did that.

O'Keefe: You got to speak up, Greg.

Thomas: I did that and then I lowered the shirt back.

O'Keefe: Okay, so you put the shirt back over her.

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Thomas: And then the pants, they ripped. Just rip-p-p. She had one shoe on, one shoe that was off, something like that.

O'Keefe: She had one shoe on and one shoe off.

Thomas: I'm not sure what happened to pants. I (unintelligible) tried to turn her over and (making noise indicating ripping) and ripped off.

O'Keefe: Okay, so you're trying to turn her over and it ripped off.

Thomas: Yeah, I was going like this.

O'Keefe: Okay, so you're pulling at it like that.

Thomas: Yeah. Because at first I tried to turn her over like that.

O'Keefe: Okay, you got to speak up, Greg.

Thomas: Oh, first I just tried to turn her over like a normal person but then she was too heavy and so then put all my weight and pulled her and they ripped so then I just went to the easiest place that would turn her over and that was her head.

O'Keefe: Alright, you ripped, did they rip all the way off?

Thomas: (unintelligible) I just know, yeah, I think they did, I'm not sure, I just know that you could see her legs and there no blood on her legs.

O'Keefe: Was there anything you put inside your vagina or anything like that? I mean just a little bit? Just a, you know, a touch or something? When you were moving her did your fingers actually touch there or anything like that?

Thomas: No, I remember when her pants came off..

O'Keefe: When her pants..

Thomas: Yeah, she had, see, she had white stuff and then she had tissue.

O'Keefe: White stuff and tissue?

Thomas: Yeah, and then she had tissue.

O'Keefe: Where was it?

Thomas: It was in her underwear, it was under. I guess she was using it for a tampon or something, I don't know. It was there. And then, and then I just used (unintelligible)

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STATEMENT OF THOMAS, Gregory

O'Keefe: Again you've got to speak up, Greg.

Thomas: Used like, I don't know, some kind of little back hand of that knife part and just get that out of the way because it was just sitting there and it didn't smell so good and I just scoot it out the way and flush it down the toilet and turned her over, (unintelligible) blood.

O'Keefe: Alright. Okay, Detective Lima, do you have anything?

Lima: Yeah. I want to go back just over a couple of things, Greg, and we have often, throughout this conversation, we've been referring to kind of a real rough draft of this lady's home, is that correct?

Thomas: Yes.

Lima: And you have made some notations on here, is that correct?

Thomas: Yes, that is.

Lima: And I think we started with the bedroom where that you made entry to her home.

Thomas: Yes.

Lima: And then we used a series of numbers, like one through so and so to indicate your route in the house.

Thomas: Yes.

Lima: Okay, and then at one point I think you indicated that you went back into her bedroom and waited in the closet.

Thomas: Yes, I did.

Lima: Okay and you drew the closet down on the diagram yourself?

Thomas: Yes.

Lima: And then you, of course as Detective O'Keefe had brought up earlier, you made a real dark "x" in her bedroom, is that correct?

Thomas: Yes.

Lima: Is that the same bedroom where she finally came to rest?

Thomas: Yes.

O'Keefe: You have to speak up, Greg.

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STATEMENT OF THOMAS, Gregory

Thomas: Oh yes, it is.

Lima: And then you also made a little bit smaller "x" and that's the bathroom where you, where she was when you went by her to go into the living room?

Thomas: Yeah, because that was, where she was changing, doing what she was, I don't know what she was doing, what she usually did was, she had, her, you know, when I went in there before she had the rollers laying all up in the tub.

OKeefe: Rollers in the tub?

Thomas: Yeah.

OKeefe: Hair rollers?

Thomas: Yeah.

Lima: And then you indicated that you put your stuff in the corner and that was in the living room and I think you also drew a little angle across the corner of the living room and put a little circle to indicate where you put your stuff.

Thomas: Yeah, next to the couch.

Lima: And then you indicated that you had gone into the garage area of the house, is that correct?

Thomas: Yes.

Lima: And went out the garage door and around and came back in the sliding door which you had left unlocked?

Thomas: Yes.

Lima: And then before you left you went back over and put the...

Thomas: And put the..

Lima: And put the wood back on the house.

Thomas: Yes.

Lima: You indicated while you were in the house, I got a little bit confused there, that you, that you hit her three times, is that correct? With the hammer.

Thomas: Yes.  
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STATEMENT OF THOMAS, Gregory		
Lima:	The first time was on the right side on the temple and where was the second one?	
Thomas:	Let me see, the second one. It was on her head	
Lima:	Do you remember where on her head?	
Thomas:	I don't know, I just, I remember first time but then the second time I don't know.	
Lima:	But the third time you also remembered as being the back of the head, is that correct?	
Thomas:	Yeah, that's what made her fall.	
OKeefe:	Did you hit her anywhere else besides the head?	
Thomas:	No. I tried, I hit her with my hand but that was when I was trying to make her breathe again.	
OKeefe:	Okay, with the CPR.	
Thomas:	Yeah, I went like this and then I did like this.	
OKeefe:	Now when you hit her what did you want her to do? Did you want her to die?	
Thomas:	No, I wanted her to..when I hit her in the head?	
OKeefe:	Right.	
Thomas:	Na uh, I just wanted her to knocked out.	
OKeefe:	You wanted to knock her out.	
Thomas:	Yeah but for her to be able to wake up so I could just have time to leave. She could wake up.	
Lima:	Greg, you indicated that you pretty much knew her pattern of time elements, is that correct?	
Thomas:	Yeah.	
Lima:	How many times have you been to her house?	
Thomas:	I've been to her house, let me see..	

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STATEMENT OF THOMAS, Gregory

Lima: Not inside but in and around her house.

Thomas: About two times, two, three, two, three at the most.

Lima: Did she ever knock on a window and scare you away one time?

Thomas: No, let me see..

Lima: And that would have been just a couple of days ago.

Thomas: A couple of days ago?

Lima: This would have been somewhere around 3:00 in the morning?

Thomas: 3:00 in the morning? I don't know.

Lima: You don't remember her knocking on the window and you looking up and grabbing your bag and running?

OKeefe: Was there any other time that, you know, you were there..

Thomas: Yeah, I was there when she was there and she scared me away but 3:00 in the morning, I wasn't there because. Did she say what day this was?

Lima: I don't remember, no

OKeefe: 6th.

Thomas: 6th?

OKeefe: Yeah, so 6th, today is the 10th.

Thomas: Saturday? Friday?

OKeefe: Friday.

Thomas: Oh no, no, because see Friday..

OKeefe: Oh no, 7th. Did she scare you away about 6:00 one night?

Thomas: In the morning?

OKeefe: No, 6:00 in the afternoon.

Thomas: Oh yeah, she did. She did that.

Keefe: Okay, where were you then?

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STATEMENT OF THOMAS, Gregory

Thomas: I was in the back.

OKeefe: Okay, where in the back?

Thomas: I was by the trees, by the bush. You know I was looking, to learn her pattern, looking in the house to see where everything was and once I went to, like I said I went to the side window to set it up.

OKeefe: Did it break?

Thomas: Huh? No, because I tried before, when I first saw it, I was shaking the windows to see what window was the easiest to get in and what window was the one that was the most recently had been opened and that was the window. And so she was home but I think the night before, I went there before and she was doing her hair with the water on and the TV. I hit the window real hard and she didn't hear it and so then I waited and then the next night when she was doing her hair I guess she heard this because I pulled up the window and (making noise) you know that sound.

OKeefe: Yeah, the sound of the window opening up.

Thomas: Yeah, and then I had it all (unintelligible) ready and I don't know I was on my leave and then I seen her look out the window. I seen her, because it had to be her looking out the window so then I left. I hurried up and left and then I was, then I saw you guys once.

OKeefe: Saw who?

Thomas: I think you saw you guys, I'm not sure, I seen a flashlight once in the backyard (unintelligible)

OKeefe: When was this? Was this last night?

Thomas: No. It was..

Lima: Night before last?

Thomas: When she had that, I just know that you guys, when you guys put up the board.

OKeefe: That was one of the neighbors.

Thomas: Oh, it was?

Lima: Let me ask this, Greg.

Thomas: I seen the neighbor then in the front yard with the flashlight because I

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STATEMENT OF THOMAS, Gregory

Thomas: was, but that was the night where I wasn't planning to go to her house, while I was waiting for the bus.

Lima: Greg, when you realized that she was no longer breathing, how did you feel?

Thomas: Oh, I was, I don't know, I was, I kept checking her to see.

Lima: How did you feel? Were you belated, a little bit sick?

Thomas: Yeah, I was sick. Throwing up.

OKeefe: You were what?

Thomas: I was throwing up.

OKeefe: Throwing up.

Thomas: Yeah, because I kept looking at it and that's when I took the blanket off the bed. (unintelligible) of what happened. It didn't go how I had planned it.

Keefe: How did you have planned it?

Thomas: I planned just if, helping, just to get what I came for and just leave and then nobody was supposed to get hurt or nothing but I said I got, I panicked and hit her. She fell. I didn't think I hit her that hard but at first I just tried to knock her out and then I hit her the second time and she was still up and then she finally turned around. I hit her again and then she just dropped. It was like the hammer, I wasn't sure if the hammer sunk in.

OKeefe: You're not sure if the hammer sunk in?

Thomas: I (unintelligible) recall the pressure of the blow.

OKeefe: Did the blood splatter when you hit her?

Thomas: The first time it didn't. It splattered (unintelligible) when she hit the floor and when I dropped the hammer and when I, I was on the way to the bathroom and I jumped and the blood splattered because I landed in and that's how, just got deep, thick, it was some thick blood.

Lima: When we arrived at your house today and put you under arrest you indicated to us which clothing you had been wearing, is that correct?

Thomas: Yes.

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STATEMENT OF: THOMAS, Gregory

Lima: And that was those red colored pants at the end of your bed and I think you also indicated your shoes, is that correct?

Thomas: Yes.

Lima: And okay.

OKeefe: And also the jacket too.

Lima: There was a blue jacket, a jacket.

OKeefe: Was that the one, the one we took was that the one that was ripped?

Thomas: Yeah, you see on the pocket.

Lima: Greg, do you have any girlfriends?

thomas: Yeah, I have a girlfriend. I had lot, I have many girlfriends.

Lima: You have many girlfriends. Okay.

Thomas: I have, I don't have many, I just have, I have an Italian girl that I talk to and go to lunch with at school and then I have a girl who I call and a girl I was going to go to the Tolo with.

Lima: Kind of a girlfriend, that's it, huh?

Thomas: Yeah.

Lima: I've got nothing else, Kev.

OKeefe: Greg, we want to make sure that you know that you gave this statement freely and voluntarily without threats or promises of any kind, is that true?

Thomas: Yes.

OKeefe: Okay, I didn't threaten you, I didn't say I'll beat you up or bad things will happen to you, blah, blah, blah. Is that correct?

Thomas: Yes, that is.

OKeefe: Okay, you're just giving this because you want to get this thing over with.

Thomas: Yes.

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DATE TIME PLACE

STATEMENT OF THOMAS, Gregory

O'Keefe: We've given you Diet Pepsi. We let you go to the bathroom. You have treated us like a gentleman so therefore we treated you like a gentleman too, is that correct?

Thomas: Yes, it is.

O'Keefe: Okay, great. Anything else you want to say, you know, that you want to add to this statement that we haven't covered that you think might be important?

Lima: Any personal thoughts.

Thomas: What do you mean?

Lima: After the fact what do you think about what happened?

Thomas: After I did it I was just, I didn't know what to do.

O'Keefe: Anything else, Greg?

Thomas: No. That (unintelligible) I'm sorry what I did.

O'Keefe: This will be the end of the taped statement. The time now is 0712 hours.

STATEMENT TAKEN BY \_\_\_\_\_ SIGNED \_\_\_\_\_

WITNESS \_\_\_\_\_ WITNESS \_\_\_\_\_

## **APPENDIX E**

No. 34

In addition to the plea of not guilty, the defendant has entered a plea of insanity existing at the time of the act charged in Counts I and II.

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.

## **APPENDIX F**



STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
WESTERN STATE HOSPITAL  
W27-19 • 9601 Stellacoom Blvd SW • Tacoma WA 98498-7213 • (206) 582-8900

October 5, 1995

Chief Criminal Judge  
King County Superior Court  
C-903 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104-2381

RE: THOMAS, Gregory O.  
DOB: 05/26/79

Cause No.: 95-1-02081-6  
WSH No.: 381064

Your Honor:

Mr. Gregory Thomas was initially admitted to Western State Hospital on 09/13/95. At that time, he had been sent for a period of up to 15 days of observation and evaluation for an assessment of his mental condition, his competency to stand trial and to enter a plea to the charges, his mental condition and his sanity at the time of the alleged offense, his danger to self or others, his need of supervision by the hospital and a prognosis.

The information received with the police Discovery from the prosecutor's office indicated that Mr. Thomas was charged with Murder in the First Degree. However, in later communications with the prosecutor, we learned that he was charged with Aggravated Murder in the First Degree. It was alleged that on or about 01/09/95, Mr. Thomas caused the death of a private citizen, Ruth Lamere, a 71-year-old woman living alone. It was alleged that she died of blunt force injury to the brain caused by multiple blows with a hammer to her head. It was also alleged that this killing occurred in the context of committed or attempted Rape in the First Degree, Rape in the Second Degree and Burglary in the First Degree.

This report will be brief and summary in nature due to the court's order that the report be received by the court on 10/06/95. Our last work on the evaluation of this case occurred in the afternoon of 10/04/95. Limitations were placed on the time available for evaluation by order of the court.

Chief Criminal Judge, King County  
Re: THOMAS, Gregory O.

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DATABASE:

Mr. Thomas was ordered to this evaluation by court order #95-1-02081-6 dated 09/11/95. He was admitted to the Legal Offender Unit of Western State Hospital on 09/13/95. He was returned to the King County Jail at the end of the 15-day period of commitment on 09/25/95. We informed the attorneys and prosecutors in this case that we would require more time to complete the evaluation. That request was granted by the court in an order dated 09/27/95. That order specifically instructed that all interviews were to be completed with Mr. Thomas by 10/04/95. Mr. Thomas was subsequently readmitted to the Legal Offender Unit on 09/28/95. He is scheduled to be returned to the King County Jail on 10/09/95 as instructed by the court order. By further order of the court, we received instructions that Mr. Thomas' attorneys were allowed to be present during all interviews of Mr. Thomas. This order was complied with and one or both of his attorneys, Eric Lindell or Jim Conroy, as well as an investigator from their office, Eric Thompson, were present during all interviews. We audio-taped all interviews with Mr. Thomas. His attorneys began audio-taping all interviews after the interview on 09/13/95. These tapes were made with Mr. Thomas' permission and were provided for copying to his attorneys.

Mr. Thomas received a nursing assessment, physical/neurological examination, a rehabilitative services assessment, and a dental evaluation. His behavior was monitored over the course of his hospitalization by professional and paraprofessional ward staff. He was interviewed at the time of admission by Charles Hale, M.D., forensic psychiatrist, and this examiner, who together comprised the sanity commission for this case. Also participating in that interview were a Forensic Therapist, a Registered Nurse and a Rehabilitative Services counsellor. Later interviews were conducted by this examiner and Dr. Hale.

Interviews were conducted on the following dates:

- |    |          |                         |                     |
|----|----------|-------------------------|---------------------|
| 1) | 09/13/95 |                         | 1 hour              |
| 2) | 09/15/95 | 9:30 a.m. - 12:05 p.m.  | 2 hours 35 minutes  |
| 3) | 09/19/95 | 9:45 a.m. - 12:15 p.m.  | 2 hours 30 minutes  |
| 4) | 09/22/95 | 2:00 p.m. - 4:30 p.m.   | 2 hours 30 minutes  |
| 5) | 10/03/95 | 10:00 a.m. - 12:20 p.m. | 2 hours 20 minutes. |

This writer requested a consultation from professional staff at the Child Study and Treatment Center (CSTC). Dr. Steven Marquez, Ph.D., consulted with the sanity

Chief Criminal Judge, King County  
Re: THOMAS, Gregory O.

October 5, 1995  
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commission on this case. Dr. Marquez will write a separate report with the results of his consultation. This writer was present when Dr. Marquez interviewed Mr. Thomas briefly on 09/20/95 from 9:50 a.m. - 10:35 a.m. As Mr. Thomas had been sedated prior to the interview, psychological testing was rescheduled for the following day. This writer was not present during the psychological testing by Dr. Marquez. Please see his report for further information. Dr. Hale and this examiner had a summary consultation with Dr. Marquez on 10/04/95.

We had several conversations with Mr. Thomas' attorneys, Eric Lindell and Jim Conroy. We also had several conversations with the prosecutors, Joseph Pendergast and Kristin Richardson, regarding the conduct of this evaluation and the evidence available.

From the prosecutor's office we received the following:

- 1) The police Discovery regarding the charged incident which included:
  - a) police reports
  - b) witness reports
  - c) King County Jail Health Service records
  - d) Division of Youth Service records
  - e) Division of Juvenile Rehabilitation records]
  - f) Seattle school records
  - g) Children's Hospital records
  - h) Odessa Brown Clinic records
  - i) police reports regarding a burglary investigation of 12/21/94
- 2) Odessa Brown Children's Clinic
- 3) Children's Hospital
- 4) Crime scene evidence list
- 5) Seattle Mental Health Institute records
- 6) Autopsy of Ruth Lamere
- 7) Records from Rudolph Andrews
- 8) Harborview records
- 9) Seattle school district records

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Re: THOMAS, Gregory O.

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- 10) Dr. Philip Lindsay, M.D. notes
- 11) Washington State toxicology report regarding Mr. Thomas.
- 12) Child Protective Services records re: Mr. Thomas and his sister, Princess.

Interviews were attempted with the following individuals:

- 1) Rudolph Andrews, MSW. On 09/27/95, Mr. Andrews indicated in a telephone contact that he would not speak with this examiner without a release or a court order.
- 2) Corey Goldstein, a teen health center counsellor at Rainier Beach High School. Mr. Goldstein indicated on 09/28/95 that he would not speak with this examiner without a release. He also provided a letter to this effect dated 09/27/95. In this letter, he indicated that a meeting time of 10/09/95 had been established in conjunction with Mr. Thomas' attorneys, in the eventuality that Mr. Thomas signed a release.
- 3) Heidi Walsh, Ph.D., Division of Juvenile Rehabilitation. On 09/27/95, she indicated by phone to this examiner that she had not had any direct contact with Mr. Thomas and only provided minimal behavioral consultation to the service where Mr. Thomas was being housed. She stated that she had nothing to say regarding Mr. Thomas.
- 4) Joy Thomas Rogers, the defendant's aunt. Ms. Rogers was not available by phone, even after repeated attempts.
- 5) LaKesha Thomas, sister of the defendant. Her phone was disconnected.
- 6) Princess Thomas, the defendant's sister, living with Ms. Rogers.
- 7) Karen Thomas, the defendant's mother. We were informed by the attorneys that there had been no contact with Ms. Thomas.
- 8) Donald and Pam Thomas, relatives of the defendant. There was no response from a message left on their answering machine.
- 9) Anita Thomas, the defendant's aunt. There was no response by phone.

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- 10) *Gregory Williams, the defendant's father, presumed to be living in Sarasota, Florida. Messages left at several phones listed as Gregory Williams did not receive a response.*
- 11) *Joel Groen, an academic counsellor for Mr. Thomas.*

*Mr. Thomas refused to sign releases of information for any party on advice of his attorneys.*

*Dr. Hale had a consultation with the Washington State Toxicology Laboratory staff and with a detective on the case, Detective O'Keefe.*

*At the time of the writing of this report, we were waiting for receipt of records from Dr. McCarty, Ph.D., who reportedly evaluated Mr. Thomas for the defense. We did not have access to a report by Dr. Lindsay who evaluated Mr. Thomas for the defense. We were informed by attorneys that Dr. Marla Hooks who had treated Mr. Thomas psychiatrically was deceased.*

#### MENTAL STATUS:

*Mr. Thomas presented as a well-developed male of trim, strong build and tall stature. He appeared his stated age of 16 years. His grooming and hygiene were normal and he had a healthy appearance. His psychomotor behavior was controlled and purposeful. He was alert and oriented to person, place, time and situation. His concentration and attention were adequate for clinical interview. His speech was low in volume, but normal in rhythm, rate and tone. At times his speech was so low as to be unintelligible. On rare occasions he was noted to become contemplative and to mumble to himself. He stated he was used to talking to himself. His memory for recent and remote events was grossly intact, though his remote memories were not well organized in time. His problem-solving abilities and judgment were regarded as poor, based upon his reported behavior. His ward behavior also reflected this poor judgment in that he was repeatedly observed in motions of striking, kicking or choking, at times directed at the air and at other times directed at other patients. These displays appeared to be for patient and staff reaction.*

*His cognitive style was somewhat quiet. His erudition and intellectual functioning were regarded as limited, an observation supported by psychological testing which placed his current verbal skills in the borderline range and his performance skills in the mild mental retardation range. However, his verbal facility and grasp of concepts suggested higher verbal and conceptual abilities premorbidly. His cognitive processes were organized and rational, though clearly his stated value system was opposed to societal consensus. He seemed to highly value violence and power.*

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He reported hearing voices in the past and one voice currently. However, his description of these experiences varied some what during this evaluation and was noted to vary historically from the time of his first complaint to professionals. Although there were initial questions regarding the possibility of delusional ideation, he did not reveal overt delusional thought processes. His emphasis on the voice he called the "protector" appeared the result of immature psychological needs and personality distortion rather than true hallucination or delusion. His treatment record suggested he experienced true hallucinations prior to the offense. However, this could not be fully evaluated.

In interview his affect was notably inappropriate with the content or subject matter under discussion. This was particularly noticed when he discussed violence against persons, animals or insects. His mood was regarded as inappropriately buoyant, given the circumstances of this evaluation. He reported past suicidal ideation and behavior, but did not appear an imminent danger to himself. He described at length both past and current assaultive ideation, behavior and impulses. His attitude toward the evaluation was relatively open and cooperative, though it was apparent that he was well aware of his charges and his need to be careful in the things he reported. His awareness of his current behavioral and psychological difficulties appeared quite concrete and superficial. Based upon his presentation, it was unlikely that he had full appreciation of the severity and nature of his problems.

Mr. Thomas' behavior on the Unit was not indicative of gross mental disorder. His grooming, hygiene, and self-care were normal. He socialized well with other patients and was noted to initiate contacts with other patients. He spent time playing cards and the like with other patients. He was noted shortly after admission to be telling other patients about the charges against him, as if bragging about it or attempting to assume a position of power. He was noted on occasion to become upset at staff monitoring and direction. Two female staff members, notably with yellow/gray hair, reported they felt very uncomfortable around him due to his making noises when they passed by. On one occasion, he was believed to have muttered under his breath, "Silver hair". Following a discussion with this writer about these staff members' complaints, he was noted to ask which staff member was the clerk and was noted to say "the doctor and lawyers said she's afraid of me" and to laugh. It was felt by staff that he was interested in other female patients and laughed about upsetting a particular patient. He was noted to make gestures as if striking someone for apparent amusement and intimidation. He exhibited a full range of affect from pleasure to anger, though the aggression that seemed to amuse him was regarded as inappropriate. It was noted that following in-depth interviews with these examiners, he became agitated and, at least on one occasion, was offered sedative medications. He became involved in conflict with one other male peer in particular, and this appeared to involve their jealousies around the

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attentions of another female patient. He was observed by staff on one occasion to be exposing his penis to other male patients and attempting to have them provide him with oral sex. At times, he was noted to stare at staff, especially females, with an intimidating glare and to mumble as he passed by staff.

In general, Mr. Thomas did not present with acute psychosis or impaired reality-testing, either in interviews or in his ward behavior, though some of his ideas and emotional reactions were clearly inappropriate. He demonstrated affect which was consensually regarded as inappropriate concerning violence and aggression. He was regarded as having significant difficulties with authority, especially from older women. He socialized well and initiated social contact. He at times appeared intimidating in his behavior, both towards patients and staff. He also appeared appropriately juvenile in some of his behavior. He talked of the voice of his "Protector" at length in interviews, but did not display hallucinatory behavior on the unit.

#### PSYCHOSOCIAL HISTORY:

Mr. Thomas reported that he had been born in Florida and moved here at the age of six. He never knew his father, who currently resided in Florida. He did meet his father approximately a year ago, which was apparently a very disturbing experience for him as his father was apparently mentally disabled. An unverified report was that his father had a mental disorder, possibly Schizophrenia. His mother was described as abusive, emotionally and physically, toward him and his siblings. She apparently had a severe drug and alcohol problem and neglected the children as well as abused them. He had two younger sisters and one older sister. The younger sisters lived with his aunt in Washington. He did not know his youngest sister well, however. There appeared from his report to be some physical aggression between himself and his siblings and he reported extensive sexual contact between himself and his next youngest sister. He had resided with one of his aunts for a number of years, as his mother was unable to take care of him. There was Child Protective Services involvement in the family in the past as the result of alleged physical and emotional abuse by his Aunt Joy. Mr. Thomas apparently was moved from place to place until he obtained a stable residence with his Aunt Joy.

Prior to this evaluation, he was a student at Rainier Beach in the tenth grade. He had a history of academic and behavior problems in the schools. Academic testing seemed to indicate that his position relative to his peers had declined in later years.

He was not employed and was supported by his aunt. He did not have extended heterosexual relationships, though he stated that he had girlfriends in the past and had engaged in some preliminary sexual activity. He felt that he had been molested on at least one occasion by a friend of his older sister and that his aunt had made him

Chief Criminal Judge, King County  
Re: THOMAS, Gregory O.

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uncomfortable on one occasion by checking his sexuality. He denied having any sex with boys or men. While some of his concerns regarding sexuality appeared age-appropriate, he also demonstrated excessive nervousness and anxiety in discussing sexual matters.

He reported having been involved with treatment with Dr. Maria Hooks through Odessa-Brown Clinic in Seattle. He had also counselled with Rudolph Andrews, MSW, over two different periods of time. He had counselling at the Teen Center with Corey Goldstein. While with Dr. Hooks, he was placed on Lithium, Thorazine and Trilafon. He felt that the medications did help calm him down, relax him and help him sleep, and help with his hearing voices. Mr. Thomas stated that he tried alcohol when he was young but did not use it anymore. He tried marijuana on at least one occasion. He did not use other drugs, though he commented that there was a blood test report of his having LSD in his blood at the time of the offense.

He reported having been arrested one other time on an attempted burglary charge, but his lawyer advised him not to speak of it.

DIAGNOSTIC IMPRESSION:

Our diagnostic impression was:

AXIS I: 1) Psychotic Disorder, NOS, in remission, secondary to Mood Disorder  
2) Conduct Disorder, severe, childhood-onset type.

AXIS II: Mixed Personality Disorder with narcissistic, antisocial, and inadequate features.

Mr. Thomas was treated with Mellaril, Lithium and sedated with Ativan during this hospitalization.

COMPETENCY TO STAND TRIAL:

In regard to competency, it was our opinion that Mr. Thomas had the capacity to proceed with his case. He could verbalize the charge and allegations against him. He could give a coherent and consistent version of the offense, though he was increasingly detailed in successive interviews. He clearly disclosed pertinent information, including behavioral, psychological, emotional and cognitive information. He demonstrated the ability to learn more detailed information about court processes during interviews. He demonstrated an awareness of the adversarial nature of the proceedings and demonstrated his intent to work with the advice and assistance of his attorneys. There was no reason to question his belief in the possibility of a fair trial. He had an adequate ability to make decisions regarding his situation, though obviously he required

Chief Criminal Judge, King County  
Re: THOMAS, Gregory O.

October 5, 1995

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the technical assistance of his attorneys. He had minimal experience with the legal system. His appreciation of the severity of his legal situation was impaired, but he understood the potential consequences of negative outcomes to his case. He appeared well-motivated to resolve his legal problems and demonstrated his awareness of the significance of his statements by consulting with his attorneys at various points. He did not present with behavior which would be problematic for a court appearance. His cognitive and emotional states were stable. It appeared likely that he could become upset in hearing testimony, but had the capacity to control his behavior and emotional state. He was able to interact meaningfully and successfully with professional staff. He was regarded as displaying aspects of a major mental disorder, though he did not present with any disabling aspects of major mental disorder. Consequently, it was our opinion that he did have the capacity to understand the proceedings and assist in his defense.

Similarly, we did not find any evidence that he was being externally or internally pressured to enter a plea to the charges. He was knowledgeable about the plea being entered for him and accepted new information concerning that plea. It appeared that with the assistance of his attorneys, he could make a well-reasoned choice. Consequently, it was our opinion that he did have the capacity to also voluntarily and knowledgeably enter a plea to the charges.

#### DEFENDANT'S VERSION OF THE OFFENSE:

Mr. Thomas related that he had been abused by his aunt and other family members. He was angry about that abuse and had previously felt homicidal toward his aunt. He stated he had even engaged in behavior attempting to kill her. In general, he explained that he was very sensitive to teasing and abuse, both physical and verbal, from other individuals. He was very angry about the abuse he had received as a child and fantasized at length about doing to his victimizers what had been done to him. He also described sexual experiences which were uncomfortable for him. He described basically feeling sexually inadequate and having many mixed thoughts and emotions about sexuality and violence. He related a heavy involvement in masturbatory activities and in viewing pornographic materials, including video tapes. He indicated that he had sexual experiences with his sister and with other girls. He related in essence that he felt he needed to prove himself sexually. He also related a fascination with violence and pain and indicated that he enjoyed mutilating and torturing bugs and animals, especially when he was upset about how he was being treated. At such times he sought out juveniles to tease or aggress against. He described violence against others apparently for entertainment and for release of pent-up emotions. He had engaged in property destruction, fire-setting, theft, and sneaking out of home. At one point he said he had killed someone before, but his lawyer advised him not to speak of it.

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*He variously indicated that he began hearing voices at age 11 or at age 14. He offered different versions of how he came to first hallucinate. He became involved in treatment at the time he had homicidal feelings towards his aunt. He was placed on medication by Dr. Hooks, which made one or two of the voices go away and left him with a more sinister voice which he called his "protector".*

*In the months preceding the offense, he found himself being more depressed and withdrawn. This apparently was coincident with his visit to his father in Florida when he discovered that his father was somehow mentally ill. Mr. Thomas found that he was losing sleep, feeling depressed, being withdrawn and hearing voices.*

*Regarding the crime, Mr. Thomas indicated that he had taken notice of the victim for some time as he rode the bus with her and had gone to her house in the past to sell candy. He admitted to being sexually attracted to her, as she had big breasts, dressed as he liked, and was nice to him. He had approached her residence on occasion and had watched her movements and habits. He was rather preoccupied with violence and sexuality and formulated a plan to enter her residence to steal from her and to rape her. He broke into her residence when she was not there. He watched t.v. for a period of time and looked for the articles which he wished to examine and/or steal. He indicated that her coming home when she did surprised him and that he hid from her. He gave various statements about his intentions to kill her. At one point, he stated that his intention in entering the house was to rape, rob and kill her. However, he placed more emphasis on his intending to rob and rape her and that he began thinking of killing her when he wanted to leave the residence and feared discovery from her. He indicated that she unexpectedly saw him when she turned on the light in the bedroom and he struck her from fear and desire to escape. He then manipulated her body for sexual purposes and prepared to rape her. However, he became disgusted by her smell and state, and did not do so. He was angry that he was unable to complete the act and left the house somewhat impulsively. He also indicated that he was hearing the voice of his "protector" who instructed him to engage in these activities, including breaking in the house and striking her. He said that he felt that the incident was an accident, that he was not himself and that he was pressured into it by his "protector". Following his leaving the house, he went back home and did not concern himself with the consequences as he thought that whatever happened would happen. He eventually went to bed and was awakened by the police arriving to arrest him.*

MENTAL STATE AT THE TIME OF THE OFFENSE:

*Our evaluation and analysis revealed that there were substantial concerns regarding Mr. Thomas' mental and emotional states in the months prior to the offense. He did complain to professionals about his homicidal feelings and the voices he was hearing.*

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*He may well have been experiencing a depression with psychotic features at that time. However, his thinking and reality testing did not appear to be overwhelmed by these symptoms. Rather, they appeared to be one more source of stress and pressure for Mr. Thomas, who was experiencing severe emotional distress from perceived abuse, neglect and harassment. As we investigated this incident with Mr. Thomas in great detail, the motivations for his behavior appeared based upon his feelings of having been abused, feeling inadequate, and his fascination with violence and sexuality. We did not discover a psychotic process sufficient to explain his behavior or his actions at the time of the offense. Mr. Thomas indicated in detail that he had planned the event over at least several days and that he had tried to accomplish his plan. He indicated that immediately after the offense, he knew that he was in trouble but he was rather fatalistic about it and took minimal steps to conceal the crime and was letting consequences take their course.*

*It should be noted that we felt it important to acquire further information. We felt it important to talk with family members, treatment providers and witnesses who could describe the course of Mr. Thomas' developmental history, including any significant deterioration he may have experienced. Testing data did suggest that he had experienced some decrement in abilities over the years. However, this information was insufficient to establish a baseline of behavior and to track a course of deterioration. Mr. Thomas described events prior to the crime which should be verified by collateral sources of information, and these include the history of abuse and his social and personal withdrawal. Further investigation about psychotic symptoms should be undertaken with the treatment providers. We noted that our evaluation took place approximately nine months after the offense. During the intervening months, he had been housed in a stable, controlled environment and had been treated with psychotropic medications for most of that time. His current mental state may well not reflect the mental state which he had at the time of the offense, and increase the need for collateral information contemporary to the crime. Additionally, he was evaluated nine months later in his adolescent development. While we were of the opinion that we could formulate an opinion of this offense based upon the information we had, our opinion would be made more reliable by having access to the above-listed witnesses. It also may be useful and revealing to examine Mr. Thomas for an extended period of time off of medications. However, that presents its own problems in that how he would appear off of medications at this time may also not accurately reflect how he would have been during the time of the crime due to the factors of his having experienced approximately a year more development in both his psychology and any mental disorder he may have. However, our intensive interviews with Mr. Thomas failed to reveal appreciable psychotic thought processes about this crime, but rather increasingly explicated the aggressive and sexual aspects of his intentions and behavior.*

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Consequently, it was our opinion, based upon the available information, that Mr. Thomas did have the capacity to understand the nature and quality of his behavior and tell the difference between right and wrong with reference to his behavior at the time of the offense.

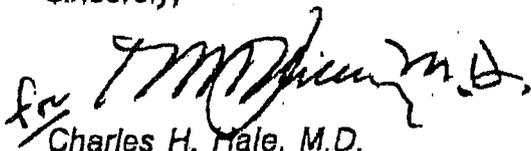
PROGNOSIS:

Mr. Thomas presented with an extensive history of problematic and rule-breaking behavior, including school problems, theft, aggression, cruelty to animals and insects, fire-setting and sexual behavior, as well as a history of emotional disorder and psychiatric problems. He admitted to the offense as charged. His description of his motivations and behavior were particularly gruesome and egosyntonic. He clearly presented himself being fascinated by, and idealizing of, violence, sex and power. He himself indicated that he could see himself engaging in such an act again. He indicated that he had aggressive feelings during this hospitalization, which he managed to control. He had a history of homicidal and suicidal ideation. He had a history of emotional and behavioral instability. Consequently, it was our opinion that he presented an extreme risk of further aggression toward himself or others. His risk of aggression towards others was imminent as well as long-term. His aggression toward himself did not appear imminent but was a long-term concern based upon the future events he must experience.

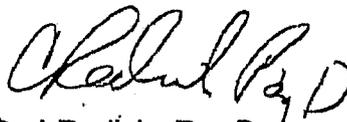
He did not require hospitalization at this time prior to court.

As our evaluation is complete, we respectfully request that he be returned to court for further proceedings. If we can be of any further assistance, please feel free to contact us.

Sincerely,



Charles H. Hale, M.D.  
Staff Psychiatrist



Carl Redick, Psy.D.  
Clinical Psychologist

CR/jlw/clc

cc: Joseph Pendergast/Kristin Richardson, DPA  
Eric Lindell/Jim Conroy, Defense Counsel

## **APPENDIX G**

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

STATE OF WASHINGTON,  
Plaintiff,  
  
vs.  
  
GREGORY THOMAS,  
Defendant.

RECEIVED  
JUN 12 1996  
NIELSEN & ACOSTA

NO. 95-1-02081-6  
COA NO. 38324-8-I

COPY

VERBATIM REPORT OF PROCEEDINGS

BEFORE THE HONORABLE MARY BRUCKER, JUDGE  
King County Superior Court  
Seattle, Washington

NOVEMBER 7, 1995

APPEARANCES:

FOR THE PLAINTIFF: KRISTIN RICHARDSON  
Deputy Prosecuting Attorney  
  
JOHN BELOTTI  
Deputy Prosecuting Attorney  
  
FOR THE DEFENDANT: ERIC LINDELL  
Attorney at Law  
  
JAMES CONROY  
Attorney at Law

VICTORIA RACCAGNO  
OFFICIAL COURT REPORTER

## P R O C E E D I N G S

November 7, 1995

(Jury present)

THE COURT: Good morning, ladies and gentlemen. The the defense may call their next witness.

MR. LINDELL: Carl Redick to the stand, your Honor.

CARL REDICK, called as a witness on behalf of the Defendant, having been first duly sworn on oath, was examined and testified as follows:

## D I R E C T   E X A M I N A T I O N

BY MR. LINDELL:

Q State your name and spell it, please.

A Carl Dennis Redick, R-e-d-i-c-k.

Q You are employed where?

A Western State Hospital.

Q Which is the state hospital for the mentally ill?

A Yes, it is.

Q Let me ask you before I move on, you evaluated Mr. Thomas here, correct?

A Yes, I did.

Q And all of the evaluations and that kind of thing, neither myself nor Mr. Conroy asked you

1 to perform those, correct?

2 A That is correct.

3 Q During the course of your evaluation with Mr.  
4 Thomas you met with him and spoke on a number  
5 of occasions with Dr. Hale?

6 A Yes.

7 Q On one of those occasions Mr. Thomas informed  
8 you the police made him say things he didn't  
9 want to say, correct?

10 A Said something to that effect, yes.

11 Q Let me ask you, how long have you been at  
12 Western State? About?

13 A About ten years.

14 Q Is it fair to say that you may have developed  
15 some bias in that ten years at Western State?

16 A I don't think I have developed a bias,  
17 counselor.

18 Q Are you saying you are immune or you just don't  
19 think you have?

20 A I don't think I am immune but I think we have  
21 tried hard at Western State to remain objective  
22 in our evaluations.

23 Q Doctor, you don't get paid a special fee for  
24 this, do you? I mean this is your job, you get  
25 a salary for this?

1 A That is correct.

2 Q And the same goes with Dr. Hale, he works with  
3 you, is that right?

4 A That is right.

5 Q You met with Greg on how many different  
6 occasions?

7 A I think five different occasions.

8 Q And either myself or Mr. Conroy, his attorneys,  
9 were present on every occasion by court order,  
10 right?

11 A That is correct.

12 Q Now you talked to, during the course of that  
13 evaluation process, the prosecutors on a  
14 regular basis?

15 A Yes.

16 Q And to let them know what is going on and your  
17 progress and that kind of thing?

18 A Discussed the case as it went along, yes.

19 Q Now you have testified approximately how many  
20 times?

21 A About a hundred times.

22 Q And you have evaluated approximately how many  
23 people at Western?

24 A About 1400.

25 Q How many of those people were below the age of

1 18?

2 A About five.

3 Q When you worked with Doctor Hale a couple of  
4 hundred times?

5 A I would say that, yes.

6 Q Now you have reviewed some of your testimony  
7 with the prosecutors before testifying?

8 A Yes.

9 Q And you wrote a report in this case, too,  
10 didn't you?

11 A Yes, I did.

12 Q And you have been trained at least in writing  
13 accurate and reliable reports?

14 A Yes.

15 Q And you tried to put things in there you  
16 considered to be relevant?

17 A Yes.

18 Q Wouldn't be anything in there you considered to  
19 be inaccurate or false, would there?

20 A No.

21 Q Now your conclusion about Mr. Thomas was that  
22 he had the capacity to understand the nature  
23 and quality of his acts when he committed the  
24 homicide, correct?

25 A Yes.

- 1 Q Those were your words, that he had the  
2 capacity?
- 3 A Yes.
- 4 Q You didn't say that he did it, if I understand  
5 it, you say he had the capacity?
- 6 A Right.
- 7 Q Let me ask you, Doctor, are you a medical  
8 doctor?
- 9 A No, I am not.
- 10 Q You didn't attend medical school?
- 11 A No.
- 12 Q And you can not prescribe medicine?
- 13 A No, I can't.
- 14 Q You went to college, to get to your experience  
15 a little bit, in '69 to '71?
- 16 A Yes.
- 17 Q Where?
- 18 A University of Michigan.
- 19 Q And your major course of study was what?
- 20 A Well, general studies. I changed majors  
21 several times during that period of time.
- 22 Q And you went back to school, what, six years  
23 later?
- 24 A About that, yes, six or seven years later.
- 25 Q Between '71 and '75, you were employed where?

1 A I did a variety of things, manual labor jobs.

2 Q Anything related to the field of psychology?

3 A No. No. Well, yes, I should say yes. When I

4 returned, when I turned to study in psychology

5 I worked at the University of Michigan Neuro

6 -Psychiatric Hospital.

7 Q That was '75 to '77?

8 A Yes.

9 Q And in your resume you indicated that you

10 trained medical students who were on rotation

11 there at the University of Michigan Hospital?

12 A I helped to, yes.

13 Q And your resume says you trained care workers

14 and medical students on rotation?

15 A Yes.

16 Q At the time you trained medical students had

17 you graduated from college?

18 A No.

19 Q But eventually you did graduate and you went to

20 school again in '77-78?

21 A Yes.

22 Q And what did you get a degree?

23 A Psychology.

24 Q Where?

25 A Mankato State University in Minnesota.

1 Q And over the next four years, '79 to '83, I  
2 guess, you worked at six different places on a  
3 part-time basis?

4 A Yes, part of my education for my doctoral  
5 degree, yes.

6 Q And some of that involved working with kids, at  
7 least?

8 A Yes.

9 Q Now you eventually, I imagine, got a PhD.?

10 A Doctor of Psychology, not a PhD., it is called  
11 an SID.

12 Q It is not a PhD.?

13 A It is not a PhD., it is an equivalent degree.  
14 It is a specialization in.

15 Q Where did you get that degree?

16 A University of Denver.

17 Q And then you worked, what, nine months at a  
18 medical health center in Denver?

19 A A mental health center, yes.

20 Q Mental health center?

21 A Approximately a year.

22 Q That was up to, well, on your resume here you  
23 have got that is up to July of '84?

24 A Yes, August I think, but July or August.

25 Q And then you started work at Western on March

1 of '85?

2 A Yes.

3 Q During that period there from the time you  
4 stopped at the mental health center until the  
5 time you stopped at Western, what did you do?

6 A We moved from Minnesota, from Denver to  
7 Washington and I decided that I wanted to stay  
8 home with my child at that point. My child was  
9 six months old and I wanted to spend some time  
10 with him before I went back to work.

11 Q So you stayed home with your son or your child  
12 for about six, eight months?

13 A Yes.

14 Q And then you got a job at Western?

15 A Right.

16 Q And you have been there for ten years?

17 A Ten and a half years, yeah.

18 Q Now your resume indicates that the first year  
19 there you coordinated treatment for 32  
20 adjudicated criminally insane offenders?

21 A Correct.

22 Q What does that mean, what was your job?

23 A That means I worked on two wards, in-patient  
24 ward providing treatment to individuals who had  
25 been found not guilty by reason of insanity and

1        were placed there for long-term treatment to  
2        try to improve their mental state and reduce  
3        their dangerousness to the community. My job  
4        was to provide psychological services to those  
5        individuals either in individual or group  
6        treatment or psychological evaluations as well  
7        as to coordinate the treatment program for  
8        those individuals while they were on the ward.  
9        Meaning coordinating between the various  
10       disciplines so that the treatment plan could be  
11       put into effect and achieve good results.

12    Q    And in graduate school, getting back a little  
13        bit in time, did you receive any honors?

14    A    Not particularly, no.

15    Q    Have you published any papers in schizophrenia?

16    A    No.

17    Q    Have you published any treatises or chapters in  
18        schizophrenia?

19    A    No.

20    Q    Have you published any papers at all in the  
21        field of psychology?

22    A    No.

23    Q    You have also, to get back to your education,  
24        taken some law classes, haven't you?

25    A    Not law classes at the university. I have

1 taken seminars that were provided to various  
2 professionals.

3 Q And that is to help you with your testimony and  
4 your job at Western?

5 A Yes.

6 Q Now, Doctor, let me ask you some questions.

7 You reviewed some records related to Mr.  
8 Thomas?

9 A Yes.

10 Q Those records were what?

11 A Well, they include the police discovery  
12 information, records from his school history,  
13 records from various treatment providers that  
14 have provided him with some sort of treatment  
15 or prior to his being incarcerated, records  
16 related to his mother and his father. I  
17 reviewed some notes from Dr. Lindsay, I  
18 reviewed records and a report from Dr. McCarty.  
19 I think that covers it. It is quite a few  
20 records.

21 Q And the records related to his parents were  
22 after you reached your conclusion about Mr.  
23 Thomas?

24 A I received those records after the time I wrote  
25 my report, yes.

1 Q And the same with the report and notes from Dr.  
2 McCarty?

3 A That is correct.

4 Q Now you would agree with me, Doctor, based on  
5 your review of the literature and the  
6 experience, that people who develop mental  
7 illness and even become insane can be based on  
8 the environment in which they were raised and  
9 the experiences they have been under?

10 A Well, yes, we think there is some sort of  
11 condition within the individuals that tends to  
12 make them susceptible to a stressful  
13 environment but theoretically if you put anyone  
14 in a stressful enough environment they may  
15 produce a temporary mental disorder.  
16 Generally, without the underlying substrata of  
17 a physical or genetic predisposition, that  
18 condition would not last.

19 Q So what does that mean exactly? If you put  
20 somebody in a bad enough environment they could  
21 be driven crazy but only for a little while?

22 A Basically, yes.

23 Q Now let me ask you about Mr. Thomas's  
24 environment. What trauma, for lack of a better  
25 word, from your review of the records relating

1 to Mr. Thomas did you find what he went through  
2 growing up?

3 A Well, he had a fairly chaotic sort of history  
4 and by that I mean that he didn't have stable  
5 relationships with his parents. His father  
6 apparently was never really in the picture from  
7 the time he was a baby. His mother was there  
8 the first few years but even then she seemed to  
9 be, from the records and his report, very  
10 unstable, probably suffering from a mental  
11 disorder and having a severe alcohol and drug  
12 abuse problem such that his care probably was  
13 very under the appropriate level. I mean he  
14 probably didn't receive very good care during  
15 this period of time. He has stated that he was  
16 abused by his mother.

17 Q How?

18 A Pardon me?

19 Q How? What did he tell you about that?

20 A Well, he said that on occasion he and his  
21 younger sister and I believe his older sister  
22 would be hit with plastic rods from like a jump  
23 rope, and I think there was other hitting that  
24 was taking place with her. She would bring  
25 boyfriends home and engage in sexual activity

1 or at least unstable kinds of behavior around  
2 the house. He went into some length about the  
3 fact that he felt that he had been mistreated  
4 by her and neglected to some degree by her.

5 Q How old was he when this was going on?

6 A This was prior, I believe, to about age,  
7 somewhere between five and seven.

8 Q Were you aware, also, from your review of any  
9 of the records at what point he was hit with a  
10 fry pan and that knocked him out for five or  
11 ten minutes?

12 A I don't remember that specific incident but the  
13 environment would be characterized that way,  
14 yes.

15 Q How about at one point when he was a little  
16 child his mother held him up and bit his penis,  
17 circumcized his penis with her teeth?

18 A I didn't receive that from Mr. Thomas but that  
19 was contained in Dr. McCarty's report after he  
20 had talked with the defendant's mother.

21 Q Now you don't mind calling him Greg or Mr.  
22 Thomas, do you, instead of the defendant?

23 A I prefer Mr. Thomas.

24 Q Now Greg was also at some point placed in a  
25 foster home for a couple of days?

1 A Well, probably. The records in my mind were  
2 very unclear about that. There was a letter  
3 from the Department of Social and Health  
4 Services that said that he had not been placed  
5 in such a facility but there are suggestions in  
6 other parts of the record that perhaps he was  
7 briefly placed in such a place.

8 Q As he was growing up he was moved around from  
9 relative to relative for a period of time, he  
10 initially lived with his mom and then with one  
11 aunt, Anita, and then with another aunt, Joy,  
12 and then I guess he lived again with his mom,  
13 that is an accurate reflection of what  
14 happened, isn't it?

15 A Yes.

16 Q And you also learned from the records that his  
17 Aunt Joy had physically abused him?

18 A Yes.

19 Q How so?

20 A Well, he said that she had hit him, as well,  
21 and left bruises on himself and his sister.  
22 There was a CPS report where he and his sister  
23 apparently made a complaint about that when he  
24 was 13, 14 years old, 14 years old, and he had  
25 said at that time that this had been going on

1           periodically in the family where his aunt was  
2           rather severe with him and at times would  
3           strike them.

4    Q    You also reviewed some records, you had some  
5           information about Mr. Thomas being emotionally  
6           abused by his aunt?

7    A    Yes.

8    Q    And what would that be?

9    A    Well, she seemed to, at least from his report  
10           and I think from one of the treatment  
11           providers, Cory Goldstein, perhaps, that she  
12           seemed to lay guilt on him, exactly about what  
13           I am not real clear. He felt himself that she  
14           tended to favor his sister and that he was sort  
15           of the odd person out in the family. He  
16           wouldn't get the same benefits or rewards or  
17           attention, perhaps, that his sister would get,  
18           and that his aunt would take his sister's side  
19           whenever there were disagreements.

20   Q    Doctor, all of these things that you have  
21           talked about, being raised by somebody who is  
22           mentally ill for a period of time, when they  
23           are younger, being whipped with an extension  
24           cord when you are a little child, being whacked  
25           with a fry pan and being knocked unconscious,

1       having your penis bitten, being shoveled around  
2       from relative to relative, being emotionally  
3       abused by the aunt he lived with, all of those  
4       things, certainly could contribute to causing  
5       someone to be seriously mentally ill, couldn't  
6       it?

7   A    It could contribute to mental illness.  It also  
8       could contribute to severe emotional and  
9       personality problems, personality disorder.

10  Q    And emotional and personality problems can be  
11       described as a mental illness?

12  A    They are included in the DSM-IV but I would not  
13       characterize them.

14  Q    But the DSM-IV does?

15  A    The DSM-IV describes them as mental disorders.

16  Q    Let me ask you a couple of questions about  
17       schizophrenia.  I imagine you are familiar with  
18       the term?

19  A    Yes.

20  Q    You ever diagnosed it?

21  A    Yes.

22  Q    Treated people with it?

23  A    Yes.

24  Q    What is the youngest case of anybody you have  
25       seen with it?

1 Q And he said at least one of the voices told him  
2 to commit this crime, didn't he?

3 A Yes.

4 Q And at one point on October 3rd he told you  
5 that he didn't even commit this crime, right?

6 A Yes.

7 Q And you said what do you mean and he said I  
8 didn't do it, me, I didn't do it. Remember  
9 those records?

10 A Right, yes.

11 Q And then he said it was an accident, he told me  
12 to do it?

13 A Yes.

14 Q Now he also indicated to you that he had been  
15 hearing voices since ages 11 or 12, right?

16 A He was variable about that. At one point he  
17 said he heard them from age 11 or 12 and  
18 another time he said he heard them only from  
19 age 14. So.

20 Q And he indicated that the voices on occasion  
21 fought back and forth with each other, didn't  
22 they?

23 A In the past, yes.

24 Q And he would tell them to shut up, right?

25 A Yes.

1 Q He told you he got the voices or contracted the  
2 voices off of the tv, didn't he?

3 A Yes.

4 Q He, I guess, described the process where he  
5 absorbed these things off the tv?

6 A No, that is not what he was saying.

7 Q What was he saying about how he contracted the  
8 voices off the tv?

9 A What he was explaining to us on several  
10 occasions was that his aunt would do things  
11 that he didn't like and he would watch violent  
12 shows on tv, violent and sexual shows on tv,  
13 apparently, and that from watching these shows  
14 he would go, watching these shows and listening  
15 to his aunt's negative comments towards him  
16 that he would go into his room at night and  
17 ruminate about these things and play them back  
18 over and over in his head and he would develop  
19 this voice he was talking about from these  
20 ruminations that he had late at night, and that  
21 is when it started for him. And he went on to  
22 describe the influence of those things in his  
23 life and in his behavior, but that is how these  
24 things started.

25 Q What he actually said was, we are talking about

1 reliable than just what is being told you,  
2 correct?

3 A Well, yes. Again, though, it is because of  
4 comparison value with other people.

5 Q All right, when you talked to the defendant I  
6 believe you said -- I am sorry I have forgotten  
7 -- you interviewed him for approximately how  
8 many hours?

9 A About 12 hours.

10 Q All totalled, Doctor, how long have you spent  
11 on this case?

12 A About 50 or 60 hours, I would say, going over  
13 the records and talking to various people.

14 Q Now with regard to the interviews themselves,  
15 if we could, please, would you tell us what the  
16 defendant told you about, and I am talking  
17 about lets say from the day before to the day  
18 after, what did he tell you about January 9 and  
19 the bludgeoning of Ruth Lamere?

20 A Well, we talked with him at several points over  
21 a series of several interviews which took place  
22 over a couple of weeks. And the things that he  
23 told us about that act that day changed over  
24 time, not so much changed in that he retracted  
25 things or contradicted himself, but elaborated

1 more as time went on. And so, essentially, he  
2 started out telling us about the fact that he  
3 had noticed this woman before, he had ridden  
4 with her on the bus and sat next to her at  
5 times, as has already been said, that he had  
6 been selling candy in the neighborhood and on  
7 one occasion had sold, had gone to her house to  
8 sell her candy. He said that he had been in  
9 her house at that time.

10 That is a little bit unclear to me because  
11 there seems to be a statement earlier on that  
12 maybe he wasn't in the house, from him. But at  
13 least several times he said he was in the  
14 house, that he had noticed some of the things  
15 that were in her house, some crystal glasses  
16 and stuff and rings or some kind of shiney  
17 jewelery, that he had over the course of I  
18 guess approximately a week or two had been to  
19 her house at least two times, maybe three  
20 times, and had observed her movements when she  
21 came home from work, that he knew approximately  
22 what time she would come home from work and  
23 that he knew, he said he knew basically what  
24 her activities were during the couple of hours  
25 after she got home from work because he had

1       gone there to watch her and to see her pattern  
2       of the things that she did.

3               He said that -- I am sort of mixing  
4       interviews here. It is difficult to keep them  
5       all straight. But that he had thought about  
6       the acts the night before, that he had planned  
7       out how he would do it. I think in particular  
8       he had talked about the fact that he had been  
9       fantasizing about sex and violence for quite a  
10      long time, and I suspect by a long time years,  
11      and he came to identify this particular  
12      individual apparently only in the few weeks  
13      before this occurred. So that initially when  
14      he said that he went there it was to get inside  
15      and just take some things and maybe mess up the  
16      place a little bit and see how she might react  
17      to that later on. However, as we continued to  
18      interview him and talk to him about what had  
19      happened and about his feelings about what had  
20      happened and some of the information from the  
21      police reports, more of his story, I guess you  
22      would say, came out as we talked, even up to  
23      the time of the last interview.

24              And, essentially, he said that he went  
25      there to -- well, let me back up. The first

1 time we talked with him he didn't go into any  
2 particular sexual motivation for what he had  
3 done, at least not in any detail, and that he  
4 had gone there to take a pocketknife and maybe  
5 some other objects and then leave and not do  
6 anything in particular and that she sort of  
7 surprised him when she came home.

8 Q Now, Doctor, that is consistent with what he  
9 told the police, correct, in his confession?

10 A Yes.

11 Q As you elicited more detail from him in the  
12 latter interviews. What did he add to that?

13 A Gradually he added more and more sexual  
14 motivation for his offense, that he talked to  
15 us about the fact that he had been having lots  
16 of feelings about his own sexuality and  
17 sexuality with other people and that he was  
18 very angry, that he was angry at having been  
19 abused over many years by his mother and I  
20 guess people that she would bring home, and as  
21 well as his aunt abusing him, that he was angry  
22 with women generally, he didn't understand  
23 women very well, and that he explained his real  
24 motivation was to go into the house and to rape  
25 her. And that he had brought objects with him,

1 including some cream that he would use for  
2 sexual behavior and condoms that he would use,  
3 as he explained later, just for his fingers and  
4 not for his penis.

5 He explained that he was feeling very, I  
6 think, inadequate about his sexuality, about  
7 the fact that he wasn't performing as well as  
8 perhaps his cousin was, I think he mentioned.

9 Q Now I am sorry to interrupt you, but there was  
10 a little bit of talk on direct about the fact  
11 that he seemed to be developing female breasts?

12 A Yes.

13 Q And that is called gynocomastia?

14 A Yes, I have trouble with that word, also.

15 Q But it is something that appears in about 20  
16 percent of all adolescents?

17 MR. LINDELL: I object to this. He is not  
18 a medical doctor and I don't think he is  
19 qualified to answer the question.

20 Q (By Ms. Richardson) Based on your review of  
21 the records, is it your understanding that it  
22 appears in about 20 percent of adolescents?

23 A I don't know whether it appears in 20 percent  
24 of adolescents, no.

25 Q Do you know whether it generally goes away on

1           its own?

2           MR. LINDELL:  Objection; he is not a  
3           medical doctor.

4           THE COURT:  Lay a foundation.

5   Q       (By Ms. Richardson)  Based upon your review of  
6           the records, is it your understanding that it  
7           generally goes away on its own?

8   A       Based on my discussion with Dr. Hale I would  
9           say that, yes, supposedly, as the person  
10          develops in other areas of their body that  
11          becomes less prominent, yes.

12  Q       At some point the defendant actually saw a  
13          doctor because he was concerned about this?

14  A       Yes.

15  Q       And that is what the doctor told him, that it  
16          would go away on its own?

17  A       Yes.

18  Q       That was of particular concern to the  
19          defendant?

20  A       Yes.

21  Q       It bothered him a lot and he didn't like to  
22          talk to you about that?

23  A       Yes, that is true.

24  Q       So at the point I think I interrupted you.  We  
25          were talking about that he had some sexual

1           confusion and then you were to go on. So what  
2           did he tell you beyond that?

3    A       Well, I didn't say that he was particularly  
4           sexually confused.

5    Q       I don't mean to imply his gender was confused,  
6           but how would you describe his feelings about  
7           sexuality? Could you expand on that a little  
8           bit?

9    A       I think in general that the evaluation  
10           developed as it did because of his feelings  
11           about sexuality. He told us several times, I  
12           think it has already been brought out, that he  
13           was uncomfortable talking about sexuality and  
14           even asked us at some point not to ask  
15           questions like that because it made him feel  
16           very uncomfortable, he didn't like to talk  
17           about that sort of thing. As the interviews  
18           progressed and we talked about the fact that  
19           there were things in the police reports that  
20           were not explained he gradually began talking  
21           more and more about the sexual aspects of his  
22           motivation and his behavior at the time of the  
23           offense.

24   Q       Now let me interrupt you again. When you are  
25           talking about things in the police report that

1 aren't explained, what was it that you were  
2 telling him specifically, that his explanation  
3 for wasn't matching.

4 Q Well, from the the initial statements he hadn't  
5 explained the condoms that were found at the  
6 scene, the state of her undress, if you will,  
7 the fact that there was apparently cream spread  
8 around her vaginal area, the mark that was made  
9 on her left breast, the penetration wounds.

10 Q The laceration?

11 A The laceration, those sorts of things were not  
12 explained in his initial statement about what  
13 had happened. He had basically said that he  
14 had been in there to do this robbery or this  
15 burglary, I guess, this theft, and that she had  
16 come home at a time that he did not expect and  
17 that he wanted to leave and the only way he  
18 could leave was to hit her and get out. And  
19 then after he hit her he basically left. But  
20 that clearly didn't fit with what was suggested  
21 in the police reports, so we told him -- I  
22 think at some point we told him it didn't match  
23 that and we asked for further explanations.

24 Q And what did he tell you?

25 A Well, that is where he told us about, he

1            increasingly told us about the fact that there  
2            was sexual motivation in his behavior, that he  
3            was attracted to her because she had big  
4            breasts and because she had been nice to him.  
5            He actually was able to tell us in amazing  
6            detail and psychological awareness or terms,  
7            really, about his feelings around sexuality and  
8            his feelings around how an aggression in him  
9            has gotten mixed up with sexuality, that when  
10           he is feeling aggressive that he feels the need  
11           to do something to release the tension that is  
12           in inside of him and that this has taken  
13           various forms over, I guess, the last couple of  
14           years and in this case he indicated this  
15           provided some of the motivation for what he did  
16           here. He also explained at some point that he  
17           wondered what it would be like to have sex with  
18           an older woman based on what he had been  
19           watching on tv, these pornography flicks that  
20           he had seen apparently. And he explained that  
21           when someone is nice to him that creates a lot  
22           of mixed feelings for him because of the anger  
23           that he has towards women and particularly I  
24           guess resulting from the abuse that he had  
25           experienced over time from his mother and

1           apparently from his aunt, as well. So these  
2           feelings of sexuality and anger get mixed up  
3           within him and his own stage in his adolescent  
4           development of becoming more of a -- he didn't  
5           say this -- but I think more of a sexual being  
6           or his own hormones beginning to press upon him  
7           and he is comparing himself to other  
8           individuals and feeling like he needed to  
9           perform.

10           I think that one of the things that he  
11           particularly stated is that he felt badly about  
12           and afterwards he could not complete the act,  
13           he could not have sex with this woman and that  
14           frustrated him and angered him and I think  
15           explains to some degree how he left the scene  
16           of the offense.

17   Q       Doctor, when you say he couldn't complete it, I  
18           think you testified that he went in thinking  
19           that he was going to rape her, correct?

20   A       Yes, he did say that, yes.

21   Q       And once inside what happened, according to  
22           him, after she was face down on the ground?  
23           And I am talking about with regard to the rape  
24           that he wanted in his head to do.

25           MR. LINDELL: I am sorry, I didn't hear

1 that question.

2 Q (By Ms. Richardson) I am talking about the  
3 rape that he in his head wanted to do.

4 A Well, I am not sure what exactly you are  
5 asking. He said that he went through various  
6 preparations in order to complete this act with  
7 her, including going into the bathroom,  
8 masturbating to get himself hard so he could do  
9 this. He came out, he was not able to get  
10 himself to put his penis into her but he said  
11 that he masturbated while looking at her. He  
12 said that he was sort of disgusted eventually  
13 by the scene, particularly by the smell that  
14 was occurring at that time, apparently from  
15 head wounds, I guess. He explained to us that  
16 in general he did not like to touch things  
17 which were sexual and including himself, so he  
18 would use condoms on himself and he wanted to  
19 put the condom on his finger and then put his  
20 finger into her vagina but he could not get  
21 himself to do that because he became disgusted  
22 by the scene. He had manipulated her at times.  
23 He said at one point he wanted to get her up on  
24 the bed and put her in a particular position  
25 ante her up and leave her there.

1 Q Did he say why he wasn't able to do that?

2 A I think she was too heavy for him, to awkward,  
3 for him to do that.

4 Q And he actually said she weighed more than he  
5 did, right?

6 A Yes, he did.

7 Q And he talked to you about moving Mrs. Lamere  
8 body around, right?

9 A Yes.

10 Q And he talked to you about sort of the  
11 revulsion that he felt when he saw her genital  
12 area, is that right?

13 A Yes.

14 Q And is that one of the reasons why, in addition  
15 to the smell, that he was unable to complete  
16 the sexual act?

17 A Yes.

18 Q From that point forward, in your opinion, did  
19 that have something to do with why he left the  
20 house?

21 A Well, in the manner in which he left, yes.

22 Q And what do you mean by that?

23 A Well, the crime scene as described in the  
24 police reports indicated that there was a  
25 condom left at the scene, that the sliding door

1 handle was pulled off or at least damaged, that  
2 there were articles of his which were left  
3 underneath the window outside the house, and  
4 there was a board over the window. And he  
5 described frustration at not having been able  
6 to complete this act, and though he did take  
7 some efforts to sort of put things back in  
8 order, put the board back up on the window, he  
9 just had sort of a fatalistic attitude about  
10 whatever happened would happen so he did not at  
11 that point go to great efforts to try to  
12 conceal the scene. He did say that he had  
13 looked around a little bit for what he had left  
14 under the window but he had just left it and  
15 gone through on his way home.

16 Q And one of the first times you asked him why he  
17 went over there his answer was to rape, rob and  
18 kill, correct?

19 A Not the first time I asked him, but at some  
20 point he did respond with that.

21 Q And you actually stopped him and said, now,  
22 look, be careful what you are saying?

23 A Yes.

24 Q And that is because you knew that he had been  
25 charged with premeditated murder, right?

1           MR. LINDELL: I object to Ms. Richardson  
2           testifying and ask that she just ask a  
3           question.

4           MS. RICHARDSON: This is cross.

5           THE COURT: The question was a leading  
6           question. It is appropriate.

7   Q       (By Ms. Richardson) Now you talked a little  
8           bit about how the defendant, by his own words  
9           to you, mixed up sex and violence. That to you  
10          is a crucial part of analyzing whether he was  
11          legally insane or not, isn't it?

12   A       Yes.

13   Q       And why is that?

14   A       Well, in general, what I was looking for was  
15          some psychotic explanation of really what had  
16          happened in terms of his perception of what he  
17          was doing and his reasons for doing so. As we  
18          looked further and further into this case, his  
19          explanations that he was giving us leaned away  
20          from a psychotic explanation and leaned more  
21          towards an angry young man who had a lot of  
22          confusion and issues around sexuality and  
23          aggression towards women and people in general  
24          and towards his own sense of competence as an  
25          individual, as a young man. We did not get the

1        sort of answers that we expected to get if this  
2        had been solely the result or the direct result  
3        of a psychotic disorder.

4    Q    What sort of answers would those have been?

5    A    Well, it would be almost anything really. For  
6        example, if he had talked about the fact that,  
7        oh, that she had been possessing him for  
8        sometime and had been controlling his behavior  
9        from afar and that the reason she sat next to  
10       him on the bus was to rub off part of her own  
11       sexuality on him, and somehow controlling him,  
12       and he killed her to try and release himself  
13       from her control, or if he had killed her in an  
14       attempt to find out if she was a robot and was  
15       digging around in her head to see where the  
16       computer electronics were, something like that  
17       would be much more clearly psychotic in its  
18       motivation than his thinking at the time.

19   Q    Now he did actually talk about touching Mrs.  
20        Lamere after he had killed her, right?

21   A    Yes.

22   Q    In fact, he told you that he had removed some  
23        pieces of her skull?

24   A    Yes.

25   Q    Did he tell you why he did that?

1 A Just basically curiosity, he wanted to see  
2 what it looked like.

3 Q I am sorry?

4 A He didn't give any drawn out explanation of why  
5 he had done that.

6 Q And from your review of the police reports and  
7 the crime scene lay out, is that consistent  
8 with what the police found at the scene?

9 A Yes, basically, it is consistent, yes.

10 Q And did he talk to you about removing her  
11 dentures, as well?

12 A I am not sure -- I know I read that in the  
13 police report. Right now I can't say if he  
14 told us that himself or not.

15 Q Did he talk to you about trying to do CPR or  
16 calling 9-1-1?

17 A Yes, I believe so.

18 Q And did what he told you comport with what your  
19 understanding of the statement to the police  
20 was?

21 A Yes, I think so.

22 Q In a general sense?

23 A I am a little fuzzy on the 9-1-1 calls.

24 Q But with regard to the CPR?

25 A He said that he had hit her, yes, and in

1 interviews, I think he said -- I would have to  
2 look for sure.

3 Q In fact, he said he hit her in the stomach or  
4 the chest, right?

5 A Yes.

6 Q When he talked to you about the time that he  
7 was actually in the house and waiting for Mrs.  
8 Lamere, he indicated to you that Mrs. Lamere  
9 had come home and basically fussed around for  
10 awhile before he jumped out and surprised her,  
11 right?

12 A Yes. I don't think he indicated so much he was  
13 waiting for her but once she had been home he  
14 was hiding from her, yes.

15 Q And then as you interviewed him further and got  
16 more and more detail out of him, is that still  
17 basically the same thing he was telling you?

18 A That he had been hiding for a period of time,  
19 yes.

20 Q And that he surprised her?

21 A Or she surprised him, I guess, yes.

22 Q Now he also told you that he hit her to put her  
23 out of her misery, right?

24 A I think he said that at one point, yes.

25 Q And when he was talking about his aunt, you

1           have already said that he told you his aunt  
2           made him angry, right?

3    A    Yes.

4    Q    And his mom made him angry?

5    A    Yes.

6    Q    And that when his aunt hit him his feelings  
7           towards her were that he wanted to hit her back  
8           the way that she had hit him, right?

9    A    Yes.

10   Q    Do you think that there is a potential, Doctor,  
11           that when Aunt Joy was disciplining the  
12           defendant that it was stirring up memories of  
13           the rather severe abuse by his biological  
14           mother?

15   A    Well, stirring up memories is a difficult thing  
16           to say. I don't know what would have been  
17           going through his mind at that time, but I  
18           think that the impact of the abuse that he had  
19           from his mother, whatever that may have been,  
20           would certainly have led to his or influenced  
21           his feelings as he was being abused by his  
22           aunt. Whether he had memories of his mother at  
23           that time, I don't know.

24   Q    I guess my point is that in his mind it is  
25           possible that the abuse by Aunt Joy was

1 magnified in a way because of what he had been  
2 through in the past?

3 A Yes. I don't know whether that would be a  
4 conscious process in his thinking but  
5 psychologically I think that could very well  
6 be.

7 Q He also told you he did have some people he was  
8 close to, he took care of his little sister?

9 A Yes.

10 Q And he actually used to try to protect her from  
11 the abuse in some ways?

12 A Yes.

13 Q And he talked over his problems with his older  
14 sister?

15 A Yes.

16 Q And his older sister lives in this general  
17 area?

18 A Yes.

19 Q But he told you specifically that at the time  
20 he killed Mrs. Lamere what he felt was rage,  
21 right?

22 A Yes, strong emotions, strong feelings, yes.

23 Q And once he had done it he looked at her and it  
24 didn't do much to abate the rage, did it?

25 A I don't know that he said that.

1 Q Those are not his words, those are my words.  
2 Was your understanding from him that when he  
3 looked at her after she was down and dead that  
4 he still felt angry? That is what I meant to  
5 ask.

6 A Well, I think what he was saying is that he  
7 felt a wide range of emotions fluctuating  
8 within him after she was on the floor.

9 Q But he also said that he didn't, in his  
10 opinion, do it the right way, right?

11 A That is correct.

12 Q There was too much blood?

13 A Yes.

14 Q And if he had it to do over again he would do  
15 it differently?

16 A Yes.

17 Q He said he wanted to do it over again?

18 A He said he could see himself doing it again.

19 Q He said this was his art or his job?

20 A His job, his art. There was another word he  
21 used similar to that, yes.

22 Q And it was one of the few things he had ever  
23 done well?

24 A I am not sure I remember that, counselor.

25 Q Well, he said that he gets an A for the best

1 crime, right?

2 A Yes. But I am not sure that he was saying that  
3 in terms of this crime.

4 Q But when he talked about doing it again he  
5 said, you know, the next time I do it I am not  
6 going to get caught or I can do it better so I  
7 don't get caught next time?

8 A No. He said he would do it better to not get  
9 caught but he said that he would do it better,  
10 that he would do a better job the next time,  
11 yes.

12 Q He said that when Mrs. Lamere came in he hid in  
13 the closet so she wouldn't see him?

14 A Yes.

15 Q And the only way to get out was to kill her?

16 A To hit her, yes.

17 Q And that he had an urge, I think he described  
18 it as an urge to hit her?

19 A Yes.

20 Q Would you tell us, Doctor, how does the --  
21 well, first of all, do you think that the  
22 defendant was hearing voices just as a general  
23 proposition?

24 A I think that there is enough in the record to  
25 suggest that at some time he has heard voices,

1       yes.

2   Q    And he may be hearing them now or he may have  
3       been hearing them last fall, right?

4   A    Yes.

5   Q    Before this happened?

6   A    Yes.

7   Q    When he described the lead voice had you asked  
8       him to sort of pull out the main voice and  
9       describe it, is that how that happened?

10  A    I didn't ask him that particular question but  
11       we did ask him about the voices in general and  
12       asked him to describe them to us, and he made a  
13       number of statements about them, yes.

14  Q    What did he tell you that was significant to  
15       you in helping you make a determination about  
16       whether he knew right from wrong or the nature  
17       and qualities of his act?

18  A    In reference to the voices?

19  Q    Yes. I am sorry.

20  A    Well, we asked him at some length about his  
21       experience of having voices, and the way he  
22       described it is that last fall he had been  
23       hearing things, in fact he had been hearing  
24       them for some years, over a varying length of  
25       time, but he described that he had heard

1 several voices together at one point in time  
2 prior to the offense and this is in the months  
3 preceding the offense, and described how they  
4 would talk to each other and talk to him and  
5 one was a good voice and one was a bad voice,  
6 that sort of thing. But he said that after he  
7 had begun treatment with Dr. Hooks and gotten  
8 on the medication that the good voice went away  
9 and he was left with the bad voice, which he  
10 eventually called the Protector.

11 However, when we asked him to describe this  
12 voice what he explained to us is that his whole  
13 experience with voices had begun when he had  
14 been watching these tv programs and ruminating  
15 about what his aunt had told him at night or  
16 had told him in a negative way. He would  
17 ruminate about these things at night, go over  
18 them and over them and over them in his head  
19 and that he developed this basically what he  
20 described as a companion, in my way of thinking  
21 about it anyway, a voice which he felt helped  
22 him in fights and helped him do things to ease  
23 the frustration and anger that he was feeling  
24 inside of himself, that he sort of carried with  
25 him. It provided for him something that he

1 always wanted, which I took to mean a confidant  
2 or a person that could help him get through  
3 tough times in his life. This description in  
4 my mind is not a classical description of  
5 hallucinatory voices that might be typical of a  
6 schizophrenia, say, a bipolar disorder, rather  
7 what he was describing, in my mind, was a  
8 psychological companion, if you will, something  
9 of himself that he would use to talk with  
10 himself about.

11 One of the things he explained is that he  
12 would for a long time talk to himself when he  
13 was alone and this provided him something to  
14 talk with and something to talk to. I think  
15 that is fundamentally different than a  
16 classical schizophrenia sort of voice, but this  
17 is a consciously created experience of self-  
18 talk, if you will, another persona that he  
19 could carry with him to discuss the, to deal  
20 with the pain he is feeling inside of himself  
21 about the abuse and that experience. So when  
22 he talks about this Protector being with him at  
23 the time of the crime, that is not in my mind  
24 so much as a hallucinatory voice coming from  
25 somewhere else or outside of his own control

1       telling him what to do, but it is a part of  
2       himself that he is debating with.

3               At some point in our interviews he  
4       indicated himself that the voice itself could  
5       not make him do this but it was also how he was  
6       feeling. He had talked about this offense  
7       before while she was home, before he did it,  
8       with the voice, and debated with himself, had  
9       sort of a moral debate with himself about what  
10      was about to happen. This to me is very  
11      different than the kind of voices he may have  
12      been hearing back last fall or even earlier  
13      than that, that he describes and has described  
14      in those records.

15             What I found is that when I reviewed those  
16      records and looked for his explanations of  
17      these voices, when he would describe the voice  
18      itself he described it in those sorts of terms,  
19      it was coming from inside of him, that it was  
20      something that he had developed over long  
21      ruminations and fantasies about what had  
22      happened to him, which is fundamentally  
23      different from the voices that might occur when  
24      someone hears arguing with themselves or might  
25      hear voices coming from a vent in a jail.

1 These are very different sorts of experiences.

2 No one can get inside his head and tell you  
3 what really was occurring inside of his head or  
4 what this experience really was. We can only  
5 draw on our experience and our own  
6 understanding of what it is he is saying to  
7 make these kinds of conclusions. But  
8 regardless, I guess, even if it was  
9 hallucinatory he still had a struggle within  
10 himself, as he describes it now, about what he  
11 did, and he seemed to be very well aware of  
12 what was going on around him and what was about  
13 to happen. And, as he said afterwards, he knew  
14 he would be in trouble for it.

15 Q Now when he said that, when he told you that,  
16 that was in the context of what he was thinking  
17 as soon as it was over, boy, I am in big  
18 trouble now, right?

19 A Yes.

20 Q There was one time when the defendant described  
21 hearing a voice from the vents in the jail?

22 MR. LINDELL: I am sorry I didn't hear  
23 that.

24 Q (By Ms. Richardson) There was a time when the  
25 defendant did describe hearing a voice from a

1 vent in the jail?

2 A Yes.

3 Q What you have just described is something  
4 different than that. How do you account for  
5 that?

6 A Well, I gave the diagnosis of a psychotic  
7 disorder NOS. There were a number of treatment  
8 professionals that had seen him at least from  
9 October up until January and even Dr. Hooks saw  
10 him after that time while he was in juvenile  
11 detention, who had talked with him about the  
12 things that were occurring to him, and they do  
13 talk about things that are symptoms of mental  
14 disorder, even of a psychotic disorder, but  
15 these things appear to be fairly transient, and  
16 they indicate an individual who was having  
17 problems with a major mental disorder but yet  
18 is not overwhelmed by this major mental  
19 disorder because there are other times when he  
20 talks about not having these symptoms and not  
21 being overwhelmed by them. So I think that we  
22 have to conclude that he was having symptoms  
23 and that this probably was an additional source  
24 of stress for him, an indicator of the stress  
25 he was under, as well as an additional source

1 of stress for him prior to this offense  
2 occurring.

3 Q Now Dr. Hooks, who was the last doctor to see  
4 him before this happened, diagnosed him the  
5 same way you did, right?

6 A Yes.

7 Q Psychosis NOS?

8 A Yes.

9 Q And I believe that she added rule out  
10 schizophrenia?

11 A Yes. She was also thinking about depression,  
12 as well.

13 Q And when a doctor says rule out that is  
14 something to be concerned about and it is a  
15 potential?

16 A Yes.

17 Q What if you were just flat wrong and the  
18 defendant does have schizophrenia, would that  
19 effect your opinion about whether he knew the  
20 difference between right and wrong, whether he  
21 knew the nature and qualities of his act?

22 A No, it wouldn't. From our interviews with him  
23 and from what I could gather from the records  
24 that were made available to me, the explanation  
25 that he provided me made sense about this

1 offense occurring. It did seem to explain, the  
2 information seemed to be consistent with what  
3 he was telling us about his background and some  
4 of the information that was available in the  
5 records, it seemed consistent, it seemed to  
6 hang together.

7 What we didn't get from him at this time  
8 and I didn't get from any other sources in the  
9 police discovery is a clear psychotic  
10 explanation of what had happened at the time of  
11 this offense. So whether he had schizophrenia  
12 or not, many people have schizophrenia and most  
13 of them don't go around hurting people in this  
14 way. Even when they do have schizophrenia they  
15 still may commit an offense sometimes by virtue  
16 of the mental illness they have, but under the  
17 law they don't meet the standards for not  
18 knowing the difference between right and wrong.

19 So simply because someone has a disorder it  
20 is not sufficient to say that the act they  
21 committed was insane in front of the law.

22 Q Now you talked about how it was sort of  
23 atypical where he was describing the voices for  
24 the most part, right, and the contents of the  
25 voices as well?

1 A Yes.

2 Q First of all, when you say atypical, what do  
3 you mean, not typical?

4 A Not of mental disorders.

5 Q It is a word doctors use. When you say it is  
6 atypical in terms of location, you are talking  
7 about the voice coming from within the head?

8 A Inside, yes.

9 Q As opposed to the Smith Tower?

10 A Well, like a vent in the jail, for example.

11 Q All right. What was atypical about the  
12 contents of the voices?

13 A Well, it is sort of what I have already  
14 described. He would carry on these debates  
15 with this individual, that this individual, the  
16 whole way this individual developed and the way  
17 he would get guidance from it, the whole sort  
18 of description of that was atypical.

19 Q Because usually the statements are like in  
20 short spurts, right?

21 A Generally. When you have an individual that is  
22 very severely, has a very, very severe  
23 schizophrenia there are times when they walk  
24 around and are basically oblivious to the rest  
25 of the world around them, although they can

1 still go down and have dinner at the right time  
2 and whatnot, but they carry on running  
3 dialogues with these voices and it is very hard  
4 to interrupt them and even talk with them about  
5 it because they are so involved with these  
6 voices. That doesn't appear to be the case  
7 with Mr. Thomas. From our observations and  
8 from the observations that I could glean from  
9 the records, his disorder, if that is what it  
10 is, has not developed to that degree where we  
11 would expect that sort of behavior.

12 Q All right, but in your opinion it is possible  
13 within a couple or five years he may have full-  
14 blown schizophrenia, right?

15 A It is possible, yes.

16 Q But even then that wouldn't necessarily mean  
17 that he was legally insane if he committed a  
18 crime, right?

19 A No.

20 Q You talked a little bit about how you believe  
21 he developed this Protector to help him cope  
22 with everyday life. And he told you that he  
23 had been in a fight on the day of the killing,  
24 right?

25 A I think so. I am not clear on that.

1 Q When he was talking about fights, could this  
2 have been as much as words exchanged back and  
3 forth and to him that is a fight?

4 A No, that is not what we talked about in terms  
5 of fights, no.

6 Q What did he describe to you?

7 A He described he had been in several fights with  
8 physical contact where there had been an actual  
9 fights and I think, as was heard earlier in the  
10 court, he talked about two fights, well, one  
11 situation in which he actually hit somebody's  
12 head on the cement, another one where he was  
13 thinking about doing it and did not do it at  
14 the last minute.

15 Q You don't doubt that he was teased pretty badly  
16 at school sometimes, do you, Doctor?

17 A I don't know if he was or not.

18 Q That is what he reported to you?

19 A Yes.

20 Q In fact, in November of 1993 he was suspended  
21 from school for three days for fighting, right?

22 A Yes.

23 Q Did you also consider some of the events of  
24 his, let's say, conduct that he had engaged in  
25 before this killing?

1 A Yes.

2 MS. RICHARDSON: Your Honor, I believe I  
3 neglected to hand you the instruction.

4 MR. LINDELL: Your Honor, if we need an  
5 instruction perhaps we should do it at side  
6 bar.

7 THE COURT: I have WPIC 4.64.4.01.

8 MS. RICHARDSON: We do need to instruct at  
9 this time.

10 THE COURT: I have used this once before.

11 MS. RICHARDSON: Right. It is just a  
12 matter of changing state of mind to basis of  
13 opinion.

14 THE WITNESS: Could I have some water,  
15 also, please?

16 THE COURT: The jury could stand a minute.  
17 (Pause in proceedings)

18 THE COURT: I will report that we are  
19 trying to get some air circulating in the  
20 courtroom. The report that we have of the  
21 heating and ventilation in the courthouse is  
22 that they are repairing it and testing it and,  
23 therefore, it is not working very well.  
24 Yesterday it was very cold; today it is very  
25 warm.

1 Ladies and gentlemen of the jury, before  
2 the next question is asked and evidence is  
3 allowed, the court advises you that you may  
4 consider this testimony only for the purpose of  
5 knowing the basis of this witness' or one of  
6 the bases for this witness' opinion. You must  
7 not consider the testimony for any other  
8 purpose.

9 Q (By Ms. Richardson) Doctor, we are talking  
10 about some events that the defendant had been  
11 involved in previously. Now did you read the  
12 full police discovery on the Mary Jo Stout  
13 incident?

14 A Yes.

15 Q That was the attempted burglary in North  
16 Seattle?

17 A Yes.

18 Q Was that incident important to you or is it  
19 something that you took into account when you  
20 were compiling your information?

21 A Yes.

22 Q It happened 13 days before the murder or  
23 something like that?

24 A It was late December '94.

25 Q Why was that of any significance to you?

1 A Well, it is significant in that it shows  
2 several things. One is that he has apparently  
3 approached entering someone's house before,  
4 that he had, basically, that he had attempted  
5 on the record to break into someone's house  
6 before, at least enter, get close to entering  
7 the house, the going around the house, however  
8 you want to phrase that, and this was a person,  
9 apparently, a woman living alone that he had, I  
10 think this was the case, he had opened a door,  
11 unscrewed some light bulbs. So it seemed to me  
12 that here we are developing a pattern of  
13 behavior for this individual which can be very  
14 relevant to the appearance.

15 Q And did you also take into account the fact  
16 that he told one of the police officers that he  
17 carried a bottle for protection?

18 A Yes.

19 Q Protection against dogs?

20 A Yes.

21 Q There was information in Dr. Lindsay's notes  
22 about an incident involving another elderly  
23 woman?

24 A Yes.

25 Q Did you read the police follow-up that made

1 reference to Molly Yearout?

2 A Yes.

3 Q And she was a 87 year-old woman who lived near  
4 the defendant?

5 A Yes.

6 Q And the police information was that Molly  
7 Yearout had fallen, that the defendant had  
8 found her and arranged to have 9-1-1 called,  
9 correct?

10 A Yes.

11 Q And that Molly Yearout then suffered a stroke  
12 that may or may not be related to the fall,  
13 correct?

14 A Yes.

15 Q Now in Dr. Lindsay's interview with the  
16 defendant the defendant told him that he had,  
17 in fact, arranged to call 9-1-1 for an older  
18 woman, correct?

19 A I believe so.

20 Q And that she had said she had fallen, right?

21 A Yes.

22 Q But that, in fact, what really happened was he  
23 conked her on the head with a tire iron?

24 A Yes.

25 Q Did you take that into account as well as all

1 the other materials that you had?

2 A Yes.

3 Q Why? Why was that important to you?

4 A Well, both of these incidents that you are  
5 describing deal with women living alone,  
6 apparently, at least that is my understanding,  
7 and point out that this individual has been  
8 aggressive before, if they are true, that he  
9 has been aggressive before towards other women,  
10 and that his being in the house, her coming  
11 home may not have been a pure accident and that  
12 there may be some thought process going on in  
13 his mind about these situations that are  
14 leading him to do this sort of thing.

15 Q And you knew in the Molly Yearout incident, in  
16 fact, there had been blood found on the patio,  
17 right?

18 A Well, I am not sure.

19 Q Or that the door appeared to have damage, her  
20 back door, as if someone were trying to break  
21 in?

22 MR. LINDELL: Objection to that  
23 characterization.

24 THE COURT: Sustain the objection.

25 Q (By Ms. Richardson) That there was damage to

1 the back door.

2 THE COURT: I sustained the objection.

3 MR. LINDELL: I would ask that it be  
4 stricken.

5 THE COURT: The question will be stricken.

6 Q (By Ms. Richardson) If what he told Dr.  
7 Lindsay about Molly Yearout was an untruth, was  
8 that significant to you, as well?

9 A Yes.

10 Q Why?

11 A Well, you would have to wonder why he would say  
12 something like that to Dr. Lindsay. I don't  
13 have an answer for it particularly, but I would  
14 have to figure out why he would say that.

15 Q And all of that sort of thing goes into sort of  
16 your analysis of his judgment or lack of  
17 judgment, right?

18 A Yes. Those are things I would like to talk to  
19 him further about, yes.

20 Q Did you also take into account the behavior  
21 that the defendant showed on the ward at  
22 Western?

23 A Yes.

24 Q Is that one of the reasons that a person is  
25 actually committed to Western for an

1 evaluation, so that you have that additional  
2 information?

3 A Yes.

4 Q And when he was on the ward he had some  
5 problems but he was basically able to make  
6 connection with people or talk with people,  
7 play games with them, right, play cards with  
8 them?

9 A Yes.

10 Q I don't know what else they do on the ward, but  
11 basically whatever the social activities are he  
12 took part in those?

13 A Yes.

14 Q But he also was seen staring down some of the  
15 staff, right?

16 A Yes.

17 Q And those staff members were older women with  
18 gray hair, correct?

19 A Yes.

20 Q I am sorry to phrase it that way. When he  
21 talked to you did he talk about the  
22 significance to him of women with gray hair or  
23 how did you take this information into account?

24 A Well, what he said was that he felt these  
25 individuals were mistreating him and that is

1 why he was angry with them.

2 Q You are talking about the people on the ward?

3 A In particularly these two individuals that you  
4 are talking about.

5 Q As part of your opinion do you put significance  
6 on the fact that he was sort of focusing on  
7 that physical description?

8 A Yes.

9 Q Why?

10 A Well, I think that he is correct that he does  
11 have problems with women, and although he has  
12 had problems with some younger women, also, I  
13 think that relatively younger, he does have  
14 some issues around older women, and these two  
15 individuals with silver or yellow hair, older,  
16 what they said about the situation is that he  
17 seemed to focus on them rather than them  
18 focusing on him, and it was in reaction to what  
19 he was doing that they became concerned.

20 Q At one point he was heard mumbling under his  
21 breath silver hair, silver hair, right?

22 A Yes.

23 Q In his confession to the police when he is  
24 talking about this neighborhood lady that saw  
25 him before he left Ruth Lamere's house he

1 specifically comments but she didn't have  
2 silver hair, right?

3 A I don't know that, counsel.

4 Q You have read the confession?

5 A Yes.

6 Q He also, I think you indicated, had exposed  
7 himself to some people on the ward?

8 A Yes.

9 Q And he tried to solicit oral sex, right?

10 A That is what it looked like, yes.

11 Q And he also was complaining of being, his word,  
12 psychotic?

13 A Yes.

14 Q And he would hold his head and say I am  
15 psychotic, I am psychotic?

16 A Yes, on one occasion.

17 Q On one occasion. There was another occasion  
18 whether he was basically picking on a woman who  
19 was Hispanic and did not speak English?

20 MR. LINDELL: Objection to the speculation.

21 THE COURT: Sustained.

22 Q (By Ms. Richardson) Was there an interaction  
23 with another woman on the ward, another peer  
24 who did not speak English?

25 A I do not recall that she didn't speak English,

1 but I remember that the staff felt he was  
2 bothering her.

3 Q He, like, swiped her pen and paper?

4 A Yes.

5 Q And he stated to the staff I bet you don't even  
6 speak English, right?

7 A I would have to see the report to get the exact  
8 words.

9 MR. LINDELL: I will ask that it be  
10 stricken.

11 MS. RICHARDSON: I will be happy to show it  
12 to him.

13 THE COURT: You will have to lay a  
14 foundation for the question.

15 MS. RICHARDSON: Thank you, your Honor.

16 MR. LINDELL: Could I ask a question of the  
17 doctor in aid of my objection?

18 MS. RICHARDSON: I think the objection has  
19 been sustained.

20 THE COURT: I have sustained your  
21 objection.

22 MR. LINDELL: I do have a question for him.  
23 I would object to this now. Can I ask him a  
24 question.

25 THE COURT: When it is your turn again.

1 Q (By Ms. Richardson) Doctor, I am handing you  
2 ward notes from September 23, and I ask you to  
3 look at the highlighted portion. What does it  
4 state?

5 A The bitch don't even speak English.

6 Q At one point he was actually trying to learn  
7 the floor plan of the ward, right?

8 MR. LINDELL: Objection to that, your  
9 Honor.

10 MS. RICHARDSON: I will be happy to lay a  
11 foundation.

12 THE COURT: Lay a foundation.

13 Q (By Ms. Richardson) Doctor, all the behavior  
14 the defendant shows on the ward is significant  
15 to you, correct?

16 A Yes.

17 Q It is all something you take into account when  
18 you are determining whether he knows the  
19 difference between right and wrong, correct?

20 A Yes.

21 Q And you also take it into account to determine  
22 whether he knows the nature and qualities of  
23 the things that he does, the acts, right?

24 A Yes.

25 Q Now the fact that he engaged in some behavior

1 on the ward that would show that he knew  
2 cognitively where certain things that could  
3 help him were, would that go into your opinion,  
4 as well?

5 A Sure.

6 Q It is something you take into account with  
7 everything else?

8 A Yes.

9 Q And one of the things he did was try to learn  
10 the floor plan and where the exit doors to the  
11 ward were, correct?

12 MR. LINDELL: I object to that and move for  
13 mistrial. This witness has no knowledge of  
14 that whatsoever. That is completely  
15 speculative. The date we are talking about is  
16 nine months removed from the question Ms.  
17 Richardson is asking about, right and wrong, if  
18 the question was did he try and do this back in  
19 January.

20 THE COURT: The motion is denied. The  
21 question was a yes or no.

22 THE WITNESS: The question being?

23 (Pending read by court reporter)

24 THE WITNESS: The staff were concerned  
25 about that, yes.

1 Q (By Ms. Richardson) And when he was leaving  
2 Western State Hospital he told one of the  
3 residents don't worry, I will be back, right?

4 A I believe so, yes. I think that was the first  
5 time.

6 Q Now when he was talking to you about the  
7 Protector it was your understanding at that  
8 point that he had never mentioned the Protector  
9 to anyone except Dr. Lindsay, right?

10 A Yes.

11 Q And he mentioned it to the police?

12 A No.

13 Q Or Dr. McCarty?

14 A No.

15 Q Or any of the people in the jail or Dr. Hooks  
16 or any of his previous counselors?

17 A Not that I am aware of.

18 Q It was only Dr. Lindsay, the defense expert,  
19 that he gave it a name to?

20 A As far as I know.

21 Q And you saw him after Dr. Lindsay did?

22 A Yes.

23 Q Now you talked a little bit about the self-  
24 talk that you perceived this to be. Do you  
25 believe that there is also some element of

1 rationalizing his act after the fact? Is that  
2 possible?

3 A It is possible, yes.

4 Q He told you, I believe, on September 19, that  
5 he talks to himself about how he is feeling, is  
6 that basically a summary of what you have been  
7 telling us?

8 A Well, it is an aspect of it, yes.

9 Q When he talks to himself about how he is  
10 feeling, did you get the sense that it was  
11 actually like a conversation back and forth, a  
12 comfort type conversation?

13 A A sense of playing both roles, yes, I think so.

14 Q And that is what we call self-talk?

15 A Yeah.

16 Q Now with someone who is, say, a full-blown  
17 schizophrenia, in a full-blown psychosis, the  
18 behavior and the talk that you would expect  
19 would be much more extreme than what this  
20 defendant indicated, right?

21 A Yes.

22 Q And in specific, much more extreme to what he  
23 was able to tell the police?

24 A I am not sure I follow you.

25 Q Would you agree that his confession to the

1 police was fairly lucid?

2 A Yes.

3 Q Given his mental limitations?

4 A Yes.

5 Q And would you agree that his confession to the  
6 police basically jibbed with what your review  
7 of the rest of the police discovery shows?

8 A Yes.

9 Q And that is not something that you would  
10 generally expect to find in someone who is in a  
11 major psychotic episode or full-blown  
12 schizophrenic episode, right?

13 A No.

14 Q And, Doctor, you actually listened to the  
15 confession tape, didn't you?

16 A Yes, I did.

17 Q Why did you do that?

18 A I wanted to hear what he sounded like while he  
19 was giving this statement.

20 Q And what was your impression?

21 A My impression was that he was speaking very  
22 softly, that he was coherent, that he responded  
23 appropriately to the questions that were asked  
24 of him. I did not see in there indications of  
25 a major mental illness.

- 1 Q Now he talked to you a little bit about animal  
2 abuse, correct?
- 3 A About?
- 4 Q Animal abuse?
- 5 A Yes.
- 6 Q And how he had sort of pulled the legs off bugs  
7 and done various and sundry things to animals?
- 8 A Yes.
- 9 Q And that his sister, in fact, one time said how  
10 would you like it if that was done to you?
- 11 A Yes.
- 12 Q And he talked to you, I believe, about having  
13 killed at least one animal with a hammer,  
14 right?
- 15 A Yes. Well, hitting it, yes.
- 16 Q When you talked to him did you have any sense  
17 that he didn't know what a hammer was?
- 18 A No.
- 19 Q Did you have any sense that he didn't know what  
20 a hammer could do when wielded in a proper  
21 fashion?
- 22 A No.
- 23 Q When he talked to you, in fact, about what he  
24 did to Ruth Lamere, he described it with some,  
25 for lack of a better word, pleasure, didn't he?

1 A He described it with facination and he talked  
2 about his pleasure at the event, yes.

3 Q Now there were some times when he actually -- I  
4 think everybody agrees -- that he laughs at  
5 inappropriate times or smiles?

6 A Smiles, yes.

7 Q And inappropriate meaning in the context of the  
8 world at large that is not mentally ill, right?

9 A Yes.

10 Q So something he might find amusing the rest of  
11 us might find revolting, right?

12 A Yes.

13 Q And the fact that he laughed at inappropriate  
14 times again could be indicative of a mental  
15 illness, right?

16 A Yes.

17 Q It could be something because he is likely to  
18 develop schizophrenia or because he has a  
19 psychosis, right?

20 A Yes.

21 Q In his case don't you think that it also could  
22 be that he genuinely derived pleasure out of  
23 this act?

24 A Yes.

25 Q Did you get that impression from him?

1 A He said he did, yes.

2 Q Did you believe him when he said that?

3 A Yes.

4 Q Did he say that in a variety of different ways?

5 A Yes, I think that he did.

6 Q In other words, did he say that to you once or  
7 was that sort of an ongoing theme with him?

8 A Sort of an ongoing theme.

9 Q And he also -- well, let me ask you this: Did  
10 you give consideration to his affect?

11 A Yes.

12 Q And the affect is just sort of the emotional  
13 presence that a person puts across?

14 A Yes.

15 Q So when you gave consideration to his affect,  
16 what sorts of things did you see that were  
17 significant or not necessarily significant to  
18 you, what did you take into account?

19 A Well, I took into account everything. He did  
20 smile at grossly inappropriate times. There is  
21 no doubt about that -- and in our observations  
22 and the records of treatment providers who had  
23 seen him prior to the offense. However, I also  
24 noticed on our own observations on the words  
25 that he had a full range of affect, he could

1 get angry, he could express pleasure, he could  
2 be irritated, he could display a full range,  
3 from joy to pleasure to anger to sorrow, he  
4 seemed like he had that facility. I also  
5 notice in the records that when he was there  
6 with the treatment providers, even in with  
7 juvenile division and with the jail, that there  
8 were times when he did not display  
9 inappropriate affect and seemed to be doing  
10 quite well. So I mean this is a peculiar thing  
11 with this young man about his smile, and he can  
12 comment on his smiling himself, he can describe  
13 what it means to him. That is somewhat unusual  
14 that he can do that.

15 But I guess what is important for me is  
16 that he did have access to a range of emotions  
17 within himself throughout this period of time.

18 Q And did you pick that up when you were  
19 listening to the confession tape, as well?

20 A Pick up?

21 Q The fact that he did not talk in a monotone,  
22 that he appeared to have some affect?

23 A Well, he talked very low and what I would say  
24 is that his speech had grammatical emphasize,  
25 he could talk with some rythm and some

1 inflection, if you will. He was always fairly  
2 low, very difficult to pick up what he was  
3 saying but within that he he did have  
4 inflection in his voice, yes.

5 Q Now you have indicated that you think that he  
6 -- well, I don't want to put words in your  
7 mouth because I am not sure he said this. Do  
8 you think that he picked Ruth Lamere?

9 A I think based on what he has said and what the  
10 police reports say that he had focused on her,  
11 yes.

12 Q And that was because she was nice to him, in  
13 part?

14 A One of the reasons he gave, yes.

15 Q And that was real threatening to him, right?

16 A Well, that is an interpretation. I don't think  
17 he put it that way, but that would be, her  
18 niceness I think was threatening to him and as  
19 an interpretation, yes.

20 Q And also because she had big breasts?

21 A I think that was an attraction, yes.

22 Q Big titties, I think was the words he used?

23 A Maybe.

24 Q And she had nice things in her house, would  
25 that have been part of it, too?

1 A Yes.

2 Q And do you think that he was sort of fascinated  
3 with or preoccupied with the fact that someone  
4 is older or was at that time?

5 A Certainly that is something that I would  
6 interpret, yes, that he does have some issues  
7 around older women, maybe particularly white  
8 women. I am not sure about that.

9 Q Does that make sense to you even though Aunt  
10 Joy and his mom were black?

11 A Well, I would have to go into some  
12 psychological interpretations of what that  
13 might mean. I would like to know factually  
14 more about how that came to be and I don't, and  
15 all I can really do is speculate.

16 Q Based on what he told you and what your review  
17 of the records show you, that facination may be  
18 with older, white women?

19 A Yes. The one burglary attempt the woman was, I  
20 believe, in her late thirties or mid-forties or  
21 something like that, that was an exception.

22 Q But he didn't actually see her, right?

23 A I don't know.

24 Q All right, the defendant's lawyer asked you if  
25 when the defendant was punching and kicking the

1 air if that could be considered delusional and  
2 you said it might be, right?

3 A Yes.

4 Q In this case, when the defendant was told that  
5 he was being watched by staff he stopped doing  
6 that, didn't he?

7 A I believe so, yes, on one occasion.

8 Q Is that typical of a delusion, Doctor?

9 A No, not in the sense that it is here.

10 Q And also Dr. Ewing from the jail, who put in a  
11 report that he appeared to be responding to  
12 internal stimuli, that was despite the fact  
13 that the defendant was denying hallucinations,  
14 right?

15 A Yes.

16 Q And the fact that someone is staring in space  
17 could be indicative to a professional that  
18 perhaps one of the things that is going on is  
19 that they have internal stimuli going on,  
20 right?

21 A Yes.

22 Q So if Dr. Ewing saw that, that wouldn't  
23 necessarily be inconsistent with a --

24 MR. LINDELL: Objection as to the  
25 characterization of what Dr. Ewing's testimony

1 was. She didn't say anything about staring off  
2 into space with regard to external stimuli.

3 Q (By Ms. Richardson) Let me supplement, staring  
4 off into space and turning his back to someone  
5 --

6 MR. LINDELL: Objection.

7 THE COURT: Overruled.

8 Q (By Ms. Richardson) Are both of those things  
9 sometimes consistent with internal stimuli?

10 A Right.

11 Q And again you are not arguing that he might  
12 have had voices or might have them today, for  
13 all we know?

14 A Well, you asked several questions there.

15 Q I will break it down. That he might have had  
16 voices in the past?

17 A Yes. I am not arguing that point, no.

18 Q You are also not arguing the point that he  
19 might have had voices around the time of this  
20 offense?

21 A I am not arguing that particularly, no. The  
22 one that he has described we have discussed  
23 already.

24 Q And that one you don't think is a true  
25 hallucination?

- 1 A I don't, no.
- 2 Q Someone who is in internal conflict -- well,  
3 let me put this this way, internal conflict  
4 does not necessarily equal psychosis, correct?
- 5 A That is right.
- 6 Q Although we have already established that you  
7 have diagnosed the defendant as having at least  
8 some psychotic episodes, right?
- 9 A Symptoms, yes.
- 10 Q And psychosis is something that can move in and  
11 out, change from minute to minute, day-to-day,  
12 right?
- 13 A Yes.
- 14 Q And the same in terms of schizophrenia as to  
15 what the major symptoms are at any given time?
- 16 A The symptoms can change from time to time, yes.
- 17 Q Let's look at this in the context of the  
18 McNaughton rule, which is what you deal with,  
19 in your opinion could this defendant simply be  
20 someone who knew at some level that he would  
21 like to kill?
- 22 A Yes.
- 23 Q And that he then tried it out?
- 24 A Yes.
- 25 Q And is that necessarily characteristic of

1 someone who is legally insane under the  
2 McNaughton standard?

3 A No.

4 Q In your opinion, Doctor, you have stated  
5 previously that you do not consider the  
6 defendant to have met the standards for the  
7 McNaughton test, correct?

8 A Yes, I state that I think he had the capacities  
9 for those things, yes.

10 Q How do you apply the definition of legal  
11 insanity in a general fashion? We have talked  
12 about all this material that you have and the  
13 interviews and the 60 hours you have spent on  
14 this. How do you apply that down to the three  
15 narrow questions that the law defines?

16 A Well, I have to assimilate all the information  
17 that is presented on the case, and I have to  
18 look at as much as possible what seems to be  
19 going on with this individual at the time of  
20 the offense. The vast amounts of information  
21 that I can gather go to inform what might have  
22 been occurring with this individual at this  
23 time, and then I have to look at what  
24 information is available at that time and see  
25 if that is indicative of that mental disorder

1 or not indicative of that mental disorder. And  
2 I have to basically see if in the individual's  
3 behavior that there are indications that he has  
4 substantial ability to think about things and  
5 act in a goal directed manner, act in an  
6 organized way and a knowledgeable way, have to  
7 see whether there is any disorder that would  
8 preclude that sort of acting and able to have  
9 those reversed. I would look to see if there  
10 was a disorder by which a person just would not  
11 be able to function at all to do these things.

12 Barring that, if there is indication that  
13 there is a disorder, does that disorder seem to  
14 be active at the time of the offense, and does  
15 the behavior that is attributed to him, his  
16 explanations about the offense, seem to  
17 indicate that he had those abilities or not,  
18 and had the ability to act in a knowledgeable,  
19 intentional, meaningful way and based upon  
20 those assessments does his behavior look  
21 organized, goal directed, knowledgeable,  
22 purposefull, make some assumptions about what  
23 he could or could not do. Could he meaningful  
24 lie, knowledgeable kill this individual or not?  
25 It doesn't mean he did do it, knowledgeable and

1           meaningfully, but based on the behavior and  
2           what I can understand of his disorders does he  
3           appear to have that capacity at the time. And  
4           that is how I basically come to the conclusion.

5    Q    All right, because knowledgeable and meaningful  
6           killing of someone is not the legal test,  
7           right?

8    A    Not necessarily, no.

9    Q    Are those the factors that you took into  
10          account in this case?

11   A    Yes.

12   Q    Now, obviously, you have considered everything.  
13          Were there some things that took on more  
14          importance to you than others or did everything  
15          contribute equally?

16   A    Everything contributes. I think the statement  
17          of the tape of the confession is very  
18          meaningful for being a picture of what his  
19          mental processes seemed to be at the closest  
20          point in time, along maybe with the  
21          observations made by his aunt that day and his  
22          sister that day. But we have to use all the  
23          information to inform what this person's  
24          potential is. Sometimes people can be  
25          obviously mentally ill and other times they may

1 not be, but as much as we can do we only have  
2 the evidence that is available to us at the  
3 time and we have to use that, and so those  
4 things certainly are very significant.

5 Q Is someone who is psychotic or schizophrenic  
6 automatically insane?

7 A No.

8 Q Even if they are acting on commands of  
9 hallucinations at the time?

10 A No.

11 Q Why not?

12 A Because they can still know the difference  
13 between right and wrong. That is basically  
14 where the law has drawn the line, does the  
15 person know what they are doing is wrong in  
16 front of the law and do they know what it is  
17 that they are doing, the physical act, do they  
18 know that legally that is wrong. That is  
19 basically what the standard says.

20 Q Meaning that they know they are hitting a head  
21 and not a watermelon, something like that?

22 A Yes.

23 Q Have you developed an opinion as to the  
24 defendant's risk of further aggression?

25 A Yes.

1 Q Why did you develop that opinion?

2 A Well, it is part of the order, part of the  
3 evaluation.

4 Q In your opinion is the defendant at risk of  
5 further aggressive acts?

6 A Yes.

7 Q And you used that term instead of  
8 dangerousness?

9 A I prefer to, yes.

10 Q In your opinion is he safe to be at large?

11 A No.

12 Q When you talk to the defendant one of the  
13 things that he told you was that he had  
14 developed this desire to kill a person and he  
15 finally did it, right?

16 A It is one of the things that he said, yes.

17 MS. RICHARDSON: If I could have just a  
18 moment.

19 THE COURT: Time to take an afternoon  
20 recess. We will be in recess for 15 minutes.

21 (Short recess)

22 MR. LINDELL: I would like to go until we  
23 finish with this witness tonight.

24 THE COURT: Bring in the jury.

25 (Jury present)

## **APPENDIX H**

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON FOR KING COUNTY

**FILED**  
KING COUNTY, WASHINGTON

NOV 14 1995

SUPERIOR COURT CLERK  
BY PAMELA NOLAN  
DEPUTY

STATE OF WASHINGTON )

Plaintiff, )

vs. )

GREGORY OTIS THOMAS )

Defendant. )

No. 95-1-02081-6

VERDICT FORM A

We, the jury, find the defendant GREGORY OTIS THOMAS  
\_\_\_\_\_ (write in not guilty or guilty) of the  
crime of Aggravated Murder in the First Degree as charged in  
Count I.

We, the jury, find the defendant GREGORY OTIS THOMAS  
guilty (write in not guilty or guilty) of the  
crime of Murder in the First Degree as charged in Count II.

If you find the defendant guilty of Count II, respond to the  
following SPECIAL INTERROGATORY:

We, the jury, having found the defendant GREGORY OTIS THOMAS  
guilty of the crime of Murder in the First Degree as charged in  
Count II, state that the basis for this decision was unanimous  
agreement on the commission of or attempt to commit (mark one or  
more):

Burglary in the First Degree

Rape in the First Degree

Rape in the Second Degree

S. M. [Signature]  
Presiding Juror



Handwritten notes and signatures at the bottom right of the page.

**FILED**  
KING COUNTY, WASHINGTON

NOV 14 1995

SUPERIOR COURT CLERK  
BY PAMELA NOLAN  
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 GREGORY OTIS THOMAS )  
 )  
 Defendant. )

No. 95-1-02081-6

SPECIAL VERDICT FORM  
(SEXUAL MOTIVATION)

COUNT II

We, the jury, return a special verdict by answering as follows:

At the time the defendant committed the crime of Murder in the First Degree (Count II), did the defendant commit the crime with a sexual motivation? yes (yes or no)

Sam M. Humez  
Presiding Juror

*[Handwritten initials and signature]*

# APPENDIX I

COPY TO SENTENCING GUIDELINES COMMISSION  
MAR 28 1996

FILED

96 MAR 28 PM 3:42

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	NO. 95-1-02081-6
	)	
vs.	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW ON
GREGORY O. THOMAS,	)	IMPOSITION OF EXCEPTIONAL
	)	SENTENCE
Defendant.	)	
	)	
	)	
	)	

The court, having heard the State's recommendation for an exceptional sentence above the standard range and the defendant's recommendation for a sentence below the standard range, both on Count II, having considered the briefs and the arguments of counsel, now makes the following:

FINDINGS OF FACT

I.

The defendant was found guilty by a jury on November 16, 1995, of Murder in the First Degree with a finding of Sexual Motivation. With an offender score of one, the defendant's standard sentencing range for Count II is 250 to 333 months.

II.

The victim in Count II was Ruth Lamere, age 71. The defendant Gregory Thomas at the time of this crime was 15.

FINDINGS AND CONCLUSIONS ON IMPOSITION  
OF EXCEPTIONAL SENTENCE - 1

FT

968

Norm Maleng  
Prosecuting Attorney  
W 554 King County Courthouse  
Seattle, Washington 98104-2312  
(206) 296-9000

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III.

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The victim in this case was particularly vulnerable and incapable of resistance due to her advanced age. After the defendant broke into her house days before her death, the victim tried to protect herself from further invasion by boarding up the window used as an entry point, borrowing her neighbors' dog, and calling the police. Those precautions were ineffective. The victim was widowed, lived alone, and was no match for the teenaged defendant, who attacked her with<sup>at least</sup> three powerful blows of a hammer to her head as she stood in her bedroom.

The defendant knew or should have known the victim was of an advanced age or incapable of resistance, because he sold her candy at her home before her death. He also had watched her in her daily ablutions, without her knowledge, from a window or glass door outside her house.

The defendant violated the victim's zone of privacy and used this violation to facilitate the crime. He killed Ruth Lamere in her bedroom, apparently as soon as she entered from outside; she was still wearing her raincoat. The victim must have been unaware that the defendant had been there, watching her television and rummaging through her things, before he attacked her; there was nothing to indicate a struggle occurred. The victim had the right to feel safe within her own bedroom, but she was not.

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VI.

The jury found that Ruth Lamere's murder was committed with sexual motivation as set forth in RCW 9.94A.127.

VII.

The defendant committed this crime because of his desire for sexual gratification.

CONCLUSIONS OF LAW

I.

This court has jurisdiction over the parties and subject matter in this case.

II.

Particular vulnerability of the victim is an aggravating factor for purposes of sentencing under RCW 9.94A.390(2)(b). A finding of sexual motivation is an aggravating factor for purposes of sentencing under RCW 9.94A.390(2)(e).

III.

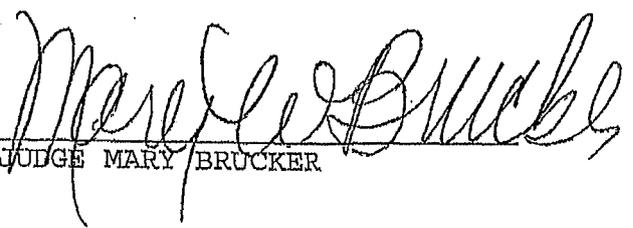
Those factors listed in Conclusion II., supra, are substantial and compelling reasons to exceed the standard range given the facts in this case. In addition, the factor set forth in Finding of Fact V., supra, is a substantial and compelling reason to exceed the standard range.

IV.

The defendant is sentenced to 999 months confinement on Count II, to run concurrent with the standard range sentence imposed on Count III. The defendant is further sentenced to those monetary

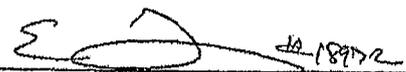
1 obligations and non-monetary requirements stated in the court's  
2 oral imposition of sentence and set forth in the Judgment and  
3 Sentence, with appendices, dated March 1, 1996.

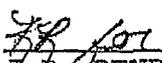
4 DONE IN OPEN COURT this 15 day of March, 1996.

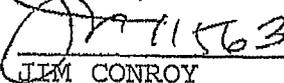
6  
7   
8 JUDGE MARY BRUCKER

9 Presented by:

10  
11   
12 KRISTIN RICHARDSON  
13 Senior Deputy Prosecuting  
14 Attorney

11  10-18972  
12 ERIC LINDELL  
13 Attorney for Defendant  
14 *notice provided*

13   
14 J. P. PENDERGAST  
15 Deputy Prosecuting Attorney

13  11563  
14 JIM CONROY  
15 Attorney for Defendant  
16 *notice provided*

## **APPENDIX J**

COMMITMENT ISSUED SEP 15 1999

# THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON,

FILED

MANDATE

Respondent,

99 AUG 23 AM 11:07

NO. 67168-1

v.

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

King County No.  
95-1-02081-6 SEA

GREGORY THOMAS,

C/A 38324-8-I

Petitioner.

**THE STATE OF WASHINGTON TO:** The Superior Court of the State of Washington  
in and for King County.

This is to certify that the opinion of the Supreme Court of the State of Washington filed on July 29, 1999, became the decision terminating review of this Court in the above entitled cause on August 18, 1999. This cause is mandated to the superior court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to Rule of Appellate Procedure 14.3, costs are taxed as follows: No cost bills having been timely filed, costs are deemed waived.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Olympia, this 20th day of August, 1999.

RONALD R. CARPENTER

Deputy Clerk of the Supreme Court, State of Washington

cc: James Dixon  
Ann Foerschler  
Clerk, Division I  
Hon. Mary Brucker, Judge  
King County Superior Court  
Reporter of Decisions

104/65

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## **APPENDIX K**

NO. 10-9647

---

IN THE SUPREME COURT OF THE UNITED STATES

---

**KUNTRELL JACKSON, *Petitioner***

v.

**RAY HOBBS, Director**

**Arkansas Department of Correction, *Respondent***

---

On Petition for Writ of Certiorari to the  
Supreme Court of Arkansas

---

**RESPONDENT'S BRIEF IN OPPOSITION**

---

**DUSTIN McDANIEL**  
Arkansas Attorney General

BY: \*KENT G. HOLT  
Assistant Attorney General  
323 Center Street, Suite 1100  
Little Rock, AR 72201  
(501) 682-5322

ATTORNEYS FOR RESPONDENT  
\*COUNSEL OF RECORD

---

## QUESTIONS PRESENTED

1. Does imposition of a life-without-parole sentence on a fourteen-year-old defendant convicted of capital murder violate the Eighth and Fourteenth Amendments' prohibition against cruel and unusual punishments, when the Arkansas legislature has put in place a statutory mechanism for considering the reduced criminal culpability of a juvenile offender?
2. Does such a sentence violate the Eighth and Fourteenth Amendments when it is imposed upon a fourteen-year-old who did not personally kill the homicide victim, did not personally engage in any act of physical violence toward the victim, but was found to have participated as an accomplice?
3. Does such a sentence violate the Eighth and Fourteenth Amendments when it is imposed upon a fourteen-year-old defendant as a result of a mandatory sentencing scheme for capital murder after the offender's age and other circumstances have been considered in whether to transfer the case to juvenile court?

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STATEMENT OF THE CASE ..... 1  
REASONS FOR DENYING THE WRIT ..... 1  
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**TABLE OF AUTHORITIES**

**CASES**

<i>Beulah v. State</i> , 344 Ark. 528, 42 S.W.3d 461 (2001).....	4
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<i>Jackson v. State</i> , No. CA 02-535, slip op. 2003 WL 193412 (Ark. App. Jan. 29, 2003).....	1
<i>Jackson v. State</i> , 359 Ark. 87, 194 S.W.3d 757 (2004).....	5
<i>Solem v. Helm</i> , 463 U.S. 277, 103 S.Ct. 3001 (1983).....	6
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28 U.S.C. §1257(a).....	1
Ark. Code Ann. § 9-27-101 et seq.....	1
Ark. Code Ann. § 9-27-318(g) (Repl. 2002).....	3
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**OTHER AUTHORITIES**

“Juvenile Life without Parole for Non-Homicide Offenses: Florida Compared to the Nation,” P. Annino, D. Rasmussen, C. Boehme Rice, Public Interest Law Center, College of Law, Florida State University, p.4 (September 14, 2009).....	6
--	---

## JURISDICTION

The judgment of the Arkansas Supreme Court was entered on February 9, 2011.

Jurisdiction is invoked pursuant to 28 U.S.C. §1257(a).

## CONSTITUTIONAL PROVISIONS INVOLVED

The Eighth Amendment to the United States Constitution provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Section 1 of the Fourteenth Amendment to the United States Constitution provides, in pertinent part, that no State shall “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

## STATEMENT OF THE CASE

Respondent relies on the description of the proceedings contained in the opinion below and incorporates that description by reference. Respondent also relies on the proceeding of the Arkansas Court of Appeals in *Jackson v. State*, No. CA 02-535, slip op. 2003 WL 193412 (Ark. App. Jan. 29, 2003), that considered the denial of the petitioner’s motion to transfer his case to juvenile court.

## REASONS FOR DENYING THE WRIT

The Respondent agrees that, in the context of the American criminal justice system, there are valid reasons for taking into account the different characteristics of juvenile offenders. This is the reason why Arkansas has an extensive juvenile code which considers the ages of juvenile offenders as well as the various crimes that they may commit. *See* Ark. Code Ann. § 9-27-101 et seq. In the instant case, the petitioner availed himself of the very procedures of that code,

seeking an individualized determination as to his prospects for rehabilitation and the danger that he posed to society. Even the petitioner's own authority states that "a small percentage [of juvenile offenders] – between five and ten percent, according to most studies – become chronic offenders." (Pet. at 16) It is in that context that the criminal justice system must, and does, deal with juvenile offenders. Clearly, the Arkansas legislature has, within its statutory scheme, considered whether a life-without-parole sentence for a homicide offense is appropriate. The Arkansas Court of Appeals review of the facts adduced at the transfer hearing wherein the petitioner sought adjudication in the juvenile system, are set out in its opinion and bear repeating here:

Kuntrell Jackson was charged in the criminal division of circuit court with capital murder. Appellant was fourteen years old at the time the offense was allegedly committed. This is an interlocutory appeal from an order denying appellant's motion to transfer his case to juvenile court.

On November 18, 1999, Laurie Troup was working at Movie Magic, a video store in Blytheville, when appellant and two other juveniles entered the store and demanded that she give them money. When Troup refused to hand over the money, she was shot in the face with a sawed-off shotgun. The juveniles fled without taking any money.

The juveniles were apprehended in March 2001, and all three gave incriminating statements to police. According to their statements, which were introduced at the transfer hearing, appellant and his cohorts planned to rob the video store because they wanted money. Appellant contended that one of his accomplices supplied the weapon and fired the fatal shot and that he was the lookout.

In addition to the juveniles' statements to police, the circuit judge was also presented with appellant's juvenile arrest history at the transfer hearing. In February 2000, appellant was adjudicated delinquent for shoplifting, stealing two cars, and attempting to steal a third car. While on probation less than a month later, appellant was arrested for committing two counts of auto theft. In October 2000, appellant was adjudicated delinquent for theft by receiving a vehicle, criminal trespass, and fleeing. He was committed to the Division of Youth Services as a serious offender.

The results of a forensic psychiatric evaluation were also considered by the circuit judge. The psychologist found that appellant appeared to understand the charges against him and found no psychiatric impairment that would have caused him to be unable to conform his behavior to the requirements of the law at the time of the offense.

At the transfer hearing, Jack Wallace, a juvenile intake officer, testified that there was no rehabilitation program available in the juvenile system at that time in the event appellant was found guilty of capital murder.

In determining whether to retain jurisdiction or to transfer the case, the circuit judge must consider the following factors pursuant to Ark. Code Ann. § 9-27-318(g) (Repl. 2002):

- (1) The seriousness of the alleged offense and whether the protection of society requires prosecution as an extended juvenile jurisdiction offender or in the criminal division of circuit court;
- (2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
- (3) Whether the offense was against a person or property, with greater weight being given to offenses against persons, especially if personal injury resulted;
- (4) The culpability of the juvenile, including the level of planning and participation in the alleged offense;
- (5) The previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;
- (6) The sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living, or desire to be treated as an adult;
- (7) Whether there are facilities or programs available to the judge of the juvenile division of circuit court which are likely to rehabilitate the juvenile prior to the expiration of the juvenile division of circuit court's jurisdiction;
- (8) Whether the juvenile acted alone or was part of a group in the commission of the alleged offense;
- (9) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history; and

(10) Any other factors deemed relevant by the judge.

In its order denying appellant's motion to transfer, the circuit court relied on the first nine factors. At the hearing, the circuit judge noted the seriousness of the offense and gave due consideration to the fact that the offense involved a firearm, was for pecuniary gain, and endangered the life of another. The circuit court's decision on whether to transfer the case to juvenile court will not be reversed unless the decision is clearly erroneous. *Witherspoon v. State*, 72 Ark. App. 151, 46 S.W.3d 549 (2001).

Appellant argues on appeal to this court that society would be better served if he were prosecuted in the juvenile division of the circuit court with extended juvenile jurisdiction where he could possibly be rehabilitated rather than transferring his case to the criminal division where he will be tried as an adult and could face life without parole. Appellant maintains that he was only seventeen days beyond his fourteenth birthday at the time of the alleged offense and lacks maturity that could be gained with time and rehabilitative services. He points out that his arrest history consisted of property crimes and was not indicative of a propensity for crimes against persons. Finally, appellant argues that he was not the leader of the group.

Arkansas Code Annotated (c)(2)(A) provides that the criminal division of circuit court and the juvenile division of circuit court have concurrent jurisdiction, and a prosecuting attorney may charge a juvenile in either division when a case involves a juvenile fourteen or fifteen years old when he engages in conduct that, if committed by an adult, would be capital murder. Upon a finding by the criminal division of circuit court that a juvenile age fourteen or fifteen and charged with crimes in subdivision (c)(2) of this section should be transferred to the juvenile division of circuit court, the judge shall enter an order to transfer as an extended juvenile jurisdiction case. Ark. Code Ann. § 9-27-318(i). Therefore, the case cannot become an extended juvenile jurisdiction case unless it is transferred to the juvenile division of circuit court. The trial court must find by clear and convincing evidence that the juvenile should be tried as an adult. Ark. Code Ann. § 9-27-318(h).

There is nothing in the record that would suggest that the circuit judge failed to consider all of the relevant factors in section 9-27-318(g). The circuit court is not required to enumerate all ten factors in its written findings. *See Beulah v. State*, 344 Ark. 528, 42 S.W.3d 461 (2001). The circuit court's failure to specifically mention certain evidence presented by the appellant in its order does not mean that the court ignored the evidence or failed to consider it. *Id.* We cannot say that the circuit court clearly erred in its decision to retain jurisdiction over this appellant.

*Jackson*, slip op. at 1-3.

Following his trial and conviction for capital murder, the petitioner's appeal was considered by the Arkansas Supreme Court. In its opinion, the court noted that testimony adduced at trial indicated that the petitioner, once the robbery was in progress, admonished the clerk of the store that "we ain't playin'." *Jackson v. State*, 359 Ark. 87, 91, 194 S.W.3d 757, 760 (2004).

Now, in seeking certiorari, the petitioner, understandably, seeks a broad categorical rule that would ignore any details regarding his criminal history, and, simply by virtue of his age, prevent the imposition of a life sentence for his participation in the commission of a homicide offense. This Court's opinion in *Graham v. Florida*, \_\_\_ U.S. \_\_\_, 130 S.Ct. 2011 (2010), issued a categorical rule with regard to the imposition of life-without-parole sentences for juveniles committing *non-homicide* offenses and certainly acknowledged in its holding that "there is nothing *inherently* unconstitutional about imposing sentences of life without parole on juvenile offenders; rather the constitutionality of such sentences depends on the particular crimes for which they are imposed." *Graham* at \_\_\_, 130 S.Ct. at 2041 (Roberts, C.J., concurring) (emphasis in original).

Understandably, the petitioner seeks to have a new categorical rule that would include, not just his age group, but his crime. However, *Graham* took as its foundational underpinning that "death was different," irrespective of the role one or more individuals took in carrying it out. The first study cited in this Court's opinion, *Id.* at 2023, defined the terms under which the decision was cast. "'[N]on-homicide' is any criminal conviction where the juvenile is not convicted of any type or degree of homicide. 'Non-homicide' does not include any convictions for attempted homicides or any convictions for felony murder, where the juvenile did not kill anyone but was convicted as an accomplice to a murder. Individuals convicted of attempted

homicide or felony murder are defined as homicide offenders.” See “Juvenile Life without Parole for Non-Homicide Offenses: Florida Compared to the Nation,” P. Annino, D. Rasmussen, C. Boehme Rice, Public Interest Law Center, College of Law, Florida State University, p.4 (September 14, 2009).<sup>1</sup>

To take the petitioner’s approach at this time would be to dispense with the proportionality review that compares “the gravity of the offense and the harshness of the penalty.” *Solem v. Helm*, 463 U.S. 277, 290-291, 103 S.Ct. 3001, 3010 (1983). The court settled only a year ago on a conclusion that the harshness of life-without-parole sentences is appropriate for the gravity of homicide offenses like the petitioner’s, despite his youth at the time.

#### CONCLUSION

The petition for a writ of certiorari to the Arkansas Supreme Court should be denied.

Respectfully submitted,

DUSTIN McDANIEL  
Arkansas Attorney General

BY:

---

\*KENT G. HOLT  
Assistant Attorney General  
Assistant Attorney General  
323 Center Street, Suite 1100  
Little Rock, Arkansas 72201  
(501) 682-5322

ATTORNEYS FOR RESPONDENT

\*COUNSEL OF RECORD

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<sup>1</sup> The study can be found at  
[http://www.law.fsu.edu/faculty/profiles/annino/Report\\_juvenile\\_lwop\\_092009.pdf](http://www.law.fsu.edu/faculty/profiles/annino/Report_juvenile_lwop_092009.pdf). (Last accessed 6/1/2011)

## **APPENDIX L**



# WASHINGTON STATE LEGISLATURE

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[Bill Information](#) > [SB 5064 - 2013-14](#)

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5064   

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**Concerning persons sentenced for offenses committed prior to reaching eighteen years of age.**

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**History of the Bill**  
 as of Saturday, April 5, 2014 1:25 PM

**Sponsors:**    Senators [Hargrove](#), [Kline](#)

**2013 REGULAR SESSION**

- Jan 16 First reading, referred to Law & Justice . [\(View Original Bill\)](#)
- Jan 25 Public hearing in the Senate Committee on Law & Justice at 8:00 AM. [\(Committee Materials\)](#)
- Feb 4 Executive session scheduled, but no action was taken in the Senate Committee on Law & Justice at 1:30 PM. [\(Committee Materials\)](#)
- Feb 21 Executive action taken in the Senate Committee on Law & Justice at 5:30 PM. [\(Committee Materials\)](#)
- Feb 22 **LAW - Majority; 1st substitute bill be substituted, do pass.** [\(View 1st Substitute\)](#) [\(Majority Report\)](#)  
 Minority; do not pass. [\(Minority Report\)](#)  
Passed to Rules Committee for second reading.
- Apr 5 Senate Rules "X" file.

**2013 1ST SPECIAL SESSION**

- May 13 By resolution, reintroduced and retained in present status.

**2014 REGULAR SESSION**

- Jan 13 By resolution, reintroduced and retained in present status.
- Jan 17 Rules Committee relieved of further consideration. On motion, referred to Human Services & Corrections.
- Jan 30 Public hearing in the Senate Committee on Human Services & Corrections at 10:00 AM. [\(Committee Materials\)](#)
- Feb 5 Executive action taken in the Senate Committee on Human Services & Corrections at 6:30 PM. [\(Committee Materials\)](#)
- Feb 7



**HSC - Majority; 2nd substitute bill be substituted, do pass.** ([View 2nd Substitute](#)) ([Majority Report](#))

Passed to Rules Committee for second reading.

Feb 11 Placed on second reading by Rules Committee.

Feb 12 **2nd substitute bill substituted (HSC 14).** ([View 2nd Substitute](#))

Rules suspended. Placed on Third Reading.

Third reading, passed; yeas, 48; nays, 0; absent, 0; excused, 1. ([View Roll Calls](#))

#### IN THE HOUSE

Feb 14 First reading, referred to Public Safety (Not Officially read and referred until adoption of Introduction report).

Feb 19 Public hearing in the House Committee on Public Safety at 1:30 PM. ([Committee Materials](#))

Feb 25 Executive action taken in the House Committee on Public Safety at 10:00 AM. ([Committee Materials](#))

PS - Executive action taken by committee.

PS - Majority; do pass with amendment(s). ([Majority Report](#))

Feb 26 Referred to Appropriations Subcommittee on General Government & Information Technology.

Feb 27 Public hearing and executive action taken in the House Appropriations Subcommittee on General Government & Information Technology at 10:00 AM. ([Committee Materials](#))

APPG - Executive action taken by committee.

APPG - Majority; do pass with amendment(s) by Public Safety. ([Majority Report](#))

Mar 3 Passed to Rules Committee for second reading.

Mar 5 Rules Committee relieved of further consideration. Placed on second reading.

Mar 7 Committee amendment adopted with no other amendments. Rules suspended. Placed on Third Reading.

Third reading, passed; yeas, 74; nays, 23; absent, 0; excused, 1. ([View Roll Calls](#))

#### IN THE SENATE

Mar 10 Senate concurred in House amendments.

Passed final passage; yeas, 48; nays, 1; absent, 0; excused, 0. ([View Roll Calls](#))

Mar 12 President signed.

#### IN THE HOUSE

Speaker signed.

#### OTHER THAN LEGISLATIVE ACTION

Mar 13 Delivered to Governor. ([View Bill as Passed Legislature](#))

Mar 28 Governor signed.

Chapter 130, 2014 Laws. ([View Session Law](#))

Effective date 6/1/2014.

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**Available  
Documents**

<b>Bill Documents</b>	<b>Bill Digests</b>	<b>Bill Reports</b>
<a href="#">Original Bill</a>	<a href="#">Bill Digest</a>	<a href="#">Senate Bill Report (Orig.)</a>
<a href="#">Substitute Bill (LAW 13)</a>	<a href="#">Substitute Bill Digest</a>	<a href="#">Senate Bill Report</a>
<a href="#">Second Substitute (HSC 14)</a>	<a href="#">Second Substitute Bill Digest</a>	<a href="#">Second Substitute House Bill Analysis 2014</a>
<a href="#">Bill as Passed Legislature Session Law</a>		<a href="#">Second Substitute Senate Bill Report</a>
		<a href="#">Second Substitute House Bill Report</a>
		<a href="#">Final Bill Report</a>

**Amendments**

<u>Amendment Name</u>	<u>NumSponsor</u>	<u>Type</u>	<u>Description</u>	<u>Action</u>
<a href="#">5064-S2 AMH PS H4390.1</a>	PS	Cmte	Striker	ADOPTED 03/07/2014

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- [Jan 25, 2013 Senate Law & Justice at 8:00 AM](#)
- [Feb 4, 2013 Senate Law & Justice at 1:30 PM](#)
- [Feb 21, 2013 Senate Law & Justice at 5:30 PM](#)
- [Jan 30, 2014 Senate Human Services & Corrections at 10:00 AM](#)
- [Feb 5, 2014 Senate Human Services & Corrections at 6:30 PM](#)
- [Feb 19, 2014 House Public Safety at 1:30 PM](#)
- [Feb 25, 2014 House Public Safety at 10:00 AM](#)
- [Feb 27, 2014 House Appropriations Subcommittee on General Government & Information Technology at 10:00 AM](#)

CERTIFICATION OF ENROLLMENT  
SECOND SUBSTITUTE SENATE BILL 5064

63rd Legislature  
2014 Regular Session

Passed by the Senate March 10, 2014  
YEAS 48 NAYS 1

\_\_\_\_\_  
President of the Senate

Passed by the House March 7, 2014  
YEAS 74 NAYS 23

\_\_\_\_\_  
Speaker of the House of Representatives

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SECOND SUBSTITUTE SENATE BILL 5064 as passed by the Senate and the House of Representatives on the dates hereon set forth.

\_\_\_\_\_  
Secretary

FILED

Secretary of State  
State of Washington

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SECOND SUBSTITUTE SENATE BILL 5064

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AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington                      63rd Legislature                      2014 Regular Session

By Senate Human Services & Corrections (originally sponsored by  
Senators Hargrove and Kline)

READ FIRST TIME 02/07/14.

1            AN ACT Relating to persons sentenced for offenses committed prior  
2 to reaching eighteen years of age; amending RCW 9.94A.510, 9.94A.540,  
3 9.94A.6332, 9.95.425, 9.95.430, 9.95.435, 9.95.440, and 10.95.030;  
4 reenacting and amending RCW 9.94A.729; adding a new section to chapter  
5 9.94A RCW; adding new sections to chapter 10.95 RCW; creating a new  
6 section; prescribing penalties; providing an effective date; providing  
7 an expiration date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9            **Sec. 1.** RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read  
10 as follows:

11

12

TABLE 1

13

Sentencing Grid

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SERIOUSNESS

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LEVEL

OFFENDER SCORE

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	0	1	2	3	4	5	6	7	8	9 or more
XVI Life sentence without parole/death penalty for offenders at or over the age of eighteen.										
For offenders under the age of eighteen, a term of twenty-five years to life.										
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m

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0-60	0-90	2-	2-	3-	4-	12+	14-	17-	22-
Days	Days	5	6	8	12	14	18	22	29

3 Numbers in the first horizontal row of each seriousness category  
 4 represent sentencing midpoints in years(y) and months(m). Numbers in  
 5 the second and third rows represent standard sentence ranges in months,  
 6 or in days if so designated. 12+ equals one year and one day.

7 **Sec. 2.** RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read  
 8 as follows:

9 (1) Except to the extent provided in subsection (3) of this  
 10 section, the following minimum terms of total confinement are mandatory  
 11 and shall not be varied or modified under RCW 9.94A.535:

12 (a) An offender convicted of the crime of murder in the first  
 13 degree shall be sentenced to a term of total confinement not less than  
 14 twenty years.

15 (b) An offender convicted of the crime of assault in the first  
 16 degree or assault of a child in the first degree where the offender  
 17 used force or means likely to result in death or intended to kill the  
 18 victim shall be sentenced to a term of total confinement not less than  
 19 five years.

20 (c) An offender convicted of the crime of rape in the first degree  
 21 shall be sentenced to a term of total confinement not less than five  
 22 years.

23 (d) An offender convicted of the crime of sexually violent predator  
 24 escape shall be sentenced to a minimum term of total confinement not  
 25 less than sixty months.

26 (e) An offender convicted of the crime of aggravated first degree  
 27 murder for a murder that was committed prior to the offender's  
 28 eighteenth birthday shall be sentenced to a term of total confinement  
 29 not less than twenty-five years.

30 (2) During such minimum terms of total confinement, no offender  
 31 subject to the provisions of this section is eligible for community  
 32 custody, earned release time, furlough, home detention, partial  
 33 confinement, work crew, work release, or any other form of early  
 34 release authorized under RCW 9.94A.728, or any other form of authorized  
 35 leave of absence from the correctional facility while not in the direct  
 36 custody of a corrections officer. The provisions of this subsection

1 shall not apply: (a) In the case of an offender in need of emergency  
2 medical treatment; (b) for the purpose of commitment to an inpatient  
3 treatment facility in the case of an offender convicted of the crime of  
4 rape in the first degree; or (c) for an extraordinary medical placement  
5 when authorized under RCW 9.94A.728(~~(4)~~) (3).

6 (3)(a) Subsection (1) (a) through (d) of this section shall not be  
7 applied in sentencing of juveniles tried as adults pursuant to RCW  
8 13.04.030(1)(e)(i).

9 (b) This subsection (3) applies only to crimes committed on or  
10 after July 24, 2005.

11 **Sec. 3.** RCW 9.94A.6332 and 2010 c 224 s 11 are each amended to  
12 read as follows:

13 The procedure for imposing sanctions for violations of sentence  
14 conditions or requirements is as follows:

15 (1) If the offender was sentenced under the drug offender  
16 sentencing alternative, any sanctions shall be imposed by the  
17 department or the court pursuant to RCW 9.94A.660.

18 (2) If the offender was sentenced under the special sex offender  
19 sentencing alternative, any sanctions shall be imposed by the  
20 department or the court pursuant to RCW 9.94A.670.

21 (3) If the offender was sentenced under the parenting sentencing  
22 alternative, any sanctions shall be imposed by the department or by the  
23 court pursuant to RCW 9.94A.655.

24 (4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any  
25 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

26 (5) If the offender was released pursuant to section 10 of this  
27 act, any sanctions shall be imposed by the board pursuant to RCW  
28 9.95.435.

29 (6) If the offender was sentenced pursuant to RCW 10.95.030(3) or  
30 section 11 of this act, any sanctions shall be imposed by the board  
31 pursuant to RCW 9.95.435.

32 (7) In any other case, if the offender is being supervised by the  
33 department, any sanctions shall be imposed by the department pursuant  
34 to RCW 9.94A.737. If a probationer is being supervised by the  
35 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon  
36 receipt of a violation hearing report from the department, the court

1 retains any authority that those statutes provide to respond to a  
2 probationer's violation of conditions.

3 ~~((+6+))~~ (8) If the offender is not being supervised by the  
4 department, any sanctions shall be imposed by the court pursuant to RCW  
5 9.94A.6333.

6 **Sec. 4.** RCW 9.94A.729 and 2013 2nd sp.s. c 14 s 2 and 2013 c 266  
7 s 1 are each reenacted and amended to read as follows:

8 (1)(a) The term of the sentence of an offender committed to a  
9 correctional facility operated by the department may be reduced by  
10 earned release time in accordance with procedures that shall be  
11 developed and adopted by the correctional agency having jurisdiction in  
12 which the offender is confined. The earned release time shall be for  
13 good behavior and good performance, as determined by the correctional  
14 agency having jurisdiction. The correctional agency shall not credit  
15 the offender with earned release credits in advance of the offender  
16 actually earning the credits.

17 (b) Any program established pursuant to this section shall allow an  
18 offender to earn early release credits for presentence incarceration.  
19 If an offender is transferred from a county jail to the department, the  
20 administrator of a county jail facility shall certify to the department  
21 the amount of time spent in custody at the facility and the number of  
22 days of early release credits lost or not earned. The department may  
23 approve a jail certification from a correctional agency that calculates  
24 early release time based on the actual amount of confinement time  
25 served by the offender before sentencing when an erroneous calculation  
26 of confinement time served by the offender before sentencing appears on  
27 the judgment and sentence. The department must adjust an offender's  
28 rate of early release listed on the jail certification to be consistent  
29 with the rate applicable to offenders in the department's facilities.  
30 However, the department is not authorized to adjust the number of  
31 presentence early release days that the jail has certified as lost or  
32 not earned.

33 (2) An offender who has been convicted of a felony committed after  
34 July 23, 1995, that involves any applicable deadly weapon enhancements  
35 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good  
36 time credits or earned release time for that portion of his or her  
37 sentence that results from any deadly weapon enhancements.

1 (3) An offender may earn early release time as follows:

2 (a) In the case of an offender sentenced pursuant to RCW  
3 10.95.030(3) or section 11 of this act, the aggregate earned release  
4 time may not exceed ten percent of the sentence.

5 (b) In the case of an offender convicted of a serious violent  
6 offense, or a sex offense that is a class A felony, committed on or  
7 after July 1, 1990, and before July 1, 2003, the aggregate earned  
8 release time may not exceed fifteen percent of the sentence.

9 ~~((b))~~ (c) In the case of an offender convicted of a serious  
10 violent offense, or a sex offense that is a class A felony, committed  
11 on or after July 1, 2003, the aggregate earned release time may not  
12 exceed ten percent of the sentence.

13 ~~((e))~~ (d) An offender is qualified to earn up to fifty percent of  
14 aggregate earned release time if he or she:

15 (i) Is not classified as an offender who is at a high risk to  
16 reoffend as provided in subsection (4) of this section;

17 (ii) Is not confined pursuant to a sentence for:

18 (A) A sex offense;

19 (B) A violent offense;

20 (C) A crime against persons as defined in RCW 9.94A.411;

21 (D) A felony that is domestic violence as defined in RCW 10.99.020;

22 (E) A violation of RCW 9A.52.025 (residential burglary);

23 (F) A violation of, or an attempt, solicitation, or conspiracy to  
24 violate, RCW 69.50.401 by manufacture or delivery or possession with  
25 intent to deliver methamphetamine; or

26 (G) A violation of, or an attempt, solicitation, or conspiracy to  
27 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

28 (iii) Has no prior conviction for the offenses listed in ~~((e))~~

29 (d)(ii) of this subsection;

30 (iv) Participates in programming or activities as directed by the  
31 offender's individual reentry plan as provided under RCW 72.09.270 to  
32 the extent that such programming or activities are made available by  
33 the department; and

34 (v) Has not committed a new felony after July 22, 2007, while under  
35 community custody.

36 ~~((d))~~ (e) In no other case shall the aggregate earned release  
37 time exceed one-third of the total sentence.

1 (4) The department shall perform a risk assessment of each offender  
2 who may qualify for earned early release under subsection (3) ~~((e))~~  
3 (d) of this section utilizing the risk assessment tool recommended by  
4 the Washington state institute for public policy. Subsection  
5 (3) ~~((e))~~ (d) of this section does not apply to offenders convicted  
6 after July 1, 2010.

7 (5) (a) A person who is eligible for earned early release as  
8 provided in this section and who will be supervised by the department  
9 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
10 community custody in lieu of earned release time;

11 (b) The department shall, as a part of its program for release to  
12 the community in lieu of earned release, require the offender to  
13 propose a release plan that includes an approved residence and living  
14 arrangement. All offenders with community custody terms eligible for  
15 release to community custody in lieu of earned release shall provide an  
16 approved residence and living arrangement prior to release to the  
17 community;

18 (c) The department may deny transfer to community custody in lieu  
19 of earned release time if the department determines an offender's  
20 release plan, including proposed residence location and living  
21 arrangements, may violate the conditions of the sentence or conditions  
22 of supervision, place the offender at risk to violate the conditions of  
23 the sentence, place the offender at risk to reoffend, or present a risk  
24 to victim safety or community safety. The department's authority under  
25 this section is independent of any court-ordered condition of sentence  
26 or statutory provision regarding conditions for community custody;

27 (d) If the department is unable to approve the offender's release  
28 plan, the department may do one or more of the following:

29 (i) Transfer an offender to partial confinement in lieu of earned  
30 early release for a period not to exceed three months. The three  
31 months in partial confinement is in addition to that portion of the  
32 offender's term of confinement that may be served in partial  
33 confinement as provided in RCW 9.94A.728(5);

34 (ii) Provide rental vouchers to the offender for a period not to  
35 exceed three months if rental assistance will result in an approved  
36 release plan.

37 A voucher must be provided in conjunction with additional  
38 transition support programming or services that enable an offender to

1 participate in services including, but not limited to, substance abuse  
2 treatment, mental health treatment, sex offender treatment, educational  
3 programming, or employment programming;

4 (e) The department shall maintain a list of housing providers that  
5 meets the requirements of RCW 72.09.285. If more than two voucher  
6 recipients will be residing per dwelling unit, as defined in RCW  
7 59.18.030, rental vouchers for those recipients may only be paid to a  
8 housing provider on the department's list;

9 (f) For each offender who is the recipient of a rental voucher, the  
10 department shall gather data as recommended by the Washington state  
11 institute for public policy in order to best demonstrate whether rental  
12 vouchers are effective in reducing recidivism.

13 (6) An offender serving a term of confinement imposed under RCW  
14 9.94A.670(5)(a) is not eligible for earned release credits under this  
15 section.

16 **Sec. 5.** RCW 9.95.425 and 2009 c 28 s 30 are each amended to read  
17 as follows:

18 (1) Whenever the board or a community corrections officer of this  
19 state has reason to believe an offender released under RCW 9.95.420,  
20 10.95.030(3), or section 10 of this act has violated a condition of  
21 community custody or the laws of this state, any community corrections  
22 officer may arrest or cause the arrest and detention of the offender  
23 pending a determination by the board whether sanctions should be  
24 imposed or the offender's community custody should be revoked. The  
25 community corrections officer shall report all facts and circumstances  
26 surrounding the alleged violation to the board, with recommendations.

27 (2) If the board or the department causes the arrest or detention  
28 of an offender for a violation that does not amount to a new crime and  
29 the offender is arrested or detained by local law enforcement or in a  
30 local jail, the board or department, whichever caused the arrest or  
31 detention, shall be financially responsible for local costs. Jail bed  
32 costs shall be allocated at the rate established under RCW 9.94A.740.

33 **Sec. 6.** RCW 9.95.430 and 2001 2nd sp.s. c 12 s 308 are each  
34 amended to read as follows:

35 Any offender released under RCW 9.95.420, 10.95.030(3), or section  
36 10 of this act who is arrested and detained in physical custody by the

1 authority of a community corrections officer, or upon the written order  
2 of the board, shall not be released from custody on bail or personal  
3 recognizance, except upon approval of the board and the issuance by the  
4 board of an order reinstating the offender's release on the same or  
5 modified conditions. All chiefs of police, marshals of cities and  
6 towns, sheriffs of counties, and all police, prison, and peace officers  
7 and constables shall execute any such order in the same manner as any  
8 ordinary criminal process.

9       **Sec. 7.** RCW 9.95.435 and 2007 c 363 s 3 are each amended to read  
10 as follows:

11       (1) If an offender released by the board under RCW 9.95.420,  
12 10.95.030(3), or section 10 of this act violates any condition or  
13 requirement of community custody, the board may transfer the offender  
14 to a more restrictive confinement status to serve up to the remaining  
15 portion of the sentence, less credit for any period actually spent in  
16 community custody or in detention awaiting disposition of an alleged  
17 violation and subject to the limitations of subsection (2) of this  
18 section.

19       (2) Following the hearing specified in subsection (3) of this  
20 section, the board may impose sanctions such as work release, home  
21 detention with electronic monitoring, work crew, community restitution,  
22 inpatient treatment, daily reporting, curfew, educational or counseling  
23 sessions, supervision enhanced through electronic monitoring, or any  
24 other sanctions available in the community, or may suspend the release  
25 and sanction up to sixty days' confinement in a local correctional  
26 facility for each violation, or revoke the release to community custody  
27 whenever an offender released by the board under RCW 9.95.420,  
28 10.95.030(3), or section 10 of this act violates any condition or  
29 requirement of community custody.

30       (3) If an offender released by the board under RCW 9.95.420,  
31 10.95.030(3), or section 10 of this act is accused of violating any  
32 condition or requirement of community custody, he or she is entitled to  
33 a hearing before the board or a designee of the board prior to the  
34 imposition of sanctions. The hearing shall be considered as offender  
35 disciplinary proceedings and shall not be subject to chapter 34.05 RCW.  
36 The board shall develop hearing procedures and a structure of graduated  
37 sanctions consistent with the hearing procedures and graduated

1 sanctions developed pursuant to RCW 9.94A.737. The board may suspend  
2 the offender's release to community custody and confine the offender in  
3 a correctional institution owned, operated by, or operated under  
4 contract with the state prior to the hearing unless the offender has  
5 been arrested and confined for a new criminal offense.

6 (4) The hearing procedures required under subsection (3) of this  
7 section shall be developed by rule and include the following:

8 (a) Hearings shall be conducted by members or designees of the  
9 board unless the board enters into an agreement with the department to  
10 use the hearing officers established under RCW 9.94A.737;

11 (b) The board shall provide the offender with findings and  
12 conclusions which include the evidence relied upon, and the reasons the  
13 particular sanction was imposed. The board shall notify the offender  
14 of the right to appeal the sanction and the right to file a personal  
15 restraint petition under court rules after the final decision of the  
16 board;

17 (c) The hearing shall be held unless waived by the offender, and  
18 shall be electronically recorded. For offenders not in total  
19 confinement, the hearing shall be held within thirty days of service of  
20 notice of the violation, but not less than twenty-four hours after  
21 notice of the violation. For offenders in total confinement, the  
22 hearing shall be held within thirty days of service of notice of the  
23 violation, but not less than twenty-four hours after notice of the  
24 violation. The board or its designee shall make a determination  
25 whether probable cause exists to believe the violation or violations  
26 occurred. The determination shall be made within forty-eight hours of  
27 receipt of the allegation;

28 (d) The offender shall have the right to: (i) Be present at the  
29 hearing; (ii) have the assistance of a person qualified to assist the  
30 offender in the hearing, appointed by the presiding hearing officer if  
31 the offender has a language or communications barrier; (iii) testify or  
32 remain silent; (iv) call witnesses and present documentary evidence;  
33 (v) question witnesses who appear and testify; and (vi) be represented  
34 by counsel if revocation of the release to community custody upon a  
35 finding of violation is a probable sanction for the violation. The  
36 board may not revoke the release to community custody of any offender  
37 who was not represented by counsel at the hearing, unless the offender  
38 has waived the right to counsel; and

1 (e) The sanction shall take effect if affirmed by the presiding  
2 hearing officer.

3 (5) Within seven days after the presiding hearing officer's  
4 decision, the offender may appeal the decision to the full board or to  
5 a panel of three reviewing examiners designated by the chair of the  
6 board or by the chair's designee. The sanction shall be reversed or  
7 modified if a majority of the panel finds that the sanction was not  
8 reasonably related to any of the following: (a) The crime of  
9 conviction; (b) the violation committed; (c) the offender's risk of  
10 reoffending; or (d) the safety of the community.

11 (6) For purposes of this section, no finding of a violation of  
12 conditions may be based on unconfirmed or unconfirmable allegations.

13 **Sec. 8.** RCW 9.95.440 and 2008 c 231 s 45 are each amended to read  
14 as follows:

15 In the event the board suspends the release status of an offender  
16 released under RCW 9.95.420, 10.95.030(3), or section 10 of this act by  
17 reason of an alleged violation of a condition of release, or pending  
18 disposition of a new criminal charge, the board may nullify the  
19 suspension order and reinstate release under previous conditions or any  
20 new conditions the board determines advisable under RCW 9.94A.704.  
21 Before the board may nullify a suspension order and reinstate release,  
22 it shall determine that the best interests of society and the offender  
23 shall be served by such reinstatement rather than return to  
24 confinement.

25 **Sec. 9.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to read  
26 as follows:

27 (1) Except as provided in subsections (2) and (3) of this section,  
28 any person convicted of the crime of aggravated first degree murder  
29 shall be sentenced to life imprisonment without possibility of release  
30 or parole. A person sentenced to life imprisonment under this section  
31 shall not have that sentence suspended, deferred, or commuted by any  
32 judicial officer and the indeterminate sentence review board or its  
33 successor may not parole such prisoner nor reduce the period of  
34 confinement in any manner whatsoever including but not limited to any  
35 sort of good-time calculation. The department of social and health

1 services or its successor or any executive official may not permit such  
2 prisoner to participate in any sort of release or furlough program.

3 (2) If, pursuant to a special sentencing proceeding held under RCW  
4 10.95.050, the trier of fact finds that there are not sufficient  
5 mitigating circumstances to merit leniency, the sentence shall be  
6 death. In no case, however, shall a person be sentenced to death if  
7 the person had an intellectual disability at the time the crime was  
8 committed, under the definition of intellectual disability set forth in  
9 (a) of this subsection. A diagnosis of intellectual disability shall  
10 be documented by a licensed psychiatrist or licensed psychologist  
11 designated by the court, who is an expert in the diagnosis and  
12 evaluation of intellectual disabilities. The defense must establish an  
13 intellectual disability by a preponderance of the evidence and the  
14 court must make a finding as to the existence of an intellectual  
15 disability.

16 (a) "Intellectual disability" means the individual has: (i)  
17 Significantly subaverage general intellectual functioning; (ii)  
18 existing concurrently with deficits in adaptive behavior; and (iii)  
19 both significantly subaverage general intellectual functioning and  
20 deficits in adaptive behavior were manifested during the developmental  
21 period.

22 (b) "General intellectual functioning" means the results obtained  
23 by assessment with one or more of the individually administered general  
24 intelligence tests developed for the purpose of assessing intellectual  
25 functioning.

26 (c) "Significantly subaverage general intellectual functioning"  
27 means intelligence quotient seventy or below.

28 (d) "Adaptive behavior" means the effectiveness or degree with  
29 which individuals meet the standards of personal independence and  
30 social responsibility expected for his or her age.

31 (e) "Developmental period" means the period of time between  
32 conception and the eighteenth birthday.

33 (3)(a)(i) Any person convicted of the crime of aggravated first  
34 degree murder for an offense committed prior to the person's sixteenth  
35 birthday shall be sentenced to a maximum term of life imprisonment and  
36 a minimum term of total confinement of twenty-five years.

37 (ii) Any person convicted of the crime of aggravated first degree  
38 murder for an offense committed when the person is at least sixteen

1 years old but less than eighteen years old shall be sentenced to a  
2 maximum term of life imprisonment and a minimum term of total  
3 confinement of no less than twenty-five years. A minimum term of life  
4 may be imposed, in which case the person will be ineligible for parole  
5 or early release.

6 (b) In setting a minimum term, the court must take into account  
7 mitigating factors that account for the diminished culpability of youth  
8 as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but  
9 not limited to, the age of the individual, the youth's childhood and  
10 life experience, the degree of responsibility the youth was capable of  
11 exercising, and the youth's chances of becoming rehabilitated.

12 (c) A person sentenced under this subsection shall serve the  
13 sentence in a facility or institution operated, or utilized under  
14 contract, by the state. During the minimum term of total confinement,  
15 the person shall not be eligible for community custody, earned release  
16 time, furlough, home detention, partial confinement, work crew, work  
17 release, or any other form of early release authorized under RCW  
18 9.94A.728, or any other form of authorized leave or absence from the  
19 correctional facility while not in the direct custody of a corrections  
20 officer. The provisions of this subsection shall not apply: (i) In  
21 the case of an offender in need of emergency medical treatment; or (ii)  
22 for an extraordinary medical placement when authorized under RCW  
23 9.94A.728(3).

24 (d) Any person sentenced pursuant to this subsection shall be  
25 subject to community custody under the supervision of the department of  
26 corrections and the authority of the indeterminate sentence review  
27 board. As part of any sentence under this subsection, the court shall  
28 require the person to comply with any conditions imposed by the board.

29 (e) No later than five years prior to the expiration of the  
30 person's minimum term, the department of corrections shall conduct an  
31 assessment of the offender and identify programming and services that  
32 would be appropriate to prepare the offender for return to the  
33 community. To the extent possible, the department shall make  
34 programming available as identified by the assessment.

35 (f) No later than one hundred eighty days prior to the expiration  
36 of the person's minimum term, the department of corrections shall  
37 conduct, and the offender shall participate in, an examination of the  
38 person, incorporating methodologies that are recognized by experts in

1 the prediction of dangerousness, and including a prediction of the  
2 probability that the person will engage in future criminal behavior if  
3 released on conditions to be set by the board. The board may consider  
4 a person's failure to participate in an evaluation under this  
5 subsection in determining whether to release the person. The board  
6 shall order the person released, under such affirmative and other  
7 conditions as the board determines appropriate, unless the board  
8 determines by a preponderance of the evidence that, despite such  
9 conditions, it is more likely than not that the person will commit new  
10 criminal law violations if released. If the board does not order the  
11 person released, the board shall set a new minimum term not to exceed  
12 five additional years. The board shall give public safety  
13 considerations the highest priority when making all discretionary  
14 decisions regarding the ability for release and conditions of release.

15 (g) In a hearing conducted under (f) of this subsection, the board  
16 shall provide opportunities for victims and survivors of victims of any  
17 crimes for which the offender has been convicted to present statements  
18 as set forth in RCW 7.69.032. The procedures for victim and survivor  
19 of victim input shall be developed by rule. To facilitate victim and  
20 survivor of victim involvement, county prosecutor's offices shall  
21 ensure that any victim impact statements and known contact information  
22 for victims of record and survivors of victims are forwarded as part of  
23 the judgment and sentence.

24 (h) An offender released by the board is subject to the supervision  
25 of the department of corrections for a period of time to be determined  
26 by the board. The department shall monitor the offender's compliance  
27 with conditions of community custody imposed by the court, department,  
28 or board, and promptly report any violations to the board. Any  
29 violation of conditions of community custody established or modified by  
30 the board are subject to the provisions of RCW 9.95.425 through  
31 9.95.440.

32 NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW  
33 to read as follows:

34 (1) Notwithstanding any other provision of this chapter, any person  
35 convicted of one or more crimes committed prior to the person's  
36 eighteenth birthday may petition the indeterminate sentence review  
37 board for early release after serving no less than twenty years of

1 total confinement, provided the person has not been convicted for any  
2 crime committed subsequent to the person's eighteenth birthday, the  
3 person has not committed a major violation in the twelve months prior  
4 to filing the petition for early release, and the current sentence was  
5 not imposed under RCW 10.95.030 or 9.94A.507.

6 (2) When an offender who will be eligible to petition under this  
7 section has served fifteen years, the department shall conduct an  
8 assessment of the offender and identify programming and services that  
9 would be appropriate to prepare the offender for return to the  
10 community. To the extent possible, the department shall make  
11 programming available as identified by the assessment.

12 (3) No later than one hundred eighty days from receipt of the  
13 petition for early release, the department shall conduct, and the  
14 offender shall participate in, an examination of the person,  
15 incorporating methodologies that are recognized by experts in the  
16 prediction of dangerousness, and including a prediction of the  
17 probability that the person will engage in future criminal behavior if  
18 released on conditions to be set by the board. The board may consider  
19 a person's failure to participate in an evaluation under this  
20 subsection in determining whether to release the person. The board  
21 shall order the person released under such affirmative and other  
22 conditions as the board determines appropriate, unless the board  
23 determines by a preponderance of the evidence that, despite such  
24 conditions, it is more likely than not that the person will commit new  
25 criminal law violations if released. The board shall give public  
26 safety considerations the highest priority when making all  
27 discretionary decisions regarding the ability for release and  
28 conditions of release.

29 (4) In a hearing conducted under subsection (3) of this section,  
30 the board shall provide opportunities for victims and survivors of  
31 victims of any crimes for which the offender has been convicted to  
32 present statements as set forth in RCW 7.69.032. The procedures for  
33 victim and survivor of victim input shall be developed by rule. To  
34 facilitate victim and survivor of victim involvement, county  
35 prosecutor's offices shall ensure that any victim impact statements and  
36 known contact information for victims of record and survivors of  
37 victims are forwarded as part of the judgment and sentence.

1 (5) An offender released by the board is subject to the supervision  
2 of the department for a period of time to be determined by the board.  
3 The department shall monitor the offender's compliance with conditions  
4 of community custody imposed by the court, department, or board, and  
5 promptly report any violations to the board. Any violation of  
6 conditions of community custody established or modified by the board  
7 are subject to the provisions of RCW 9.95.425 through 9.95.440.

8 (6) An offender whose petition for release is denied may file a new  
9 petition for release five years from the date of denial or at an  
10 earlier date as may be set by the board.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.95 RCW  
12 to read as follows:

13 (1) A person, who was sentenced prior to June 1, 2014, to a term of  
14 life without the possibility of parole for an offense committed prior  
15 to their eighteenth birthday, shall be returned to the sentencing court  
16 or the sentencing court's successor for sentencing consistent with RCW  
17 10.95.030. Release and supervision of a person who receives a minimum  
18 term of less than life will be governed by RCW 10.95.030.

19 (2) The court shall provide an opportunity for victims and  
20 survivors of victims of any crimes for which the offender has been  
21 convicted to present a statement personally or by representation.

22 (3) The court's order setting a minimum term is subject to review  
23 to the same extent as a minimum term decision by the parole board  
24 before July 1, 1986.

25 (4) A resentencing under this section shall not reopen the  
26 defendant's conviction to challenges that would otherwise be barred by  
27 RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

28 NEW SECTION. **Sec. 12.** A new section is added to chapter 10.95 RCW  
29 to read as follows:

30 Sections 1 through 9 of this act apply to all sentencing hearings  
31 conducted on or after June 1, 2014, regardless of the date of an  
32 offender's underlying offense.

33 NEW SECTION. **Sec. 13.** (1) The legislature shall convene a task  
34 force to examine juvenile sentencing reform, with the following voting  
35 members:

1 (a) The president of the senate shall appoint one member from each  
2 of the two largest caucuses of the senate;

3 (b) The speaker of the house of representatives shall appoint one  
4 member from each of the two largest caucuses in the house of  
5 representatives;

6 (c) A representative from the governor's office;

7 (d) The assistant secretary of the department of social and health  
8 services overseeing the juvenile justice and rehabilitation  
9 administration or his or her designee;

10 (e) The secretary of the department of corrections or his or her  
11 designee;

12 (f) A superior court judge from the superior court judges  
13 association family and juvenile law subcommittee, who is familiar with  
14 cases involving the transfer of youth to the adult criminal justice  
15 system and sentencing of youth in the adult criminal justice system;

16 (g) A representative of the Washington association of prosecuting  
17 attorneys;

18 (h) A representative of the Washington association of criminal  
19 defense lawyers or the Washington defender association;

20 (i) A representative from the Washington coalition of crime victim  
21 advocates;

22 (j) A representative from the juvenile court administrator's  
23 association;

24 (k) A representative from the Washington association of sheriffs  
25 and police chiefs;

26 (l) A representative from law enforcement who works with juveniles;  
27 and

28 (m) A representative from the sentencing guidelines commission.

29 (2) The task force shall choose two cochairs from among its  
30 legislative members.

31 (3) The task force shall undertake a thorough review of juvenile  
32 sentencing as it relates to the intersection of the adult and juvenile  
33 justice systems and make recommendations for reform that promote  
34 improved outcomes for youth, public safety, and taxpayer resources.  
35 The review shall include, but is not limited to:

36 (a) The process and circumstances for transferring a juvenile to  
37 adult jurisdiction, including discretionary and mandatory decline  
38 hearings and automatic transfer to adult jurisdiction;

1 (b) Sentencing standards, term lengths, sentencing enhancements,  
2 and stacking provisions that apply once a juvenile is transferred to  
3 adult jurisdiction; and

4 (c) The appropriate custody, treatment, and resources for declined  
5 youth who will complete their term of confinement prior to reaching age  
6 twenty-one.

7 (4) Staff support for the task force must be provided by the senate  
8 committee services and the house of representatives office of program  
9 research.

10 (5) Legislative members of the task force may be reimbursed for  
11 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
12 members, except those representing an employer or organization, are  
13 entitled to be reimbursed for travel expenses as provided in RCW  
14 43.03.050 and 43.03.060.

15 (6) The expenses of the task force shall be paid jointly by the  
16 senate and the house of representatives. Task force expenditures are  
17 subject to approval by the senate facilities and operations committee  
18 and the house executive rules committee, or their successor committees.

19 (7) The task force shall report its findings and recommendations to  
20 the governor and the appropriate committees of the legislature by  
21 December 1, 2014.

22 NEW SECTION. **Sec. 14.** Section 13 of this act expires June 1,  
23 2015.

24 NEW SECTION. **Sec. 15.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 16.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 June 1, 2014.

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