

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL BRUCE BYNOE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84266

**FILED**

**MAR 04 2022**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**ORDER DISMISSING APPEAL**

This is a pro se appeal from a district court order denying a motion for a "final ORDER or otherwise, to settle adjudicate the First Amended Complaint." Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Review of the notice of appeal and documents before this court reveals a jurisdictional defect. No statute or court rule authorizes an appeal from the challenged order. *See Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court "may only consider appeals authorized by statute or court rule"). Accordingly, this court lacks jurisdiction and

ORDERS this appeal DISMISSED.

Silver, J.  
Silver

Cadish, J.  
Cadish

Pickering, J.  
Pickering

Appendix A

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE

8  
9 MICHAEL BRUCE BYNOE,

Case No.: CV20-00749

10 Plaintiff,

Dept. No.: 10

11 vs.

12 THE STATE OF NEVADA,

13 Defendant.

14 **ORDER DENYING PLAINTIFF'S MOTION**

15 Pending before the Court is PLAINTIFF MICHAEL BYNOE's *Motion in Response to*  
16 *Order for Response* ("Motion"), filed on November 30, 2021. On December 20, 2021,  
17 PLAINTIFF filed a *Request for Submission*, submitting the Motion for the Court's  
18 consideration.  
19

20 In the Motion, PLAINTIFF, in pro per<sup>1</sup>, requests a "final ORDER or otherwise, to  
21 settle adjudicate the First Amended Complaint filed 2-9-21." Motion, p. 1.

22 However, PLAINTIFF has failed to comply with the basic rules of civil procedure  
23 and is not entitled to judgment on the pleadings at this stage of litigation. To proceed to  
24 judgment, PLAINTIFF must familiarize himself with the relevant procedural rules and/or  
25 retain counsel to ensure compliance. Failure to comply with applicable procedural rules  
26

27 <sup>1</sup> Petitioner previously filed a *Motion for Appointment of Counsel* on September 16, 2020.  
28 However, because no request for submission was filed, the Court has not considered that  
motion. Additionally, Petitioner shall be advised that the motion for counsel was for a  
postconviction petition for writ of habeas corpus and not for a civil action sounding in tort.

1 Appendix B

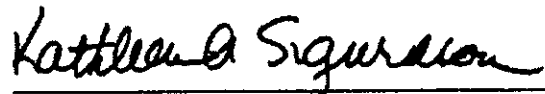
1 may result in filings being stricken and even the case being dismissed.

2 While the Court recognizes that PLAINTIFF is incarcerated and without an attorney,  
3 "in general, the rules of civil procedure 'cannot be applied differently merely because a  
4 party not learned in the law is acting pro se.'" *Rodriguez v. Fiesta Palms, LLC*, 134 Nev.  
5 654, 659, 428 P.3d 255, 258-59 (Nev. 2018) (quoting *Bonnell v. Lawrence*, 128 Nev. 394,  
6 404, 282 P.3d 712, 718 (Nev. 2012)). "While district courts should assist pro se litigants as  
7 much as reasonably possible, a pro se litigant cannot use his alleged ignorance as a  
8 shield to protect him from the consequences of failing to comply with basic procedural  
9 requirements." 134 Nev. at 659, 428 P.3d at 259.

10 Because PLAINTIFF has failed to adhere to the Nevada Rules of Civil Procedure,  
11 IT IS HEREBY ORDERED the Motion is DENIED.

12 IT IS SO ORDERED.

13 DATED this 3rd day of February, 2022.

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16 

17 HON. KATHLEEN A. SIGURDSON  
18 DISTRICT JUDGE  
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12118014

199.488. Penalties. (3)(c)(g)

LIBRARY

NEVADA CORRECTIONAL CENTER

Box 2000

City, Nevada 89702-7000

1. Except as otherwise provided in subsection 2, whenever two or more persons conspire to commit murder, robbery, sexual assault, kidnapping in the first or second degree, arson in the first or second degree, involuntary servitude in violation of NRS 200.463 or 200.464, a violation of any provision of NRS 200.465, trafficking in persons in violation of NRS 200.467 or 200.468, sex trafficking in violation of NRS 201.300 or a violation of NRS 205.463, each person is guilty of a category B felony and shall be punished:

(a). If the conspiracy was to commit robbery, sexual assault, kidnapping in the first or second degree, arson in the first or second degree, involuntary servitude in violation of NRS 200.463 or 200.464, a violation of any provision of NRS 200.465, trafficking in persons in violation of NRS 200.467 or 200.468, sex trafficking in violation of NRS 201.300 or a violation of NRS 205.463, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or

(b). If the conspiracy was to commit murder, by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years,

and may be further punished by a fine of not more than \$5,000.

2. If the conspiracy subjects the conspirators to criminal liability under NRS 207.400, they shall be punished in the manner provided in NRS 207.400.

3. Whenever two or more persons conspire:

(a). To commit any crime other than those set forth in subsections 1 and 2, and no punishment is otherwise prescribed by law;

(b). Falsely and maliciously to procure another to be arrested or proceeded against for a crime;

(c). Falsely to institute or maintain any action or proceeding;

(d). To cheat or defraud another out of any property by unlawful or fraudulent means;

(e). To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats or intimidation, or by interfering or threatening to interfere with any tools, implements or property belonging to or used by another, or with the use or employment thereof;

(f). To commit any act injurious to the public health, public morals, trade or commerce, or for the perversion or corruption of public justice or the due administration of the law; or

(g) To accomplish any unlawful purpose or a purpose not unlawful by criminal or unlawful means

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Appendix B.1

~~EXHIBIT~~ \_\_\_\_\_

## 42 USC §1986 Action for neglect to prevent conspiracy

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding Section [42 USC §1985], <sup>and</sup> are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed shall be liable to the party injured.

~~EXHIBIT~~ \_\_\_\_\_

Appendix B.2

§ 12202. State immunity.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in [a] Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

(July 26, 1990, P. L. 101-336, Title V, § 502, 104 Stat. 370.)

The above is an ADA provision for  
the violation of §12132 Discrimination

§ 12132. Discrimination

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

(July 26, 1990, P. L. 101-336, Title II, Subtitle A, § 202, 104 Stat. 337 .)

§ 12133. Enforcement

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202 [42 USCS § 12132].

§ 12134. Regulations

(a) **In general.** Not later than 1 year after the date of enactment of this Act [enacted July 26, 1990], the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244 [42 USCS § 12143, 12149, or 12164].

(b) **Relationship to other regulations.** Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) **Standards.** Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act [42 USCS § 12204(a)].

1930 - 09/24/2004  
Letters ...

3862 -  
\*\*Criminal 06/28/2000  
Submit

2490 - 06/22/2000  
Motion ...

2490 - 06/22/2000  
Motion ...

4185 - 03/09/2000  
Transcript

1850 -  
Judgment of 03/07/2000  
Conviction

MIN - 03/07/2000  
\*\*\*Minutes

4500 - PSI - 02/26/2000  
Confidential

4185 - 02/03/2000  
Transcript

4185 - 02/03/2000  
Transcript

MIN - 02/01/2000  
\*\*\*Minutes

4185 - 01/31/2000  
Transcript

MIN - 01/28/2000  
\*\*\*Minutes

1652 - 01/04/2000  
Evaluations

4185 - 12/14/1999  
Transcript

2960 - Ord  
Psychiatric 12/08/1999  
Evaluation

CMS -  
\*\*See CMS 12/07/1999  
Prior to

12/13/99  
MIN - 12/07/1999  
\*\*\*Minutes

1030 -  
Affidavit in 12/01/1999  
Support...

2170 - Mtn  
for Psyc. 12/01/1999  
Evaluation

4185 - 11/05/1999  
Transcript

MIN - 10/28/1999  
\*\*\*Minutes

1800 - 10/27/1999  
Information

4185 - 07/12/1999  
Transcript

3700 - 06/03/1999  
Proceedings

MIN - 06/02/1999  
\*\*\*Minutes

MIN - 06/02/1999

Extra Text:

Extra Text: DOCUMENT TITLE: MTN FOR EVIDENTIARY HEARING PARTY  
SUBMITTING: P. MEACHAM DATE SUBMITTED: 6/28/00 SUBMITTED BY: P.  
MEACHAM DATE RECEIVED JUDGE'S OFFICE: FILED DATE & TITLE OF  
ORDER:

Extra Text: UNTITLED MOTION FOR EVIDENTIARY HEARING

Extra Text: MOTION FOR AN EVIDENTIARY HEARING

Extra Text: SENTENCING, 3-7-00..

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Extra Text:

Extra Text:

Extra Text: TRANSCRIPT - HEARING ON COMPETENCY - 2/1/2000

Extra Text: TRANSCRIPT OF PROCEEDINGS - HEARING ON COMPETENCY  
2/1/2000

Extra Text:

Extra Text: 1/28/00 MOTION TO CONTINUE

Extra Text:

Extra Text:

Extra Text: STATUS HEARING DEC. 7 1999

Extra Text:

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Extra Text: AFFIDAVIT IN SUPPORT OF MOTION FOR PSYCHIATRIC  
EVALUATION

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Extra Text: CHANGE OF PLEA 10/28/1999

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Extra Text: AMENDED SECOND INFORMATION

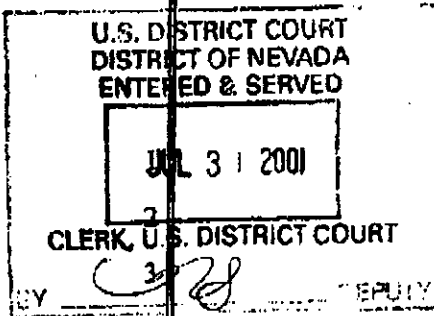
Extra Text: PROCEEDINGS - 06/02/199

Extra Text: RENO JUSTICE COURT PROCEEDINGS

Extra Text: CRIMINAL PROGRESS SHEET

Extra Text:

Appendix D



FILED

01 JUL 30 AM 11:09

BY [Signature]

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MICHAEL B. BYNOE,

Plaintiff,

vs

JEREMY BOSLER, et al.,

Defendants

Case No. CV-N-01-081-HDM(RAM)

ORDER

Plaintiff submitted a civil rights complaint (Doc. #1) and paid the full filing fee. Plaintiff then filed an amended complaint (received March 7, 2001), which the Clerk shall file and the court shall consider in its screening of plaintiff's claims. By virtue of the payment of the filing fee, it is now appropriate for the court to screen the amended complaint for compliance with the Prison Litigation Reform Act.

Pursuant to the Prisoner Litigation Reform Act, federal courts must dismiss an *in forma pauperis* prisoner's claims, "if the allegation of poverty is untrue," or the action "is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e). The court has reviewed the entire complaint in this case, and has determined that the complaint is insufficient as a matter of law. Therefore, the complaint shall be dismissed. Plaintiff will be given leave to file points and

Appendix D.1a

1 that only contain fanciful factual allegations, (e.g., claims  
2 describing fantastic or delusional scenarios).

3 The court has screened the entire complaint under these  
4 standards, and finds that the facts which plaintiff has alleged in  
5 the complaint do not state a claim for which relief may be granted  
6 under 42 U.S.C. § 1983. Plaintiff argues that his public defender  
7 failed to provide effective assistance of counsel, in violation of his  
8 Sixth Amendment rights. Because plaintiff, in this claim, implicitly  
9 questions the facts or the duration of his confinement, a petition for  
10 writ of habeas corpus may be the only remedy available to plaintiff,  
11 instead of a § 1983 civil rights complaint. *Preiser v. Rodriguez*, 411  
12 U.S. 475, 500 (1973).

13 Moreover, under the doctrine announced in *Heck v. Humphrey*, 512  
14 U.S. 477 (1994), a § 1983 action that questions "the lawfulness of a  
15 plaintiff's conviction or confinement is not cognizable, and does not  
16 . . . accrue until and unless the plaintiff can prove that his  
17 conviction or sentence has been reversed on direct appeal." *Id.*, at  
18 486-87; *Harvey v. Waldron*, 210 F.3d 1008, 1013 (9<sup>th</sup> Cir. 2000) (citing  
19 *Heck*, *supra*, 512 U.S. at 486-87). Thus, if the plaintiff's challenge  
20 would necessarily involve the invalidity of the judgment or continuing  
21 confinement, then the challenge must be brought as a petition for a  
22 writ of habeas corpus, not under § 1983. *Id.* In other words,  
23 plaintiff's § 1983 action that challenges the correctness of his  
24 continued confinement cannot proceed unless and until a plaintiff  
25 "prove(s) that the conviction or sentence has been [overturned]" *Id.*

26

1 of lifetime supervision commence after any period of probation, any term of imprisonment,  
2 or after any period of release on parole.

3 Dated this 7th day of March, 2000.

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7 DISTRICT JUDGE  
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10 case # CR98-1289  
11 sentencing date  
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Appendix D.1c  
~~Exhibit~~

**34.726. Limitations on time to file; stay of sentence.**

1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution issues its remittitur. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and
- (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

2. The execution of a sentence must not be stayed for the period provided in subsection 1 solely because a petition may be filed within that period. A stay of sentence must not be granted unless:

- (a) A petition is actually filed; and
- (b) The petitioner establishes a compelling basis for the stay.

relevant specific instances of the person's conduct.

**HISTORY:** Jan. 2, 1975, P. L. 93-595, § 1, 88 Stat. 1932; March 2, 1987, eff. Oct. 1, 1987; April 26, 2011, eff. Dec. 1, 2011.

• **Rule 406. Habit; Routine Practice**

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

**HISTORY:** Jan. 2, 1975, P. L. 93-595, § 1, 88 Stat. 1932; April 26, 2011, eff. Dec. 1, 2011.

§ 12101.(8) Findings and purpose

(a) Findings. The Congress finds that--

- (1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;
- (2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- (3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
- (4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;
- (5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
- (6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;
- (7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and
- (8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose. It is the purpose of this Act--

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) to ensure that the Federal Government plays a central role in enforcing the standards

USCS

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Appendix E

**199.490. Overt act not necessary.**

In any such proceeding for violation of NRS 199.480, it shall not be necessary to prove that any overt act was done in pursuance of such unlawful conspiracy or combination.

**HISTORY:**

C&P 1911, § 113; RL 1912, § 6378; CL 1929, § 10062.

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**NOTES TO DECISIONS**

**Overt act.**

Overt act was not an element of conspiracy to commit murder for purposes of a federal sentence enhancement to a subsequent crime; under Nevada law, conspiracy to commit murder is indivisible regarding the requirement of an overt act. United States v. Pascacio-Rodriguez, 749 F.3d 353, 2014 U.S. App. LEXIS 6767 (5th Cir. Tex. 2014).

**Cited in:**

Isbell v. State, 97 Nev. 222, 626 P.2d 1274, 1981 Nev. LEXIS 488 (1981).

**Research References and Practice Aids**

**Cross references.**

As to proof of overt act, see NRS 175.251.

**47.140. Matters of law. (2)**

The laws subject to judicial notice are:

1. The Constitution and statutes of the United States, and the contents of the Federal Register.
2. The Constitution of this State and Nevada Revised Statutes.
3. Any other statute of this State if brought to the attention of the court by its title and the day of its passage.
4. A county, city or town code which has been filed as required by NRS 244.118, 268.014, 269.168 or the city charter and any city ordinance which has been filed or recorded as required by the applicable law.
5. The Nevada Administrative Code.
6. A regulation not included in the Nevada Administrative Code if adopted in accordance with law and brought to the attention of the court.
7. The population category and organization of a city incorporated pursuant to general law.
8. The constitution, statutes or other written law of any other state or territory of the United States, or of any foreign jurisdiction, as contained in a book or pamphlet published by its authority or proved to be commonly recognized in its courts.

NV CODE

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Exhibit 3.1

Constitution of the State of Nevada  
Article 1. Declaration of Rights  
Section 1. Inalienable Rights

Sec. 1 All men are by Nature free and equal  
and have certain inalienable rights among  
which are; Acquiring, Possessing and  
Protecting property and PURSUING,  
OBTAINING SAFETY and HAPPINESS

## Title 28 Judiciary and Judicial Procedure

CANON - 1 A Judge should uphold the  
integrity and Independence  
of the Judiciary

Rule 2-2.2 IMPARTIALITY and FAIRNESS:  
A judge shall uphold and apply  
the law, and shall perform all  
duties of judicial office fairly  
and impartially

Exhibit 3.3a

UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2019 \ 769 Fed. Appx. 491::Vincent v. William...  
 ...Cir. 2004) (stating that "the presumption of correctness in new § 2254(e)(1)...  
 ...Petitioner has not overcome the presumption of correctness because his argument rests entirely...  
 ...it Officers for Justice v. Civil Serv. Comm'n of City & Cty...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2018 \ 713 Fed. Appx. 643::Singh v. Comm'r:...  
 ...and (2) the assessment of civil fraud penalties against Singh for...  
 ...deficiency determinations are entitled to presumption of correctness if IRS relies on "substantive...  
 ...not clearly err in upholding civil fraud penalties(2018 U.S. App...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2018 \ 916 F.3d 1254::Rodney v. Filson::Dec...  
 ...the burden of rebutting the presumption of correctness by clear and convincing evidence...  
 ...Civil Procedure > Parties > Self-Representation > Pleading...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2016 \ 834 F.3d 1061::Shea Homes, Inc. v. C...  
 ...same basis as decisions in civil bench trials in district court...  
 ...determinations are entitled to a presumption of correctness, although the taxpayer may prove...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2016 \ 845 F.3d 971::Gardner v. Comm'r::Oct...  
 ...the Ninth Circuit for the presumption of correctness to attach in a case...  
 ...same basis as decisions in civil bench trials in district court...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2015 \ 813 F.3d 1175::Smith v. Schriro::Marc...  
 ...findings are entitled to a presumption of correctness, subject to eight exceptions enumerated...  
 ...to the rule regarding a presumption of correctness is the following, the state...  
 ...C. Presumption of Correctness...  
 ...As an initial matter, we must determine whether a presumption of correctness applies to the state court's...  
 ...of the evidence overcomes the presumption of correctness attaching to the state court's...  
 ...is not entitled to a presumption of correctness. See Lafferty v. Cook, 949...  
 ...to the issue of the presumption of correctness"); accord Walker v. Atty Gen...  
 ...is not entitled to a presumption of correctness"); 24...  
 ...standard in the context of civil commitment proceedings, the unique nature...  
 ...doubt standard is inappropriate in civil commitment proceedings because, given the...  
 ...illness for the purpose of civil commitment applies with even greater...  
 ...LEXIS 67) under Atkins.26 Unlike civil commitment proceedings, {813 F.3d 1200...  
 ...for denying its determination a presumption of correctness...  
 ...is not entitled to a presumption of correctness, we must review the record...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2015 \ 813 F.3d 1175::Smith v. Schriro::Marc...  
 ...findings are entitled to a presumption of correctness, subject to eight exceptions enumerated...  
 ...findings were entitled to a presumption of correctness, subject to eight exceptions enumerated...  
 ...Smith had not overcome the presumption of correctness on any of these grounds...  
 ...Smith had not overcome the presumption of correctness that attached to the state...  
 ...he had "not overcome the presumption of correctness attached to the state court's...  
 ...standard in the context of civil commitment proceedings, the unique nature...  
 ...Addington, a state desiring the civil commitment of an individual must...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2015 \ 813 F.3d 1175::Smith v. Schriro::Marc...  
 ...results from legal error, the presumption of correctness does not apply. See Sivak...  
 ...is nothing to which a presumption of correctness may attach...  
 ...Addington, a state desiring the civil commitment of an individual must...  
 ...Justice Statistics, "Prisoners executed under civil authority in the United States...  
 ...findings are entitled to a presumption of correctness, subject to eight exceptions enumerated...  
 ...Smith had not overcome the presumption of correctness on any of these grounds...  
 ...Addington, a state desiring the civil commitment of an individual must...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2014 \ 797 F.3d 607::Baker v. Microsoft Corp....  
 ...judge be given a rebuttable presumption of correctness. See id. at 12/8. The...  
 ...would violate Federal Rule of Civil Procedure 23. However, our ruling...  
 UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT \ 2014 \ 797 F.3d 607::Baker v. Microsoft Corp...  
 ...The district court gave a presumption of correctness to Judge Coughenour's prior ruling...  
 ...the ABA explains, the comity presumption of correctness is rebutted "when the basis...  
 ...allowed under Federal Rule of Civil Procedure 23(f), which allows...

A09CASES

Exhibit 3.3b

1 immune and relies on law concerning the Eleventh Amendment (See ECF No. 18 at 4,  
2 19), that Eleventh Amendment law has no bearing on whether there is *judicial* immunity  
3 for a *federal* court.

4 To the extent that Plaintiff is alleging that the Court erred by dismissing his  
5 conspiracy claim because he is not required to allege an overt act (See ECF No. 18 at 5),  
6 the Court rejects that argument. The Court dismissed the civil rights conspiracy claim  
7 because Plaintiff acknowledged that he could not allege facts sufficient to show a meeting  
8 of the minds, not because he failed to allege an overt act.<sup>3</sup> (ECF No. 16 at 5; ECF No. 12  
9 at 5.)

10 Accordingly, the Court finds no basis to reconsider any of the rulings in its screening  
11 order on the FAC and denies the motion for reconsideration.

12 **II. CONCLUSION**

13 For the foregoing reasons, it is ordered that the motion for reconsideration (ECF  
14 No. 18 at 3) is denied.

15 It is further ordered that the Clerk of Court will close this case and that no other  
16 documents will be filed in this case.

17 DATED THIS 1<sup>st</sup> day of April 2020.

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19  
20 MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE

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25 the United States District Court would not change the analysis. Judicial immunity still would  
26 apply to the alleged failure of the judge to notify Plaintiff of applicable deadlines. The ADA  
and the Eleventh Amendment would have no bearing on such claims.

27 <sup>3</sup>For similar reasons, it would be futile to allow Plaintiff to pursue the conspiracy  
28 claim that is in the SAC because Plaintiff yet again does not allege anything beyond  
conclusory allegations of a conspiracy. (See ECF No. 18 at 5.)

# EXHIBIT

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Ogre, Ogre © 1982

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Then a column of white fire erupted just ahead of them. The heat of it drove them back—only to be heated again by another column to the side.

"Gas," the Siren said. "It puffs up from fumaroles, then ignites and burns out. Can we tell where the next ones will be?"

They watched for a few moments. "Only where they've been," Chem said. "The pattern of eruption and ignition seems completely random."

"That means we'll get scorched," the Siren said. "Unless we go around."

But there was no way around, for the forest fire was north and the lava flows were beyond the firewall to the south.

Also, new foliage was sprouting through the ashes on which they stood, emerging cracklingly dry; it would catch fire and burn off again very soon. It seemed the ashes were very rich fertilizer, but there was very little water for the plants, so they grew dehydrated. Here in the Region of Fire, there was no long escape from fire.

"How can we get through?" Tandy asked despairingly.

Smash put his Eye Queue curse to work yet again. He was amazed at how much he seemed to need it, now that he had it, when he had never needed it before, as if intelligence were addictive; it kept generating new uses for itself. He was also amazed at what his stupid bonemuscle ogre brain could do when boosted by the Queue and cudgeled by necessity. "Go only where they've been," he said.

The others didn't understand, so he showed the way. "Follow me!" He watched for a dying column, then stepped near it as it flickered out. There would be a little while before it built up enough new gas to fire again. He waited in the diminishing shimmer of heat, watching the other columns. When another died, next to his own, he stepped into its vacated spot.

The other members of the party followed him. "I'll assume this is wit instead of luck," the Siren murmured. Smash was still carrying her, though now she had switched back to legs and dress, in case he had to set her down.

As they moved to the third fumarole, the first fired again. These flares did not dawdle long! Now they were in the middle of the columns, unable to escape unscathed. But



Michael Bynoe #64628  
NNCC  
PO Box 7000  
Carson City, NV 89702

Mr. Bynoe,

In reply to your recent letter, we can provide the following:

The inventor of one of the first "bugs" that used passive techniques to transmit an audio signal (didn't require a power source) was Leon Theremin. It was called "The Thing".

Charles Martel's battles against Muslims began in 732 and continued during the 730s.

Anschluss was the Nazi propaganda term for the annexation of Austria into Nazi Germany in 1938. The word means "Annexation" or "Connection".

The song "Freight Train" was written by Elizabeth Cotten in the early 20th century.

"Redstone" does not appear to name a rocket testing site. There was a family of rockets called Redstone, used as ballistic missiles and booster rockets during the Mercury space flights, named after the Huntsville facility where they were developed. They were launched from Cape Canaveral, Florida. There was no mention of a "Redstone" launch site or testing site.

Sincerely,  
Information Services  
Washoe County Library

*Exhibit 4.1b*

---

Administration  
301 South Center Street  
P.O. Box 2151, Reno, Nevada 89505  
(775) 327-8341  
[www.washoecountylibrary.us](http://www.washoecountylibrary.us)

## 1. Unlawful Interception

### 168. Generally

18 USCS § 2518(10)(a) implies requirement that some showing be made of basis for suspecting illegal surveillance, and mere questioning of grand jury witness as to his telephone number did not provide such basis. *United States v Doe* (1972, CA1 Mass) 460 F.2d 328, cert den (1973) 411 US 909, 36 L Ed 2d 199, 93 S Ct 1527

Suppression remedy specified in 18 USCS § 2518(10) applies to unlawful interceptions. *United States v Iannelli* (1973, CA3 Pa) 477 F.2d 999, affd (1975) 420 US 770, 43 L Ed 2d 616, 95 S Ct 1284

Motion to suppress does not lie when complaint is one of improper disclosure, rather than one of unlawful interception. *United States v Vento* (1976, CA3 Pa) 533 F.2d 838

18 USCS § 2518 allows aggrieved person to move to suppress tapes on 3 different grounds; one of which is that communication is unlawfully intercepted and other 2 grounds pertain to court approved wiretaps which nonetheless are illegal because authorization was insufficient or manner of interception exceeded authorization. *Anthony v United States* (1981, CA10 Okla) 687 F.2d 870, cert den (1982) 457 US 1133, 73 L Ed 2d 1350, 102 S Ct 2959

Title III of Omnibus Crime Control and Safe Streets Act of 1968, 18 USCS §§ 2510-2522, limits proper dissemination and use of lawfully-authorized electronic surveillance, but it absolutely prohibits intentional disclosure of fruits of unlawful wiretapping under 18 USCS §§ 2518(10)(a) & 2511(1)(c). *SEC v Rajaratnam* (2010, CA2 NY) 622 F.3d 159

Stated in juxtaposition with *Leon* jurisprudence, no wiretap applicant can, in good faith, rely upon court order authorizing wiretap when applicant failed to comply with edicts of federal wiretap statute in procuring order. *United States v Lomeli* (2012, CA8 Neb) 876 F.3d 734

Government's use of District of Columbia Metropolitan Police Officers to assist in monitoring federally authorized wiretap does not constitute unlawful interception under 18 USCS § 2518(10)(a)(i) where officers were legally under supervision of government and were actually supervised by government during period when wire communications were intercepted. *United States v Lyons* (1981, DC Md) 507 F Supp 551

### Unpublished Opinion

When surveillance, viewed as whole, violates minimization requirement of 18 USCS § 2518(5), every communication conducted during that surveillance was obtained unlawfully, and should be suppressed. *United States v Simels* (2009, ED NY) 2009 US Dist LEXIS 58732

Exhibit 4.1c

USCS

1

CLOSED,STAYED,HABEAS

**United States District Court  
District of Nevada (Reno)  
CIVIL DOCKET FOR CASE #: 3:15-cv-00168-RCJ-WGC**

**Bynoe v. State of Nevada**  
Assigned to: Judge Robert C. Jones  
Referred to: Magistrate Judge William G. Cobb  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 03/20/2015  
Date Terminated: 12/12/2016  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus  
(General)  
Jurisdiction: Federal Question

**Petitioner**

**Michael Bruce Bynoe**  
64628  
Northern Nevada Correctional Center  
PO Box 7000  
Carson City, NV 89702

represented by **Jeremy Charles Baron**  
Federal Public Defenders  
411 E. Bonneville Ave., Ste. 250  
Las Vegas, NV 89101  
702-388-6577  
Fax: 702-388-6419  
Email: jcremy\_baron@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Megan Hoffman**  
Federal Public Defender  
411 E. Bonneville Ave.  
Las Vegas, NV 89101  
702-388-6577  
Fax: 702-388-5819  
Email: ECF\_NVNCH@fd.org  
**TERMINATED: 08/12/2016**

V.

**Respondent**

**Nevada, State Of**  
**TERMINATED: 07/09/2015**

represented by **Jeffrey M Conner**  
Nevada Attorney General  
100 N Carson St.  
Carson City, NV 89701  
775-684-1200  
Fax: 775-684-1108  
Email: jconner@ag.nv.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Respondent**

Exhibit 4.1d

# **STRUCTURED CARE UNIT NORTHERN NEVADA CORRECTIONAL CENTER**

## **INMATE HANDBOOK**

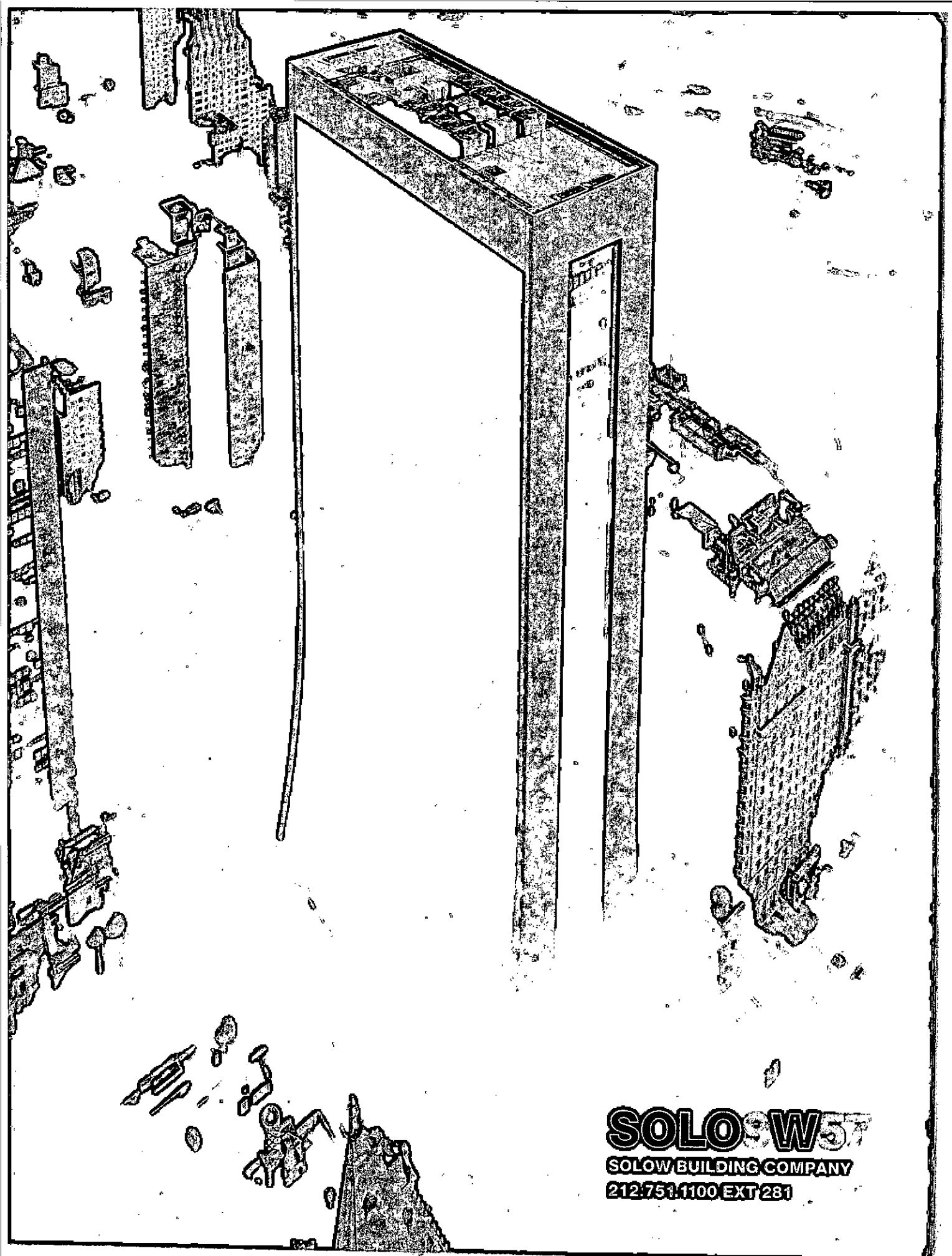
Welcome to the Structured Care Unit (SCU). The SCU allows inmates more freedom than would be possible in the Mental Health Unit (MHU), but still has a focus on mental health treatment and programming.

The mental health staff and correctional officers are here to provide you with proper care and safety while making sure the institutional rules are followed. If you are having a problem, please let staff know.

This is a community living environment with each inmate expected to take part in keeping the unit clean and healthy. We all hope to maintain a peaceful and secure environment, and appreciate your cooperation.

# **SCU**

***This handbook is not comprehensive and does not replace any other written institutional procedures or rules.  
It is a guideline for the SCU only.***



**SOLOW**  
SOLOW BUILDING COMPANY  
212.751.1100 EXT 281

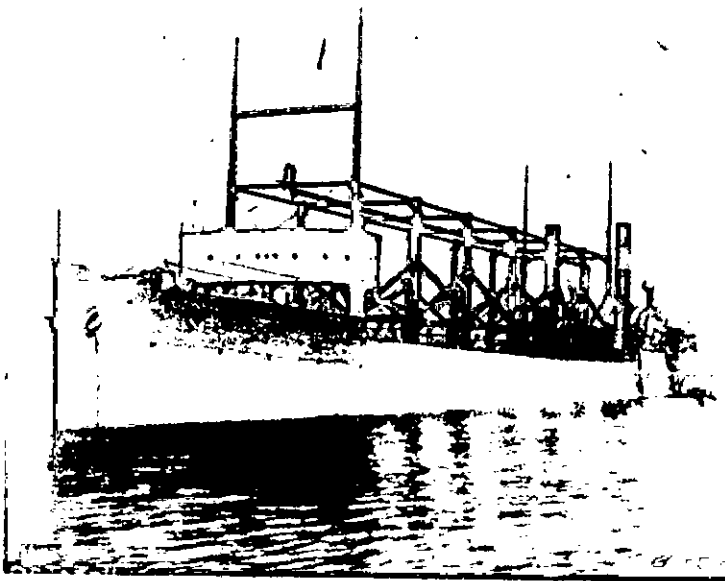
Exhibit 4.4f

## EXHIBIT

USS CYCLOPS

frequently ravaged by anything from water spouts to storms and hurricanes. As if this were not enough, the currents are rapid and strong, and can not only alter the location of sandbanks, but can also drag ships on to reefs.

Another lesser-known – yet equally deadly – factor could also have caused the disappearance of the *Cyclops*. There are recorded cases of the spontaneous venting of large quantities of natural gas



A picture of USS Cyclops, taken shortly before she mysteriously disappeared in 1918.



**ALIENS**  
*In Search of Aliens* follows Ancient Astronaut theorist Giorgio A. Tsoukalos as he explores the world's most ancient mysteries. Highlights from Giorgio's journeys include: "The Hunt for Atlantis," where investigators attempt to locate the city that Plato described and wonder whether it was home to an advanced civilization that created the human race; and "The Mystery of Loch Ness," where Giorgio travels from Scotland's Loch Ness to Vermont's Lake Champlain looking for connections between the geology of the two locations and the world-famous yet elusive lake monsters. Nessie and Champ. Includes David Haich's Children and Erich von Däniken as guest stars. Episodes are: The Hunt for Atlantis; Nazi Time Travelers; The Mystery of Loch Ness; The Roswell Rock; Searching for Bigfoot; The Mystery of the Cyclops; The Mystery of Puma Punku; The Founding of America; The Mystery of Nazca; The Alien Code. Ten episodes from the spin-off of *Ancient Aliens* packed onto 3 DVDs.  
430 Minutes. 3 DVDs in Box. \$24.95. Code: ISAD

EXHIBIT 4.2

As the first and last sentences suggest a spot on the television said, "two U.S. soldiers infected with covid-19 attended a Chinese outdoor function, starting the spread of covid-19"

## EXHIBIT 4.3a

Read on for an excerpt from the next exciting novel in the *Concert One* series

### **Robert Ludlum's THE ALTMAN CODE by Robert Ludlum and Gayle Lynds**

Coming soon in trade paperback  
from St. Martin's Griffin!

## Prologue

Friday, September 1st  
Shanghai, China

On the north bank of the Huangpu River, giant floodlights glared down on the docks, turning night into day. Swarms of stevedores unloaded trucks and positioned long steel containers for the cranes. Amid the squeals and rasps of metal rubbing metal, the towering cranes lifted the containers in swinging cargo nets high against the starry sky and lowered them into the holds of freighters from across the world.

To the south, both east and west of the river, the lights of the city and the towering Pudong New District glowed, while out on the swirling brown water of the river itself, freighters, junks, tiny sampans, and long trains of unpainted wooden barges jostled for position from shore to shore, like traffic on a busy Parisian boulevard.

At a wharf near the eastern end of the bustling area, not far from where the Huangpu curved sharply north, the light was far less bright. Here a single freighter was being loaded by one crane and no more than twenty stevedores. The name lettered on the freighter's transom was *The Dow-*

500

Robert Ludlum and Gayle Lynds

"The Chinese will find out we're shadowing their ship."

"Our ambassador will stall. The problem is, I don't know how long we'll be able to get away with it." The president went to the door and stopped. When he turned, his face was long and somber, his jaws pronounced. "I need proof, Fred. I need it now. Get me that manifest. The real manifest."

"You'll have it, Sam."

His big shoulders hunched with worry, President Castilla nodded, opened the door, and walked away. One of the guards closed it.

Alone again, Klein frowned, contemplating his next step. As he heard the engine of the president's car hum to life, he made a decision. He swivelled to the small table behind his chair, on which two phones sat. One was red—a single, direct, scrambled line to the president. The other was blue—it was also scrambled. He picked up the blue phone and dialed.

Wednesday, September 13th  
Kaohsiung, Taiwan

After a medium-rare hamburger and a bottle of Taiwanese lager at Smokey Joe's on Chungshiao-1 Road, Jon Smith decided to take a taxi to Kaohsiung Harbor. He still had an hour before his afternoon meetings resumed at the Grand Hi-Lai Hotel, when his old friend, Tom Sheringham from England's Porton Down bioresearch installation, would meet him there.

Smith had been in Kaohsiung—Taiwan's second-largest city—nearly a week, but today was the first chance he'd had to explore. That kind of intensity was what usually happened at scientific conferences, at least in his experience as a medical doctor and biomolecular scientist. Assigned to the U.S. Army Medical Research Institute for Infectious

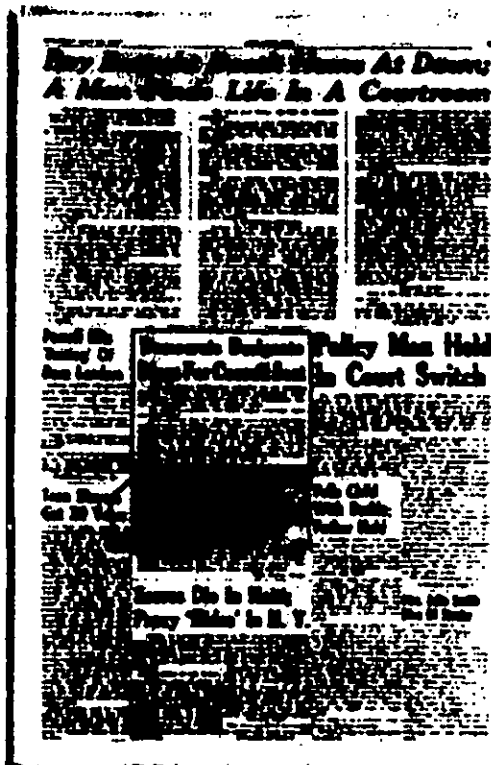
# EXHIBIT 4.3b

## PLANDEMIC

Of course, the Covid pandemic is a pandemic, and we through our various think tanks and networks have meticulously planned it over decades. In order for all of the major changes we have planned, including the big one for us of our global bank and one-world currency, the people have to become totally subservient.

This is much more difficult to achieve in nations where the people think they have a semblance of freedom, and that is why the governments in these nations have been so extreme with the fear and control tactics we have ordained.

It has been mainly the economic independence of most of the common people which makes them so unruly in these nations, and likely apt to opt to support the sovereignty of their own nations and local control, which is the main obstacle to our plans, and precisely why the severe economic restraints have been necessary under the guise of the pandemic. If the people do not comply, undoubtedly a second wave will come their way, and with that food shortage, and complete government domination in order to usher in all of our proposed changes.



Mr. and Mrs. Nobleton Bynoe discuss with Mrs. Alma Vessells John of  
 \*WWRL the efficient services rendered by New York City's adoption  
 agencies. The Bynoes are the happy parents of three adopted  
 children (Bill Patten Photo)

\* WWRL and WBLS were Black owned radio stations

Exhibit 5.1

Sudo-Hand  
dec-face  
↕



agent 99  
of

EXHIBIT.

The American parade in Paris, 29 August 1944



Heavily-armed French troops advance on a village. 6-19-64 see Uncle Jewel face between legs

BY JOHN PRADOS

EXHIBIT 5.2a

Some called Dien Bien Phu the "Chamber Pot" because the defenses were in a valley ringed by much higher hills. The high command had In 1954, very few Americans could have located Vietnam on a map. And nearly none could have pointed out the remote northwest village of Dien Bien Phu. Yet by May of that year, the fortunes and histories of Vietnam,

STATE OF NEVADA



DEPARTMENT OF HUMAN RESOURCES  
DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL SERVICES  
NORTHERN NEVADA ADULT MENTAL HEALTH SERVICES  
488 GALLETT WAY  
SPARKS, NV 89431-5574

September 1, 2011

This letter is to confirm that Michael B. Bynoe, DOB: 8/29/54, was a patient in our facility 1989 through 1997. He was in our inpatient unit from June 1, 1989 to June 28, 1989 and also on July 20, 1990 through August 8, 1990. He participated in our outpatient medical clinic September 29, 1989 to March 16, 1990 and once again from December 12, 1990 to November 26, 1997.

State regulations require that we only need to retain these records for 10 years from the date of discharge of patient's treatment. Therefore medical records cannot be forwarded.

Thank you,

A handwritten signature in cursive script, appearing to read "Susan Bernsten", is written over a horizontal line.

Susan Bernsten  
Health Information Services

Ex 5.26

# EXHIBIT

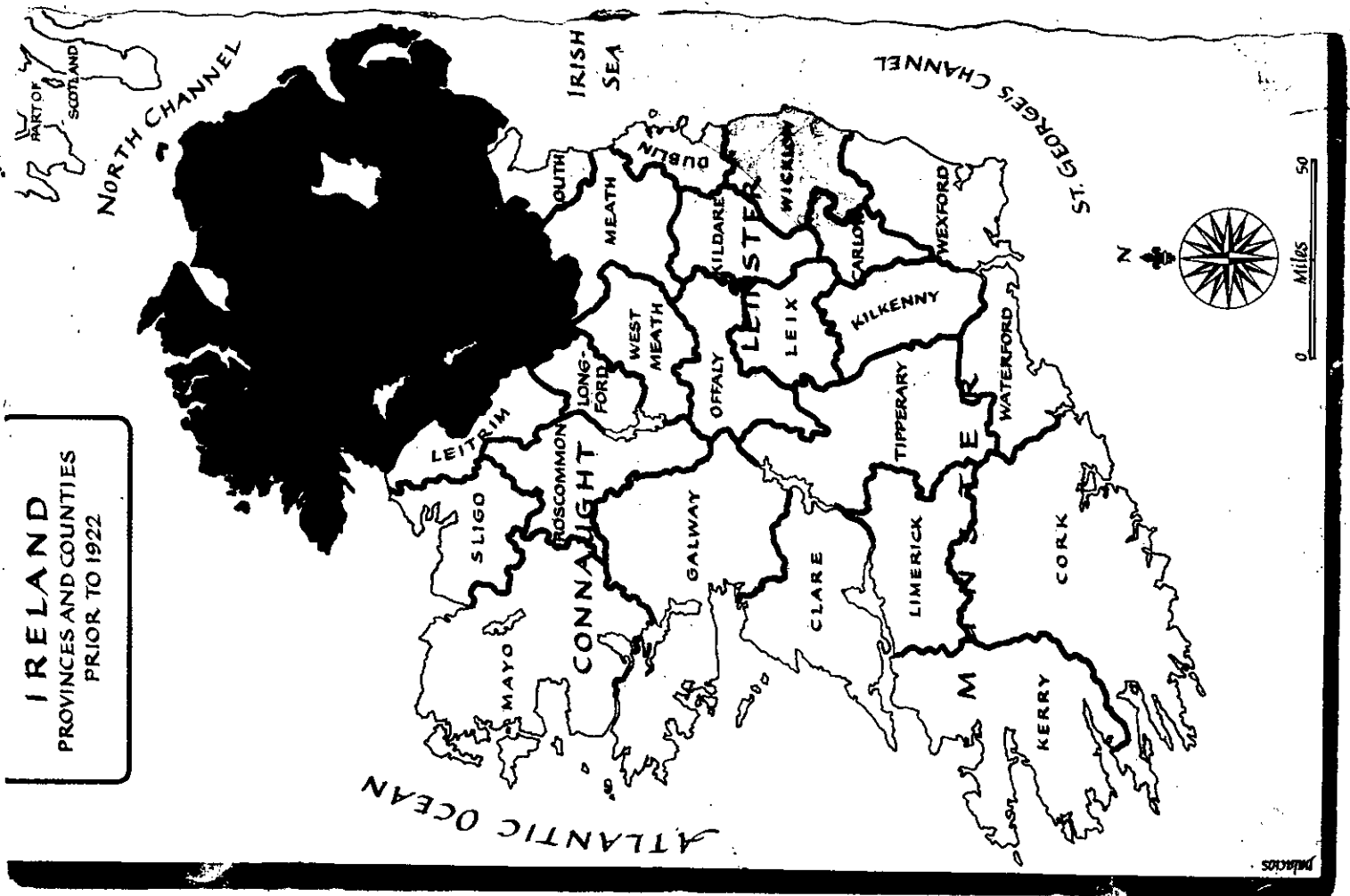


EXHIBIT 5.3a

It was this glorious discovery that drove Peter Szegedi to some head thinking . . . still in the loneliness of his own mind, for he knew no one to trust.

"I first looked at the AVO. It had numerous organizations, each checking on the other. Then a supreme AVO group checked on the setup and it was checked by the Russians. I wondered why, in a scientific world, so much suspicion was required.

"Then I looked at communism itself and I saw that it was an organization of gangsters banded together to protect themselves and to get the good things of the nation into their control. I never saw a single unselfish act by a communist.

"Finally I looked at the life of fear we led and I concluded, 'Life under communism has no hope, no future, no meaning. Yesterday, today and tomorrow are all hell.' The day I decided that, I joined the Petofi Club."

In 1848 the Hungarians revolted against their Austrian masters, and during a series of bloody engagements their spirits were kept alive by the poems of an inspired young man, Sándor Petöfi. He became then, and has remained, the beacon light of Hungarian patriotism and the symbol for all who seek freedom. He led a heroic life on the battlefield and wrote a series of poems which exactly mirror the Hungarian patriot's yearning for freedom. Therefore, when a dedicated young communist like Peter Szegedi decided to join a club named after Sándor Petöfi, it was a milestone in his life.

The Petöfi Club in Budapest was definitely Marxist, and its members were communists, but they believed that what Hungary needed was a liberal, Hungarian communism divorced from Russian domination. Specifically, they wanted Hungarian wealth to stay in Hungary, and security. Soviet secret police to stay in Russia. Membership was composed of poets, playwrights, novelists, actors, artists and a few leading communist philosophers. Often the members were in their sixties; some were promising young. They were not a dining group, but they did have access to a publication which dealt honestly with major questions. This was a literary magazine published by the Writers'

Association, but all the writers who controlled it were secretly members of the Petöfi Club, and they made their journal so exciting that its 70,000 edition was snatched off the newsstands as quickly as it appeared. There were, however, mainly convinced communists in the Petöfi Club, and it could not possibly be considered a reactionary group.

In the summer of 1956, when Peter Szegedi joined the club, discussions of the economic and moral ruin of Hungary under communism were drawing to a head. Holding to a philosophical rather than a revolutionary line, the Petöfi men maintained an incessant pressure on the government, and as they talked they began to convince themselves that some radical change was necessary.

Says an older Petöfi Club member, "In my travels through the countryside I discovered to my sorrow that I had lost the capacity of eliciting the interest of young people. They were not reactionaries. They were not fascists. But they expected me to say something powerful and honest about their problems. I began to ask myself, 'Have we older communists failed to give any kind of leadership?' Out of respect for myself as a philosopher I started to speak critically of the tragedy in which Hungary was engulfed. And the more I spoke, the more I felt the thrill of having young people drawn toward me. In this way they forced my re-education. On one memorable night at a meeting in the city of Győr, I allowed myself to be cross-questioned for hours, and gradually I was driven into a position where I had to admit to myself—if not to the students—that our present system was bankrupt."

It was with such minds that Peter Szegedi now found himself in contact. With increasing awareness of the revolutionary position into which these quiet men were forcing him, he continued to associate with them. Ironically, they held some of their most provocative meetings in the building of the communist youth organization, with AVO men on the next floor.

By mid-October, 1956, it was apparent to all Petöfi Club members that some kind of change was inescapable. Hungarian communists would have to break away from Russia, and they would have to liberalize their government so

© 1957 by James A. Michener

Non Fiction

EXHIBIT 5.3b

# The Order of Service

ORGAN PRELUDE

PROCESSIONAL

HYMN OF COMFORT—"Blissed Assurance"

SCRIPTURE READING—Old Testament: 23<sup>rd</sup> Psalm

New Testament: Matthew 19:13-14

SOLOIST

PRAYER

SELECTION—"Old Rugged Cross" ... Mt. Olivet Baptist Church

REMARKS

SELECTION ..... Mt. Olivet Baptist Church

ACKNOWLEDGEMENT & CBITUARY

SELECTION ..... Mt. Olivet Baptist Church

EULOGY

REMARKS & BENEDICTION

RECESSIONAL

Herbert- translated  
means 'chief of the Army'  
as in George H.W. Bush  
Helga- translated is  
Swedish for HOLY

## The Obituary

**RS. MILDRED HELGA BYNOE** heard the sweet call of her Savior on Thursday evening, January 27, 2000. "Millie B.", as she was affectionately called by family and friends, was the oldest daughter of Christopher and Ida <sup>†</sup>Herbert. Mildred was born in New York on April 14<sup>th</sup>, 1917. She received her formal education and graduated from the New York City Public School system. After High School, Mildred met and married Nobleton Bynoe from that blessed union came three children—Valerie, Michael and Mark. Mildred received her license to become foster parent. She was also a loving mother, grandmother and great-grandmother.

Her Christian experience began in the home under the guidance of her father, Reverend Christopher Herbert. After that her Christian experience enabled her to be an active member of Trinity Lutheran Church of Locust Manor, where three children were raised. She was an active member in many clubs and organizations and a Vacation Bible School teacher.

Mildred leaves to cherish her memory: her loving and devoted daughter—Valerie, two sons—Michael and Mark, two granddaughters—Michele and Kahla and three grandsons—Michael, Mark, Jr. and David, and six great-granddaughters—Tiffany, Diamond, Jammin, Shyara, Raven and Marquia, one niece—Pamela, two nephews—Joseph and Wayne, three goddaughters—Susan Williams, Riza Johnson and Michele Johnson, and her sister-in-Christ—Georgiana Johnson, and a host of foster children and friends.

Mildred, also, leaves to cherish her memory, her Mt. Olivet Baptist Church family.

We love you Mildred, but God loves you best.

Sorrowfully submitted,  
THE FAMILY

**INMATE REQUEST FORM**

107

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Michael Bynoe	64628	6B-6A	5-12-16

4.) REQUEST FORM TO: (CHECK BOX)

<input checked="" type="checkbox"/> CASEWORKER	<input type="checkbox"/> MEDICAL	<input type="checkbox"/> MENTAL HEALTH	<input type="checkbox"/> CANTEEN
<input type="checkbox"/> EDUCATION	<input type="checkbox"/> VISITING	<input type="checkbox"/> LAW LIBRARY	<input type="checkbox"/> DENTAL
<input type="checkbox"/> LAUNDRY	<input type="checkbox"/> PROPERTY ROOM	<input type="checkbox"/> SHIFT COMMAND	<input type="checkbox"/> OTHER

5.) NAME OF INDIVIDUAL TO CONTACT: Meares to Scofield

6.) REQUEST: (PRINT BELOW) What is the clinical word for one who has the persistent problem of the behind having a musky odor.

Dr Rich and Dr Spira would feel comfortable answering, please feel the same, cause I need to know.

I by the way wrote Dr Rich a few weeks ago

7.) INMATE SIGNATURE Michael Bynoe DOC # 64628

8.) RECEIVING STAFF SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**9.) RESPONSE TO INMATE**


Deurom

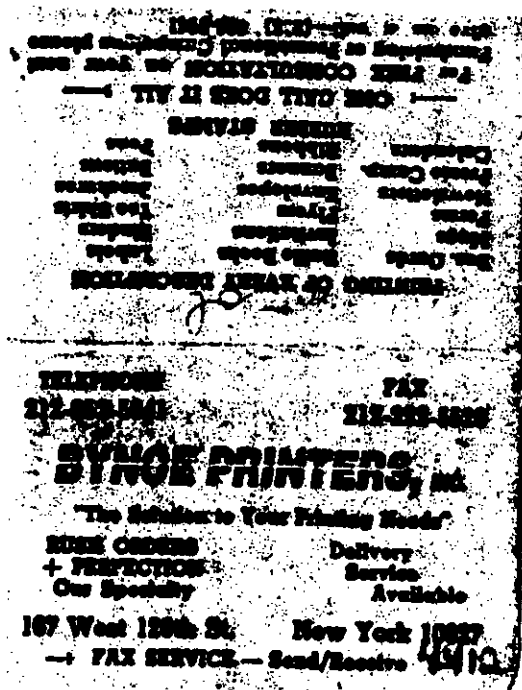
Trimethylaminuria

lamminuria

10.) RESPONDING STAFF SIGNATURE \_\_\_\_\_

Exhibit 5.5a

# EXHIBIT



the above is a novetty calendar cover  
 BYNOE PRINTERS would hand out free  
 every year

Exhibit 5.5b

## . II.

GROUNDS FOR RELIEFGROUND ONE

SINCE PETITIONER, SUFFERING FROM SEVERE MENTAL ILLNESS, WAS COMPELLED TO PLEAD "GUILTY BUT MENTALLY ILL" BY THE NEVADA LEGISLATURE'S UNCONSTITUTIONAL ACT ABOLISHING THE PLEA OF "NOT GUILTY BY REASON OF INSANITY," HIS PLEA WAS NEITHER INTELLIGENT NOR VOLUNTARY IN VIOLATION OF HIS RIGHT TO DUE PROCESS OF LAW UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Statement of Exhaustion: This claim is asserted in Bynoe's Civil Rights Complaint (Ex. 73, p. 3) and in his Motion To Amend And Ameliorate U.S. District Court Judgment. CR 74. Petitioner was otherwise inhibited from exhausting this claim because of his severe mental illness.

1. Michael Bynoe has suffered from an extensive history of mental illness for at least 28 years. A comprehensive neuropsychological assessment conducted by David L. Schmidt, Ph.D., Clinical Neuropsychologist, as part of the process of preparing this petition reveals the following as to his general background:

29 Michael Bynoe is a 53 year-old, African-American male born on April Aug 21, 1954. Mr. Bynoe was adopted and does not know whether there were any complications with his pregnancy or birth. His adopted parents are Nobleton Sinclair Bynoe (currently 80 years old) and Mildred Herbert Mildred Bynoe (deceased, 2000). The Bynoe's had two other children both adopted: Valerie Michelle Bynoe, age 56 and Mark Elliot Bynoe, age 50. Nobleton Bynoe owns a printing company in Queens, New York City.

Mr. Bynoe attended school in Queens, New York but did not complete high school, leaving school in the latter part of his senior year. After leaving school, Mr. Bynoe lived in Queens until 1978 when he moved to Alaska. He reported to this examiner that he moved to Alaska on the advice of the actor Richard Kiel who played Jaws in the James Bond movies "The Spy Who Loved Me" (1977) and "Moonraker" (1979). Mr. Bynoe claims to have met Mr. Kiel in jail and was told by him to move to Alaska (this is clearly a delusion on the part of Mr. Bynoe). He lived in Fairbanks, Anchorage, and Juneau during his stay in Alaska. It is clear that during a portion of his stay in Alaska, Mr. Bynoe was homeless. He was hospitalized in the Alaska Psychiatric Institute in 1980 and 1986 (see medical history). He returned to Queens, New York for three months in 1986.



Rubber-stamps courtesy of the  
Washoe Jail's Mental Health  
Program's Art class



Exhibit 5.7a

1 ghost. In the morning there were horseshoe prints in the  
2 sand. So people follow phenomenas and people see them pretty  
3 closely, because I have--probably have a cult following, if  
4 I'm not mistaken.

5 Q. And the horseshoe prints you saw in the sand, what is  
6 the relationship between them and the mountain, if you know?

7 A. Well, what's the relationship between the horseshoe  
8 mountain?

9 Q. Yeah.

10 A. Nothing. It's just that it's there.

11 Q. All right. Have you ever been involved in anything  
12 related to the space shuttle?

13 A. Well, since I'm schizophrenic, I have--one of my  
14 beliefs is that when I was younger I fell off my bicycle and  
15 cracked my tooth. And since my teeth are already spaced, I  
16 can push a piece of gum through my tooth, and it will make  
17 sort of a space shuttle piece of gum. Gum will come out  
18 shaped like a space shuttle. So I figure--I've thought that  
19 since I have a birthmark on me, and I'm pretty important with  
20 my birthmark shaped like Ireland, I thought I had something  
21 to do with the start of the space shuttle program.

22 Q. You actually believe that your tooth was kind of a  
23 prototype for the space shuttle?

24 A. At Lake's Crossing I found two Japanese scientists with

1 Mr. Bynoe. I thank you for your testimony, sincerely.  
2 Sometimes we have a tendency to put too much trust in others  
3 and other human beings and that type of thing. In other  
4 words, wouldn't it be wonderful if we could read people's  
5 minds? Wouldn't it be wonderful if we could see what's in  
6 their heart? Wouldn't it be wonderful to see what they're  
7 thinking right now? Wouldn't it be wonderful to see what  
8 their intent is? Wouldn't it be wonderful to see if they're  
9 telling a lie or if they're telling the truth? But we  
10 can't. We are all human beings. I'm a human being just like  
11 you, just like Mr. Bosler is.

12 And in many ways, just like the district attorney, in  
13 many ways we're asking these good doctors to come up with a  
14 magical solution, if you will, as to an individual's  
15 competency.

16 I find you competent. I think you are an intelligent  
17 human being. I don't know the terminology. I don't even  
18 care to go into it, whether a person can blow a spaceship  
19 through his teeth. I remember when I was a kid doing stuff  
20 like that and fantasizing, stuff like that. I mean, when you  
21 were talking, I did those kinds of things. And hopefully I'm  
22 okay. And I think you're okay.

23           When it comes to a point of being able to understand  
24   the nature of the sentencing procedure and the offense for

## WRAP

Mentioned in chapter 1, the Wellness Recovery Action Plan (WRAP) is a self-management and recovery system developed by a group of people who had mental health difficulties and who were struggling to incorporate wellness tools and strategies into their lives. WRAP is designed to

- decrease and prevent intrusive or troubling feelings and behaviors,
- increase personal empowerment,
- improve quality of life,
- assist people in achieving their own life goals and dreams.

**RAPP.** The initials of the Russian Association of Proletarian Writers, an organization that virtually controlled Soviet literature from 1929 to 1932. The group had been first formed in 1925 as VAPP (All-Russian Association of Proletarian Writers) and then changed in 1928 to RAPP. The organization hounded writers with orders to heed and fulfill the "social command" with their work, that is, to produce works that reflected the times. After the first Five-Year Plan was over, RAPP had its power taken away when the Union of Soviet Writers was formed.

The NAMI Peer to Peer Recovery Program was created by Kathryn McNulty. It is a ten-week scripted course designed to help individuals prevent relapse by recognizing symptoms and events that may trigger a downward spiral. It is most beneficial when an individual has recognized that something is not going right in his or her life and wishes to improve his or her circumstances. It is a peer course requiring least two, preferably three, peers who have completed a course by NAMI trainers.

Each class contains a combination of lecture and interactive exercise material and closes with a mindfulness practice (techniques offered to develop and expand awareness). Each class builds on the one before: attendance each week is strongly recommended.

Major topics covered are mental illnesses as traumatic experiences, stages of recovery, brain biology and research, challenges and benefits of medication, relapse prevention, mindfulness, substance abuse and addiction, role of acceptance

# EXHIBIT

5.8