

CASE NO. \_\_\_\_\_

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IN THE  
Supreme Court of the United States

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KEVIN JOHNSON,

*Petitioner,*

v.

STATE OF MISSOURI,

*Respondent.*

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On Petition for Writ of Certiorari to the  
Supreme Court of Missouri

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APPENDIX Volume II of II

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*Laurence Steinberg, Ph.D.*  
*Distinguished University Professor*  
*Laura H. Carnell Professor of Psychology and Neuroscience*

## **REPORT OF LAURENCE STEINBERG**

Re: Kevin Johnson  
Date: February 21, 2022

### **QUALIFICATIONS**

My name is Laurence Steinberg. My address is 1924 Pine Street, Philadelphia, Pennsylvania, 19103, USA. I hold the degrees of A.B. in Psychology from Vassar College (Poughkeepsie, New York) and Ph.D. in Human Development and Family Studies from Cornell University (Ithaca, New York). I am a developmental psychologist specializing in adolescence, broadly defined as the second decade of life. Throughout this document, “adolescence” refers to the period of development from age 10 to age 20. Adolescence can be further divided into three phases: early adolescence (10 through 13), middle adolescence (14 through 17) and late adolescence (18 through 20).

I am on the faculty at Temple University, in Philadelphia, Pennsylvania, USA, where I am a Distinguished University Professor and the Laura H. Carnell Professor of Psychology. I am a Fellow of the American Psychological Association, the Association for Psychological Science, and the American Academy of Arts and Sciences. I was a member of the National Academies’ Board on Children, Youth, and Families and chaired the National Academies’ Committee on the Science of Adolescence. I was President of the Division of Developmental Psychology of the American Psychological Association and President of the Society for Research on Adolescence.

I received my Ph.D. in 1977 and have been continuously engaged in research on adolescent development since that time. I am the author or co-author of approximately 450 scientific articles and 17 books on young people. Prior to my appointment at Temple University, where I have been since 1988, I was on the faculty at the University of Wisconsin—Madison

(1983-1988) and the University of California, Irvine (1977-1983). From 1997-2007, I directed the John D. and Catherine T. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, a national multidisciplinary initiative on the implications of research on adolescent development for policy and practice concerning the treatment of juveniles in the legal system. I also have been a member of the MacArthur Foundation Research Network on Law and Neuroscience, a national initiative examining the ways in which neuroscientific research may inform and improve legal policy and practice.

Since 1997, I have been engaged in research on the implications of research on adolescent development for legal decisions about the behavior of young people. More specifically, my colleagues and I have been studying whether, to what extent, and in what respects adolescents and adults differ in ways that may inform decisions about the treatment of juveniles under the law.

I have been qualified as an expert witness in state courts in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, the District of Columbia, Florida, Indiana, Kentucky, Massachusetts, Missouri, Nevada, Ohio, Oregon, Pennsylvania, and Wisconsin, as well as the United States District Courts for the Southern District of New York, the Eastern District of New York, the District of Connecticut, and the District of New Mexico. I have also been deposed as an expert in cases in California, Colorado, Florida, Michigan, North Carolina, Pennsylvania, Rhode Island, and Wisconsin; in U.S. District Courts in the Eastern District of Michigan, the Western District of Washington, and the District of Colorado; and in the Military Court of Commission Review in Guantanamo Bay, Cuba. In addition, I was the lead scientific consultant for the American Psychological Association (APA) when the Association filed Amicus Curiae briefs in *Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 48 (2011); and *Roper v. Simmons*, 543 U.S. 551 (2005). One of my articles, "Less Guilty by Reason of Adolescence," (co-authored with Elizabeth Scott),<sup>1</sup> was cited in the Court's majority opinion in *Roper* and in *Miller*, as was the APA amicus brief that I helped draft.

<sup>1</sup> Steinberg, L., & Scott, E. (2003). Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility, and the juvenile death penalty. *American Psychologist*, 58, 1009-1018.

## REFERRAL QUESTION

Counsel for Kevin Johnson, who was 19 years old at the time of the crime of which he was convicted, requested that I outline the current understanding of neurobiological and psychological development during adolescence, the ways in which neurobiological immaturity impacts behavior and psychosocial development during this period, and the basis for and evolution of the understanding of ongoing behavioral development during these years. I have been specifically asked to summarize the state of the scientific literature on brain and psychological development during late adolescence and how it is related to this case.

## MATERIALS REVIEWED

I reviewed the Missouri Supreme Court 2013 opinion in *Johnson v. State of Missouri* (406 S.W. 3d 892) in response to Mr. Johnson's motion for postconviction relief after his conviction for first-degree murder in 2000, when he was 19 years old. The opinion contains a factual and procedural summary of the case. I also reviewed the reports of Dr. Richard Dudley, a psychiatrist, and Dr. Daniel Martell, a neuropsychologist.

## RELEVANT SUPREME COURT OPINIONS

In its majority opinion in *Roper*, the United States Supreme Court noted that, "As any parent knows, and as the scientific and sociological studies...tend to confirm, a lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults. These qualities often result in impetuous and ill-considered actions and opinions....The second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure....The third broad difference is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed."

In *Graham*, the Court reiterated the logic behind its ruling in *Roper* and noted that, "No recent data provide reason to reconsider the Court's observations in *Roper* about the nature of juveniles. . . . Developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence."

In *Miller*, the Court reiterated the logic behind its prior rulings, in *Roper* and *Graham*, and noted that "the confluence of these two lines of precedent leads to the conclusion that

mandatory life-without-parole sentences for juveniles violate the Eighth Amendment.” The Court further noted that “the science and social science supporting *Roper*’s and *Graham*’s conclusions have become even stronger,” that “[A]n ever-growing body of research in developmental psychology and neuroscience continues to confirm and strengthen the Court’s conclusions,” and that, “It is increasingly clear that adolescent brains are not yet fully mature in regions and systems related to higher-order executive functions such as impulse control, planning ahead, and risk avoidance.” The Court, citing *Graham*, further noted that in cases in which a juvenile offender has been given a life sentence, the State is required to provide “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.”

In *Montgomery v. Louisiana* (2016), the United States Supreme Court ruled that “*Miller*’s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution,” and that its prior ruling in *Miller* applies retroactively to adults serving life without parole sentences for crimes they committed as juveniles. As the Court noted, “The opportunity for release will be afforded to those who demonstrate the truth of *Miller*’s central intuition—that children who commit even heinous crimes are capable of change,” and that [such] prisoners . . . must be given the opportunity to show their crime did not reflect irreparable corruption.”

## OVERVIEW

Over the past two decades, considerable scientific evidence has accumulated demonstrating that, compared to adults, adolescents are more impulsive, prone to engage in risky and reckless behavior, motivated more by reward than punishment, and less oriented to the future and more to the present. These characteristics of adolescents are now viewed as normative, driven by processes of brain maturation that are not under the control of young people, and typical of normally developing individuals ages 10 through 20 years old.

In several landmark cases decided between 2005 and 2016, the United States Supreme Court held that these aspects of juvenile immaturity mitigate criminal responsibility in ways that must be taken into account in sentencing decisions.<sup>2</sup> In the past ten years, additional scientific evidence has accrued indicating that many aspects of psychological and neurobiological

<sup>2</sup> Steinberg, L. (2017). Adolescent brain science and juvenile justice policymaking. *Psychology, Public Policy, and Law*, 23, 410-420.

immaturity characteristic of early adolescents and middle adolescents are also characteristic of late adolescents.<sup>3</sup>

Although late adolescents are in some ways similar to individuals in their mid-20s, in other ways, and under certain circumstances, they are more like individuals in early and middle adolescence in their behavior, psychological functioning, and brain development. Developmental science therefore does not support the bright-line boundary that is observed in criminal law under which 18-year-olds are categorically deemed to be adults.<sup>4</sup> The recognition that the same sort of psychological and neurobiological immaturity characteristic of juveniles under the age of 18 also describes individuals from 18 through 20 suggests that the logic reflected in the U.S. Supreme Court decisions in *Roper*, *Graham*, *Miller*, and in *Montgomery v. Louisiana* with respect to adolescents under 18 years of age also applies to adolescents between 18 and 20.<sup>5</sup>

For most of the 20<sup>th</sup> century, scientists believed that brain maturation ended sometime during late childhood, a conclusion based on the observation that the brain reached its adult size and volume by age 10. This conclusion began to be challenged in the late 1990s, as a result of research that examined the brain's internal anatomy as well as patterns of brain activity, rather than focusing solely on the brain's external appearance.<sup>6</sup>

The advent of functional Magnetic Resonance Imaging (fMRI) permitted scientists and researchers to actually observe the brains of living individuals and examine their responses to

<sup>3</sup> Center for Law, Brain & Behavior at Massachusetts General Hospital (2022). *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers* (January 27th, 2022). <https://clbb.mgh.harvard.edu/white-paper-on-the-science-of-late-adolescence>

<sup>4</sup> Scott, E., Bonnie, R. & Steinberg, L. (2016). Young adulthood as a transitional legal Category, *Fordham Law Review*, 85, 641-666.

<sup>5</sup> Shen, F., et al. (in press). Justice for emerging adults after *Jones*: The rapidly developing use of neuroscience to extend eighth amendment miller protections to defendants ages 18 and older, *N.Y.U. Law Review*, 97 (forthcoming).

<sup>6</sup> Gogtay, N., et al. (2004). Dynamic mapping of human cortical development during childhood through early adulthood. *Proceedings of the National Academies of Sciences*, 101, 8174–8179; Giedd, J., Blumenthal, J., Jeffries, N., Castellanos, F., Liu, H., Zijdenbos, A., . . . Rapoport, J. (1999). Brain development during childhood and adolescence: a longitudinal MRI study. *Nature Neuroscience*. 2, 861–863; Sowell, E., Thompson, P., Leonard, C., Welcome, S., Kan, E., & Toga, A. (2004). Longitudinal mapping of cortical thickness and brain growth in normal children. *Journal of Neuroscience*, 24, 8223–8231.



various stimuli and activities. The results of this examination demonstrated that key brain systems and structures, especially those involved in self-regulation and higher-order cognition, continue to mature throughout adolescence until at least the age of 21 and likely beyond in some areas of function.<sup>7</sup> This research was not available at the time of Mr. Johnson's trial, in 2000, and very little of it had been completed by the time of his appeal, in 2009.

In response to these revelations about ongoing brain maturation, researchers began to focus on the ways in which adolescent behavior is more accurately characterized as reflecting psychological and neurobiological immaturity.<sup>8</sup> The results of many of these studies and descriptions of adolescent behavior were used by the United States Supreme Court, first in *Roper v. Simmons*, and later in *Graham v. Florida*, *Miller v. Alabama*, and *Montgomery v. Louisiana*, as the foundation for the high court's conclusions that adolescents prior to the age of majority should not be treated as adults by the criminal justice system, because their brains and resulting behavior cannot be characterized as fully mature and, as a consequence, that their culpability is not comparable to and should not be equated with that of fully mature adults.<sup>9</sup> In addition, the Court noted that because psychological and neurobiological development were still ongoing in adolescence, individuals were still amenable to change and able to profit from rehabilitation.

<sup>7</sup> Center for Law, Brain & Behavior at Massachusetts General Hospital (2022). *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers* (January 27th, 2022). <https://clbb.mgh.harvard.edu/white-paper-on-the-science-of-late-adolescence>

<sup>8</sup> Steinberg, L., & Scott, E. (2003). Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility, and the juvenile death penalty. *American Psychologist*, 58, 1009-1018.

<sup>9</sup> The American Psychological Association filed briefs as amicus curiae in *Roper*, *Graham*, and *Miller*, outlining the state of neuropsychological and behavioral research on adolescent brain development and behavior for the Court. See Brief for the American Psychological Association, American Psychiatric Association, and National Association of Social Workers as Amici Curiae in Support of Petitioners, *Miller v. Alabama*, 567 U.S. 460 (2012) (No. 10-9646); Brief for the American Psychological Association, American Psychiatric Association, National Association of Social Workers, and Mental Health America as Amici Curiae Supporting Petitioners, *Graham v. Florida*, 560 U.S. 48 (2010) (No. 08-7412), *Sullivan v. Florida*, 560 U.S. 181 (2010) (No. 08-7621); Brief for the American Psychological Association, and the Missouri Psychological Association as Amici Curiae Supporting Respondent, *Roper v. Simmons*, 543 U.S. 551 (2005) (No. 03-633).

Further study of brain maturation conducted during the past decade has revealed that several aspects of brain development affecting judgment and decision-making are not only ongoing during early and middle adolescence, but continue at least until age 21. As more research confirming this conclusion accumulated, by 2015 the notion that brain maturation continues into late adolescence became widely accepted among neuroscientists.<sup>10</sup> This contemporary view of brain development as ongoing at least until age 21 stands in marked contrast to the view held by scientists as recently as 15 years ago. We now know that, in many respects, **individuals between 18 and 21 are more neurobiologically similar to younger teenagers than had previously been thought.** This research was not available at the time of Mr. Johnson’s trial, in 2000, and very little of it had been completed by the time of his appeal, in 2009.

### FINDINGS FROM DEVELOPMENTAL NEUROSCIENCE

The current prevailing view among neuroscientists is that the main underlying cause of psychological immaturity during adolescence and the early 20s is the different timetables along which two important brain systems change during this period, sometimes referred to as a

<sup>10</sup> Dosenbach, N., et al. (2011). Prediction of individual brain maturity using fMRI. *Science*, 329, 1358–1361; Fair, D., et al. (2009). Functional brain networks develop from a “local to distributed” organization. *PLoS Computational Biology*, 5, 1–14; Hedman A., van Haren N., Schnack H., Kahn R., & Hulshoff Pol, H. (2012). Human brain changes across the life span: A review of 56 longitudinal magnetic resonance imaging studies. *Human Brain Mapping*, 33, 1987-2002; Miller, D., et al. (2012). Prolonged myelination in human neocortical evolution. *PNAS*, 109, 16480. Pfefferbaum, A., Rohlfing, T., Rosenbloom, M., Chu, W., & Colrain, I. (2013). Variation in longitudinal trajectories of regional brain volumes of healthy men and women (ages 10 to 85 years) measured with atlas-based parcellation of MRI. *NeuroImage*, 65, 176-193; Simmonds, D., Hallquist, M., Asato, M., & Luna, B. (2014). Developmental stages and sex differences of white matter and behavioral development through adolescence: A longitudinal diffusion tensor imaging (DTI) study. *NeuroImage*, 92, 356-368. Somerville, L., Jones, R., & Casey, B.J. (2010). A time of change: behavioral and neural correlates of adolescent sensitivity to appetitive and aversive environmental cues. *Brain & Cognition*, 72, 124-133; Tamnes, C., Herting, M., Goddings, A., Meuwese, R., Blakemore, S., Dahl, R., . . . Mills, K. (2017). Development of the cerebral cortex across adolescence: A multisample study of inter-related longitudinal changes in cortical volume, surface area, and thickness. *Journal of Neuroscience*, 37, 3402-3412; Whitaker, K., Vértes, P., Romero-Garcia, R., Váša, F., Moutoussis, M., Prabhu, G., . . . Bullmore E. (2016). Adolescence is associated with genomically patterned consolidation of the hubs of the human brain connectome. *PNAS*, 113, 9105-9110.

“maturational imbalance.”<sup>11</sup> The system that is responsible for the increase in sensation-seeking and reward-seeking that takes place in adolescence, which is localized mainly in the brain’s limbic system, undergoes dramatic changes very early in adolescence, around the time of puberty. Attentiveness to rewards remains high through the late teen years and into the early 20s. But the system that is responsible for self-control, regulating impulses, thinking ahead, evaluating the rewards and costs of a risky act, and resisting peer pressure, which is localized mainly in the prefrontal cortex, is still undergoing significant maturation well into the mid-20s.<sup>12</sup>

Thus, during middle and late adolescence there is an imbalance between the reward system and the self-control system that inclines adolescents toward sensation-seeking and impulsivity. As this “maturational imbalance” diminishes, during the mid-20s, there are improvements in such capacities as impulse control, resistance to peer pressure, planning, and thinking ahead.<sup>13</sup>

Studies of structural and functional development of the brain are consistent with this view. Specifically, **research on neurobiological development shows continued maturation into the early or even mid-20s of brain regions and systems that govern various aspects of self-regulation** and higher-order cognitive function. These developments involve structural (i.e., in the brain’s anatomy) and functional (i.e., in the brain’s activity) changes in the prefrontal and parietal cortices, as well as improved structural and functional connectivity between the limbic system and the prefrontal cortex. The structural changes are primarily the result of two processes: synaptic pruning (the elimination of unnecessary connections between neurons, which

<sup>11</sup> Casey, B. J., et al. (2010). The storm and stress of adolescence: Insights from human imaging and mouse genetics. *Developmental Psychobiology*, 52, 225-235; Shulman, E., Smith, A., Silva, K., Icenogle, G., Duell, N., Chein, J., & Steinberg, L. (2016). The dual systems model: Review, reappraisal, and reaffirmation. *Developmental Cognitive Neuroscience*, 17, 103-117.

<sup>12</sup> Steinberg, L. (2008). A social neuroscience perspective on adolescent risk-taking. *Developmental Review*, 28, 78-106; Steinberg, L., Icenogle, G., Shulman, E., Breiner, K., Chein, J., Bacchini, D., . . . Takash, H. (2018). Around the world, adolescence is a time of heightened sensation seeking and immature self-regulation. *Developmental Science*, 21, 1-13; Van Leijenhorst, L., Moor, B. G., Op de Macks, Z. A., Rombouts, S. A. R. B., Westenberg, P. M., & Crone, E. A. (2010). Adolescent risky decisionmaking: Neurocognitive development of reward and control regions. *NeuroImage*, 51, 345–355.

<sup>13</sup> Albert, D., & Steinberg, L. (2011). Judgment and decision making in adolescence. *Journal of Research on Adolescence*, 21, 211-224; Blakemore, S.-J., & T. Robbins, T. (2012). Decision-making in the adolescent brain. *Nature Neuroscience*, 15, 1184-1191.

allows the brain to transmit information more efficiently), and myelination (the growth of sheaths of myelin around neuronal connections, which functions as a form of insulation that allows the brain to transmit information more quickly). Although the process of synaptic pruning is largely finished by age 16, myelination continues into the late teens and throughout the 20s.<sup>14</sup>

Thus, although the development of the prefrontal cortex is largely complete by the end of middle adolescence, the maturation of connections between this region and regions that govern self-regulation and the brain's emotional centers, facilitated by the continued myelination of these connections, continues into late adolescence (at least through age 20) and may not be complete until the mid-20s.<sup>15</sup> As a consequence, late adolescents often have difficulty controlling their impulses, especially in emotionally arousing situations.

### PSYCHOLOGICAL IMMATURITY IN ADOLESCENCE

Research on psychological development during adolescence conducted during the past 20 years also has led scientists to revise longstanding views of this age period. Conclusions drawn from this psychological research parallel those drawn from recent studies of brain development and indicate that **individuals in their late teens and early 20s are less mature than their older counterparts in several important and legally-relevant ways.**<sup>16</sup> The results of these psychological studies, including many that have been conducted by my research group, have been found not only in the United States, but around the world.<sup>17</sup> This research was not available

<sup>14</sup> For reviews of changes in brain structure and function during adolescence and young adulthood, see Blakemore, S-J. (2012). Imaging brain development: The adolescent brain. *Neuroimage*, 61, 397-406; Center for Law, Brain & Behavior at Massachusetts General Hospital (2022). *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers* (January 27th, 2022). <https://clbb.mgh.harvard.edu/white-paper-on-the-science-of-late-adolescence>; and Spear, L., & Silveri, M. (2016). Special issue on the adolescent brain. *Neuroscience and Biobehavioral Reviews*, 70 (whole issue).

<sup>15</sup> Khundrakpam, B, Lewis, J., Zhao, L., Chouinard-Decorte, F., & Evans, A. (2016). Brain connectivity in normally developing children and adolescents. *NeuroImage*, 134, 192-203.

<sup>16</sup> Scott, E., Bonnie, R. & Steinberg, L. (2016). Young adulthood as a transitional legal category, *Fordham Law Review*, 85, 641-666 and Steinberg, L. (2014). *Age of opportunity: Lessons from the new science of adolescence*. New York: Houghton Mifflin, Harcourt.

<sup>17</sup> Duell, N., Steinberg, L., Chein, J., Al-Hassan, S., Bacchini, D., Chang, L, . . . Alampay, L. (2016). Interaction of reward seeking and self-regulation in the prediction of risk taking: A cross-national test of the dual systems model. *Developmental Psychology*, 52, 1593-1605; Duell, N., Steinberg, L., Icenogle, G., Chein, J., Chaudary, N., Di Giunta, L., . . . Chang, L. (2018). Age

at the time of Mr. Johnson’s trial, in 2000, and very little of it had been completed by the time of his appeal, in 2009.

First, adolescents are more likely than adults to underestimate the number, seriousness, and likelihood of risks involved in a given situation. When asked to make a decision about a course of action, compared to adults, adolescents have more difficulty identifying the possible costs and benefits of each alternative, underestimate the chances of various negative consequences occurring, and underestimate the degree to which they could be harmed if the negative consequences occurred.<sup>18</sup>

Second, adolescents and people in their early 20s are more likely than older individuals to engage in what psychologists call “sensation-seeking,” the pursuit of arousing, rewarding, exciting, or novel experiences. As a consequence of this, young people are more apt to focus on the potential rewards of a given decision than on the potential costs.<sup>19</sup> Other studies have indicated that heightened risk taking among adolescents is due to the greater attention they pay to the potential rewards of a risky choice relative to the potential costs. This tendency is especially pronounced among individuals between the ages of 18 and 21.<sup>20</sup>

Third, adolescents and individuals in their early 20s are less able than older individuals to control their impulses and consider the future consequences of their actions and decisions. In general, adolescents are more short-sighted and less planful than adults, and they have more

patterns in risk taking around the world. *Journal of Youth and Adolescence*, 47, 1052-1072. Steinberg, L., Icenogle, G., Shulman, E., Breiner, K., Chein, J., Bacchini, D., . . . Takash, H. (2018). Around the world, adolescence is a time of heightened sensation seeking and immature self-regulation. *Developmental Science*, 21, 1-13.

<sup>18</sup> Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., Lexcen, F., Reppucci, N., & Schwartz, R. (2003). Juveniles’ competence to stand trial: A comparison of adolescents’ and adults’ capacities as trial defendants. *Law and Human Behavior*, 27, 333-363.

<sup>19</sup> Steinberg, L., Albert, D., Cauffman, E., Banich, M., Graham, S., & Woolard, J. (2008). Age differences in sensation seeking and impulsivity as indexed by behavior and self-report: Evidence for a dual systems model. *Developmental Psychology*, 44, 1764-1778.

<sup>20</sup> Cauffman, E., Shulman, E., Steinberg, L., Claus, E., Banich, M., Graham, S., & Woolard, J. (2010). Age differences in affective decision making as indexed by performance on the Iowa Gambling Task. *Developmental Psychology*, 46, 193-207; Steinberg, L., Icenogle, G., Shulman, E., Breiner, K., Chein, J., Bacchini, D., . . . Takash, H. (2018). Around the world, adolescence is a time of heightened sensation seeking and immature self-regulation. *Developmental Science*, 21, 1-13.

difficulty than adults in foreseeing the possible outcomes of their actions and regulating their behavior accordingly. Importantly, significant gains in impulse control continue to occur beyond age 18 and into the early 20s.<sup>21</sup>

Fourth, the development of basic cognitive abilities, including memory and logical reasoning, matures before the development of emotional maturity, including the ability to exercise self-control, rein in sensation seeking, properly consider the risks and rewards of alternative courses of action, and resist coercive pressure from others. Thus, a young person who appears to be intellectually mature may also be socially and emotionally immature.<sup>22</sup>

As a consequence of this gap between intellectual and emotional maturity, the tendencies of adolescents and people in their early 20s, relative to individuals in their mid- or late 20s, to be more focused on rewards, more impulsive, and more myopic are exacerbated when adolescents are making decisions in situations that are emotionally arousing, including those that generate negative emotions, such as fear, threat, anger, or anxiety. Psychologists distinguish between “cold cognition,” which refers to the thinking abilities used under calm circumstances, and “hot cognition,” which refers to the thinking abilities used under emotionally arousing ones. Adolescents’ deficiencies in judgment and self-control, relative to adults, are greater under “hot” circumstances in which emotions are aroused than they are under calmer, “cold” circumstances.<sup>23</sup>

<sup>21</sup> Steinberg, L., Graham, S., O’Brien, L., Woolard, J., Cauffman, E., & Banich, M. (2009). Age differences in future orientation and delay discounting. *Child Development*, 80, 28-44; Steinberg, L., Albert, D., Cauffman, E., Banich, M., Graham, S., & Woolard, J. (2008) Age differences in sensation seeking and impulsivity as indexed by behavior and self-report: Evidence for a dual systems model. *Developmental Psychology*, 44, 1764-1778; Steinberg, L., Icenogle, G., Shulman, E., Breiner, K., Chein, J., Bacchini, D., . . . Takash, H. (2018). Around the world, adolescence is a time of heightened sensation seeking and immature self-regulation. *Developmental Science*, 21, 1-13.

<sup>22</sup> Icenogle, G., Steinberg, L., Duell, N., Chein, J., Chang, L., Chaudary, N., . . . Bacchini, D. (2019). Adolescents’ cognitive capacity reaches adult levels prior to their psychosocial maturity: Evidence for a “maturity gap” in a multinational sample. *Law and Human Behavior*, 43, 69-85; Steinberg, L., Cauffman, E., Woolard, J., Graham, S., & Banich, M. (2009). Are adolescents less mature than adults? Minors’ access to abortion, the juvenile death penalty, and the alleged APA “flip-flop”. *American Psychologist*, 64, 583-594.

<sup>23</sup> Cohen, A., Breiner, K., Steinberg, L., Bonnie, R., Scott, E., Taylor-Thompson, K., . . . Casey, B.J. (2016). When is an adolescent an adult? Assessing cognitive control in emotional and non-

Recent studies that my colleagues and I conducted, of middle adolescents, late adolescents, and individuals in their mid-20s, illustrate this point. We assessed individuals' impulse control and brain activity while experimentally manipulating their emotional state. Under conditions during which individuals were not emotionally aroused, individuals between 18 and 21 exhibited impulse control and patterns of brain activity comparable to those in their mid-20s. But under emotionally arousing conditions, 18- to 21-year-olds demonstrated levels of impulsive behavior and patterns of brain activity that were comparable to those in their mid-teens.<sup>24</sup> In other words, under circumstances of heightened emotional arousal, the brain of a 18- to 21-year-old functions in ways that are comparable to that of a 16- or 17-year old.

My colleagues and I have further shown that normal and expected improvements in self-control, resistance to peer pressure, and future orientation, which occur in most individuals, are related to desistance from crime beginning in late adolescence and through the young adult years.<sup>25</sup> This observation is consistent with findings from developmental neuroscience, noted earlier.<sup>26</sup>

emotional contexts. *Psychological Science*, 4, 549-562; Steinberg, L. (2014). *Age of opportunity: Lessons From the New Science of Adolescence*. New York: Houghton Mifflin Harcourt; Steinberg, L., Cauffman, E., Woolard, J., Graham, S., & Banich, M. (2009). Are adolescents less mature than adults? Minors' access to abortion, the juvenile death penalty, and the alleged APA "flip-flop". *American Psychologist*, 64, 583-594.

<sup>24</sup> Cohen, et al. (2016). When is an adolescent an adult? Assessing cognitive control in emotional and non-emotional contexts. *Psychological Science*, 4, 549-562; Rudolph, M., Miranda-Dominguez, O., Cohen, A., Breiner, K., Steinberg, L., . . . Fair, D. (2017). At risk of being risky: The relationship between "brain age" under emotional states and risk preference. *Developmental Cognitive Neuroscience*, 24, 93-106.

<sup>25</sup> Monahan, K., Steinberg, L., & Cauffman, E. (2009). Affiliation with antisocial peers, susceptibility to peer influence, and desistance from antisocial behavior during the transition to adulthood. *Developmental Psychology*, 45, 1520-1530; and Monahan, K., Steinberg, L., Cauffman, E., & Mulvey, E. (2009). Trajectories of antisocial behavior and psychosocial maturity from adolescence to young adulthood. *Developmental Psychology*, 45, 1654-1668). This observation is consistent with findings from developmental neuroscience, noted earlier (for example, Liston, C., Watts, R., Tottenham, N., Davidson, M., Niogi, S., Ulug, A., & Casey, B.J. (2006). Frontostriatal microstructure predicts individual differences in cognitive control. *Cerebral Cortex*, 16, 553-560).

<sup>26</sup> For example, see Liston, C., Watts, R., Tottenham, N., Davidson, M., Niogi, S., Ulug, A., & Casey, B.J. (2006). Frontostriatal microstructure predicts individual differences in cognitive control. *Cerebral Cortex*, 16, 553-560.

Scientists have also shown that the human brain is malleable, or “plastic.” Neuroplasticity refers to the potential for the brain to be modified by experience. Certain periods in development appear to be times of greater neuroplasticity than others. There is growing consensus that there is considerable neuroplasticity in adolescence, which suggests that during those time periods, there are greater opportunities for individuals to change.<sup>27</sup> In *Graham*, the United States Supreme Court, recognized that adolescents’ brains were not fully developed, and that it was this lack of maturity and capacity for growth that led to Court’s holding that youth who commit serious crimes must have an opportunity for release based on demonstrated maturity and rehabilitation.

Very few individuals who have committed crimes as juveniles or young adolescents continue offending beyond their mid-20s. My colleagues and I have found, as have other researchers, that approximately 90 percent of serious young offenders age out of crime and do not continue criminal behavior into adulthood.<sup>28</sup>

Longitudinal studies that document this pattern of desistance are consistent with epidemiological evidence on the relation between age and crime. In general, sociological studies demonstrate what scientists describe as an “age-crime curve,” which shows that, in the

<sup>27</sup> For a discussion of adolescent neuroplasticity, see Aoki, C., Romeo, R., & Smith, S. (2017). Adolescence as a critical period for developmental plasticity. *Brain Research*, 1654, 85-86; Guyer, A., Pérez-Edgar, K., & Crone, E., (2018). Opportunities for neurodevelopmental plasticity from infancy through early adulthood. *Child Development*, 89, 687-297; Kays, J., Hurley, R., Taber, K. (2012). The dynamic brain: Neuroplasticity and mental health. *Journal of Clinical Neuropsychiatry and Clinical Neuroscience*, 24, 118-124; Murty, M., Calabro, F., & Luna, B. (2016). The role of experience in adolescent cognitive development: integration of executive, memory, and mesolimbic systems. *Neuroscience and Biobehavioral Reviews*, 70, 46-58; Steinberg, L. (2014). *Age of Opportunity: Lessons From the New Science of Adolescence*. New York: Houghton Mifflin Harcourt; and Thomas, M., & Johnson, M. (2008). New advances in understanding sensitive periods in brain development. *Current Directions in Psychological Science*, 17, 1-5.

<sup>28</sup> Monahan, K., Steinberg, L., Cauffman, E., & Mulvey, E. (2013). Psychosocial (im)maturity from adolescence to early adulthood: Distinguishing between adolescence-limited and persistent antisocial behavior. *Development and Psychopathology*, 25, 1093–1105; and Mulvey, E., Steinberg, L., Piquero, A., Besana, M., Fagan, J., Schubert, C., & Cauffman, E. (2010). Trajectories of desistance and continuity in antisocial behavior following court adjudication among serious adolescent offenders. *Development and Psychopathology*, 22, 453-475.



aggregate, crime peaks in the late teen years, and declines during the early 20s.<sup>29</sup> For example, according to recent data from the Federal Bureau of Investigation, on arrest rates as a function of age, arrests for property crime and for violent crime increase between 10 and 19 years, peak at 19 or 20, and decline thereafter, most dramatically after 25.<sup>30</sup> This is a robust pattern observed not only in the United States, but across the industrialized world and over historical time.<sup>31</sup>

Thus, there is strong scientific evidence that most juvenile and adolescent offending reflects transient developmental immaturity rather than irreparably bad character. This developmental immaturity has been linked to predictable patterns of structural and functional brain development during adolescence and this process of brain maturation continues through the late teens and into the early 20s. The adolescent brain is especially “plastic,” or susceptible to environmental influence, which makes them more amenable to rehabilitation. The vast majority of juvenile and adolescent offenders age out of crime as they mature into their mid-20s.

#### **EVIDENCE OF IMPAIRED DEVELOPMENT PARTICULAR TO MR. JOHNSON**

The evaluations of Mr. Johnson submitted by Dr. Dudley and Dr. Martell document the extensive trauma and abuse to which Mr. Johnson was exposed throughout his childhood. In addition to the mental illnesses to which these experiences contributed, it is likely that they also impaired Mr. Johnson’s brain development in regions of the brain that are important for impulse control and emotional regulation. There also is growing evidence that the maturation of brain systems governing self-regulation and impulse control is more likely to be slower and stunted in individuals who have experienced various types of trauma and disadvantage, including exposure to domestic violence, physical abuse, neglect, and chronic poverty.<sup>32</sup> The neuropsychological

<sup>29</sup> Sweeten, G., Piquero, A., & Steinberg, L. (2013). Age and the explanation of crime, revisited. *Journal of Youth and Adolescence*, 42, 921-938.

<sup>30</sup> U.S. Department of Justice. (2020). *Crime in the United States*, 2019.

<sup>31</sup> Farrington, D. (1986). Age and crime. In M. Tonry & N. Morris (Eds.), *Crime and justice: An annual review of research*, vol. 7 (pp. 189-250). Chicago: University of Chicago Press; Hirschi, T., & Gottfredson, M. (1983). Age and the explanation of crime. *American Journal of Sociology*, 89, 552-84; and Piquero, A., Farrington, D., & Blumstein, A. (2007). *Key issues in criminal careers research: New analysis from the Cambridge study in delinquent development*. Cambridge: Cambridge University Press.

<sup>32</sup> De Bellis, M. D., & Zisk, A. (2014). The biological effects of childhood trauma. *Child and adolescent psychiatric clinics of North America*, 23, 185–vii; Farah M.J. (2018). Socioeconomic

diagnostic evaluation of Mr. Johnson’s cognitive functioning identified focal deficits in “planning, cognitive flexibility, response inhibition, and impulse control,” which is consistent with Mr. Johnson’s history of “explosive, impulsive aggression, including his behavior during the instant offense.”<sup>33</sup>

## CONCLUSION

Extensive studies demonstrate that important neurobiological development is ongoing throughout the teenage years and continues into the early 20s. As a result of neurobiological immaturity, young people, even those past the age of majority, continue to demonstrate difficulties in exercising self-restraint, controlling impulses, considering future consequences, making decisions independently from their peers, and resisting the coercive influence of others. Heightened susceptibility to emotionally laden and socially charged situations renders adolescents more vulnerable to the influence of others, and in such situations young people are even less able to consider and weigh the risks and consequences of a chosen course of action.<sup>34</sup>

**Many of the same immaturities that characterize the brains of individuals younger than 18, and that have been found to mitigate their criminal culpability, are characteristic of the brains of individuals from 18 through at least age 20.** This research was not available at the time of Mr. Johnson’s trial, in 2000, and very little of it had appeared by the time of his appeal, in 2009.

status and the brain: Prospects for neuroscience-informed policy. *Nature Reviews Neuroscience*, 19, 428-438; Farah, M (2017). The neuroscience of socioeconomic status: Correlates, causes, and consequences. *Neuron* 96, 56-71; Herringa, (2017). Trauma, PTSD, and the developing brain. *Current Psychiatry Reports*, 19, 69; Lawson, G.M., Hook, C.J., & Farah, M.J. (2017) A meta-analysis of the relationship between socioeconomic status and executive function on performance among children. *Developmental Science*, 21; Noble, K. G., & Farah, M. J. (2013). Neurocognitive consequences of socioeconomic disparities: the intersection of cognitive neuroscience and public health. *Developmental Science*, 16, 639–640; Palacios-Barrios, E., & Hanson, J. (2019). Poverty and self-regulation: Connecting psychosocial processes, neurobiology, and the risk for psychopathology. *Comprehensive Psychiatry*, 90, 52-64.


<sup>33</sup> Report of Dr. Daniel Martell, July 16, 2016, pp. 20-22.

<sup>34</sup> Scott, E., Duell, N., & Steinberg, L. (2018). Brain development, social context, and justice policy. *Washington University Journal of Law and Policy*, 57, 13-74.

**Criminal acts committed by adolescents, even those past the age of majority, are best understood in light of their neurobiological and psychological immaturity. For this reason, it is inappropriate to assign the same degree of culpability to criminal acts committed at this age to that which would be assigned to the behavior of a fully mature and responsible adult.**

In his majority opinion in *Roper v. Simmons*, Justice Kennedy noted three characteristics of juveniles that diminish their criminal responsibility: their impetuosity, their susceptibility to peer influence, and their capacity to change. In Justice Kennedy's opinion in *Graham v. Florida*, as well as Justice Kagan's opinion in *Miller v. Alabama*, the Court noted that the characterization of juveniles as inherently less mature than adults, and therefore less responsible for their crimes, was supported by a growing scientific literature affirming adolescents' neurobiological as well as psychological immaturity.<sup>35</sup> In the ten years that have elapsed since *Miller*, more scientific evidence consistent with these arguments has continued to accrue. Recent discoveries in psychological science and in brain science, as well as changes in society, should ask us to rethink how we view people in late adolescence and young adulthood in terms of their treatment under the law. It is now clear that neurobiological and psychological immaturity of the sort that the Supreme Court referenced in its opinions on the diminished culpability of minors is also characteristic of individuals in their late teens and early 20s. **Certainly, there is no scientific evidence to suggest that a meaningful psychological or neurobiological distinction can be drawn between individuals who are nearly 18 years old and those who are 19.**

I believe that the facts I have stated in this report are true and that the opinions I have expressed are within a reasonable degree of scientific certainty.



Laurence Steinberg, Ph.D.

Philadelphia, PA

February 21, 2022

<sup>35</sup> Steinberg, L. (2017). Adolescent brain science and juvenile justice policymaking. *Psychology, Public Policy, and Law*, 23, 410-420.

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7 August 2016  
PSYCHIATRIC EVALUATION

**IN RE: KEVIN JOHNSON**

**Presenting Problem:**

Kevin Johnson is a now 30 year old (DOB 23 September 1985) African-American male, who was convicted of the 5 July 2005 murder of Police Sergeant McEntee (Kirkwood Police Department) and sentenced to death.

It is the understanding of this psychiatrist that essentially, the defense presented at the time of Mr. Johnson's trial was that he was extremely distressed by the death of his younger brother a matter of hours before the crime; that he had been extremely close to and very protective of his brother, who was born with serious physical health difficulties; and as a result, he 'flipped out'/was in a 'trance', during which time he killed McEntee.

With regard to the above noted, it is the understanding of this psychiatrist that Mr. Johnson's current counsel have further investigated the information that was available to Mr. Johnson's trial level counsel; that in so doing, current counsel began to suspect that Mr. Johnson had a long-standing history of serious mental health difficulties that might have rendered him vulnerable to having such an episode; and current counsel also gathered information that shed light on the nature and quality of the episode and prior similar episodes.

Given the above noted, Mr. Johnson's current counsel referred him to this psychiatrist for an evaluation. The following is the report of that evaluation.

Source of Information:

- Kevin Johnson's 'Bio-Psycho-Social History', as prepared by his current legal team
- See attached list of the records, documents and declarations of family members and friends of Mr. Johnson that were reviewed by this psychiatrist, including the records, documents and declarations that formed the basis for the 'Bio-Psycho-Social History'
- Report of the neuropsychological evaluation of Mr. Johnson performed by Daniel A. Martell, Ph.D., A.B.P.P., dated 16 July 2016
- Psychiatric examinations of Mr. Johnson, performed by this psychiatrist on 21 January 2016 and 20 May 2016

Brief Summary of Information:

The 'Bio-Psycho-Social History' developed for Mr. Johnson by his current legal team includes a detailed history of Mr. Johnson's life and the lives of the various members of his family. In my experience, the development of such a document, based on a detailed mitigation investigation, is critical and central to the performance of a reliable mental health evaluation. Since this document will be available to reviewers of this report, all of that detail will not be repeated here. Instead, what follows is an attempt to summarize some of the information that is most central to this evaluation, as well as some of the information that this psychiatrist gathered directly from Mr. Johnson.

The 'Bio-Psycho-Social History' begins with a multi-generational review of Mr. Johnson's family history. This review summarizes the problems his family members endured; the mental health difficulties and associated impaired functioning that resulted at least in part from the problems they endured; and how all of this created the environment in which Mr. Johnson was born and raised. This review also includes information about biologically-related family members who have been formally diagnosed and treated for serious psychiatric disorders; for some of these disorders, genetic transmission has been clearly established as part of the etiology of the disorders; and so therefore, Mr. Johnson was at increased risk of developing similar disorders.

Of particular importance is the fact that Mr. Johnson's mother was unable to raise him and his siblings as a result of her own mental health difficulties, which included a serious addiction to crack cocaine. As a result, he and his siblings were severely abused and neglected, and eventually, when Mr. Johnson was about 4 years old, he and his siblings were separated and sent to live with various different family members, none of whom were able to provide him or his siblings with even adequate parenting. When Mr. Johnson met with this psychiatrist, he

reported that he has a clear memory of that day in court when he and his siblings were separated; his older brother Marcus went off with his grandmother, while he was left crying at court with some white woman who he didn't know; and then eventually (he doesn't remember how long it took) that woman dropped him off at his great-aunt's.

Mr. Johnson's father was incarcerated until he was about 13 years old; although therefore, he was not really involved with Mr. Johnson for those first 13 years of his life, Mr. Johnson reported that he always thought about this idealized father who he would eventually have a great relationship with; but as detailed in the 'Bio-Psycho-Social History', even after Mr. Johnson's father was released from prison, they never developed the relationship that he had hoped for, and instead, his father was often violent with him and rejecting of him.

As noted above, when he was about 4 years old, Mr. Johnson was sent to live with a maternal great-aunt; she had been able to escape life in the virtually totally Black, poor, drug-infested, violent and otherwise dysfunctional Meacham Park neighborhood that Mr. Johnson and the rest of his family had been living in, apparently due to her marriage to an extremely successful drug dealer; but although this meant that for the first time Mr. Johnson's most concrete, basic needs were being met (i.e., adequate food, clothing and shelter), his great-aunt was emotionally detached and over time became extremely physically and psychologically abusive.

During Mr. Johnson's childhood years, he did spend time with his maternal grandmother and great-grandmother, especially when his great-aunt was at work, and at such times he also had contact with his siblings. However, these caretakers had their own difficulties; and they were also often overwhelmed by the sheer number of children living in their homes; and therefore, Mr. Johnson didn't receive adequate parenting in their homes either.

When Mr. Johnson met with this psychiatrist, he described a childhood history of severe physical, sexual and emotional abuse and neglect. Kevin was whipped, beaten, and maced by various caregivers; directed by uncles and cousins to join in sex acts as a prepubescent child; and left home alone as a toddler for days without food or heat. This abuse was followed by neglect in the form of rejection and abandonment. This history of repeated exposure to violent abuse in the absence of the type of parental protection, nurture and support that might have mitigated the impact of the repeated exposure to violence is among the most extreme cases that this psychiatrist has ever seen in his 40 years of practice and 30+ years of performing psychiatric evaluations in connection with capital litigation. Therefore, it is not surprising that even as a child, Mr. Johnson evidenced symptoms that are of the type that can result from such childhood experiences.

More specifically, Mr. Johnson reported that he remembers that as a young child, as early as when he was 6 years old, he lived in fear of his great-aunt; he felt that no one cared about him or even wanted him; and he believed that the abuse that he endured and the level of rejection that he was experiencing must mean that there is something seriously wrong with him. He was isolative and withdrawn, and although he often felt that he wanted to kill himself, he never did only because he didn't know how to go about doing that. He reported that even back then, he

kept all of those thoughts and feelings to himself; he noted that he has never liked to show emotions; but he noted that there have always been times when those emotions, including lots of anger, would just back up and then suddenly all come out, at times in a way that felt out of his control.

Mr. Johnson reported that around about the same time (when he was about 6 years old), Kris came into his life; while he/Kevin was more quiet, passive, depressed and suicidal, Kris was more tough, aggressive, angry and totally against the idea of killing himself; and although initially he thought that Kris was another person, over the years he came to realize that Kris was more likely another part of him. He noted that from the beginning, Kris would emerge when he was alone and more depressed; Kris would step in and take over; and it would be difficult for him to control Kris until they had both calmed down.

Mr. Johnson noted that one of the few good things that happened during his childhood years was the birth of his younger brother, Bam Bam, who was born when he was about 7 years old. He reported that although he didn't fully understand it at the time, Bam Bam was born crack addicted; but when he first held Bam Bam he knew that he had some type of heart condition, he was weak and he still had tubes in his body; and from that first contact with Bam Bam, he loved him and wanted to protect him. He reported that Bam Bam was only expected to live until he was about 5 years old; but he was a loving protector of Bam Bam throughout the course of his life; and he took his responsibilities for Bam Bam very seriously.

All of the other sources of information currently available to this psychiatrist describe Mr. Johnson in a way that is consistent with his above description of himself. More specifically, he was consistently viewed as a quiet, somewhat isolative child, but it was noted that at times he would explode and get into fights for reasons that were not entirely clear. Apparently, some suspected that he was suffering from Attention Deficit-Hyperactivity Disorder, despite little evidence of attentional difficulties that are at the core of such a diagnosis; most suspected that his behavior was more likely the result of difficulties he was experiencing at home; but even those who suspected that his difficulties were environmentally caused didn't know the full extent of the problems that he was being constantly faced with and had to endure, and apparently none of them knew about Kris.

As Mr. Johnson moved into his early teenage years, he faced additional difficulties. When he was about 12 years old, his great-aunt moved back to an area that was right across the street from Meacham Park; this increased his contact with his older brother, his uncles and his cousins, virtually all of whom were involved in the illegal activity and other problematic behaviors that were rampant in Meacham Park; and this also increased his exposure to the associated pattern of sex and violence that existed in Meacham Park. When Mr. Johnson was about 13 years old, his father was released from prison; as noted above, his father never offered the idealized type of relationship that Mr. Johnson had hoped for; and instead, the relationship with his father was characterized by his father's violence/physical abuse, inappropriate sexual behavior, and rejection/abandonment. Around about the same time, Mr. Johnson's great-aunt began to kick him out of the house for violating her rules; he was placed in

a group home; and for about the next about 5 years, he was repeatedly kicked out and was in and out of various different group homes. He noted that although there were times when he was in and out of group homes because his great-aunt took him back but then kicked him out again, there were also times when he was kicked out of a group home because he got into trouble there, which usually meant that he got into a fight.

Mr. Johnson's academic performance was variable during his adolescent years, at least in part depending on where he was placed, despite his desire to perform well and complete his education. However, the mental health difficulties that had emerged during his childhood years became more and more severe. When he met with this psychiatrist, Mr. Johnson reported that he became more depressed; he described a suicide attempt while in one of his group home placements (he attempted to hang himself); and he reported that Kris was the one who kept him from killing himself. He reported that Kris had become much stronger by then; there continued to be times when Kris would just take over and he/Kevin would be unable to control him; and so as Kris, he also continued to get into fights. He reported that he was often told that when he was upset, angry and fighting, his voice changed and he even looked different.

During his years living in group homes, Mr. Johnson was variously described as suffering from Major Depressive Disorder, psychosis, Attention Deficit-Hyperactivity Disorder, and Impulse Control Disorder. In addition, he continued to suffer from enuresis until he was about 14 years old. At different times he was treated with antidepressant medication, antipsychotic medication, and various medications that have been employed in the treatment of Attention Deficit-Hyperactivity Disorder. Mr. Johnson noted that although he is not sure to what extent the various medications that he was given were helpful to him, he was told that the antidepressant medication would also help him stop wetting the bed at night; he knows that he did, in fact, stop wetting the bed; and so he presumes that he at least received that benefit from medication.

Mr. Johnson reported that while living in group homes, another part of him, Kyle, began to emerge; Kyle was more passive, more depressed, and often suicidal; and Kris and Kyle would struggle with each other. He further noted that these other parts of him continued to be most prominent when he was depressed and suicidal; he would be feeling that there was no reason to keep on living and Kyle would agree with him; but then Kris would step in and just wouldn't allow him kill himself.

Upon further exploration, Mr. Johnson noted that when Kris first emerged, back when he was about 6 years old, he was extremely isolated and lonely; Kris kept him company; and so he enjoyed Kris. As he got older, and Kris starting taking control, he started doing things like trying to be around people more, thinking that if he wasn't alone Kris wouldn't bother him. Mr. Johnson reported that the voice of Kris and then later the voice of Kyle always seemed to be in his head; there was only one time when their voices seemed outside of him, and that was about a month before the crime; but he noted that that didn't really shock him because he had known Kris and Kyle for so long. He acknowledged however that there were times when he would



argue out loud with them; several times his brother knocked on his door and asked him who he was talking to; and so although he had been trying to be around other people because he didn't like being alone and dealing with Kris and Kyle, there was another part of him that felt more comfortable alone/away from others.

Mr. Johnson's daughter was born on 3 July 2003, when he was 17 years old. Despite Mr. Johnson's many troubles and his tumultuous and unstable relationship with his daughter's mother, he remained engaged with his daughter, both by providing financial support and by taking care of her and showing the affection and tenderness that he felt a father should provide.

The long-standing and well documented history of problems between the Kirkwood Police and the residents of Meacham Park are also described in the 'Bio-Psycho-Social History', and the particular difficulties with Sergeant McEntee are described as well. When Mr. Johnson met with this psychiatrist, he described his experiences with the Kirkwood Police, including his experiences with Sergeant McEntee. Based on Mr. Johnson's reports to this psychiatrist and the other sources of information available to this psychiatrist, it appears that Mr. Johnson's difficulty with the Kirkwood Police Department and particularly with Sergeant McEntee increased over the course of his adolescent years; it appears that this was only in part due to the fact that he was doing anything illegal; and it appears that this was in large part due to the fact that he was simply in and around Meacham Park, and therefore subject to the same treatment by the police that other African-American residents of Meacham Park had to endure.

During the days preceding the crime, Mr. Johnson was having an extremely difficult time; as noted in the 'Bio-Psycho-Social History', he was unable to do everything that he wanted to do for his daughter's birthday, and felt that his life was otherwise falling apart; and he was depressed and suicidal. In addition, over the years, Mr. Johnson's thought processes became more and more impaired when he would become severely depressed, and it had gotten to the point where the negative feelings he would have about himself when depressed became delusional in nature. He reported that on the day prior to the crime, he had a gun to his head; Kyle was urging him to kill himself, but Kris wasn't saying anything; and that time his daughter was the only reason that he didn't kill himself.

Mr. Johnson's reports to this psychiatrist were essentially consistent with other reports with regard to the day of the murder and the events leading up to the murder. In essence, he reported that there was a warrant for his arrest due to a probation violation, he described seeing the police outside looking around his car, he reported that he asked Bam Bam to take his car keys to his grandmother, and he reported then seeing his grandmother running out of the house and screaming for help for Bam Bam. However, Mr. Johnson reported that then it appeared to him that the police were more interested in his car and his whereabouts than seeing what was happening with his brother; then McEntee showed up; and when his mother was trying to get into the house to see what was going on and possibly help his brother, McEntee fought with his mother and forcibly kept her out of the house.

Mr. Johnson reported that he still has a vivid image in his mind of McEntee fighting with his mother. He reported that he also still has a vivid image in his mind of Bam Bam being carried out of the house, with his foot dangling over the side of the stretcher.

Mr. Johnson reported that then his grandmother told him that Bam Bam was dead. He doesn't know how much time had elapsed, it seemed to him to be very shortly after this incident at the house, but it is his understanding that his grandmother had gone to the hospital with Bam Bam, waited until he was pronounced dead, and then returned home. Mr. Johnson reported that he was filled with guilt, confusion and self-blame; he explained that Bam Bam had died while trying to do something for him; and his sense of responsibility for Bam Bam's death was superimposed upon the fact that Bam Bam was gone.

Mr. Johnson reported that then as he was heading towards the car so that he could drive over to his father's, he saw and had eye contact with McEntee; McEntee had the same smirk on his face that he had seen many times before; and the images of McEntee fighting with his mother and his brother's foot dangling from the stretcher flashed in his mind. Mr. Johnson reported that at that point, he lost control of himself, he was in that zone, and he started shooting at McEntee. He reported that he has been told that he was saying 'you killed my brother'; but he doesn't remember saying that at that point; but he does remember saying something like that later when people asked him what he did. He reported that then his mother yelled out his daughter's name; that pulled him back; and then he started running towards his daughter's.

Mr. Johnson reported that as he was running, he saw McEntee on the ground; his memory is that he was thinking what else can they do to him; and he fired two more shots at McEntee. Mr. Johnson reported that he remembers that when this was happening, people were looking at him like they didn't even know him. Afterwards, he heard the same thing that he had heard in the past, which is he didn't look the same, he didn't sound the same and he wasn't acting like himself.

Mr. Johnson reported that later, once he was in the car driving away, he was trying to figure out what happened, and he was asking himself 'what did I do'. He was back to being Kevin then; he knew what had happened; but he still couldn't make any sense of what had happened.

Mr. Johnson noted that although he had similar, but much less severe experiences before the crime, he hasn't had any such experiences since then. He noted that he isn't sure if this means that Kris is gone now that Kris has "fucked up his life", or if while incarcerated, he just hasn't had the type of experiences that has caused Kris to re-emerge and take over again. Upon further exploration, he reported that he has continued to have periods of time when he has been depressed; but he has come to believe that he did this to himself and can't blame his current situation on anyone else; and he has also come to realize that if he just holds on, eventually the depression will pass.

The results of Dr. Martell's neuropsychological evaluation of Mr. Johnson are noted in his report. However in summary, Dr. Martell found that Mr. Johnson demonstrated some specific

impairments in his frontal lobe executive functioning, especially with regard to planning, cognitive flexibility, response inhibition, and impulse control; he noted that such frontal lobe dysfunction is associated with aggressive dyscontrol and Intermittent Explosive Disorder; and he noted that emotional states and emotional processing, particularly as those are influenced by other psychiatric difficulties, will impact on these frontal lobe difficulties and thereby compromise one's capacity for moral cognition. He also found that Psychodiagnostic testing revealed suicidal ideation, cognitive symptoms of depression, social detachment and estrangement, and a paranoid hypervigilance, with a personality style that includes a tendency to be impulsive.

A mental status examination of Mr. Johnson revealed that he was a 30 year old (DOB 23 September 1985) African-American male of about average height and weight, who appeared to be about his stated age. He was neatly dressed in a prison uniform, and he appeared to be physically healthy. His speech was clear, coherent and goal-directed. He appeared to be open and cooperative with the examination process.

- He was oriented to person, place and time
- His memory for short and long-term events generally appeared to be good; but there appeared to be at least some difficulty remembering all the details that occurred during times when Kris was in control; however the extent of this difficulty was difficult to determine, given that it was often difficult for Mr. Johnson to be clear about what he had an actual memory of versus what he had learned about his behavior after the fact
- There was a moderate depression of his mood; but he reported a history of more serious episodes of depression, accompanied by suicidal ideation; and he reported pointing a gun to his head and thinking about suicide on multiple occasions, and an occasion when he attempted to hang himself
- His affect was appropriate to his mood
- At the time of the examinations, there was no evidence of a thought process disorder or a thought content disorder, but he presented a history of having thoughts that appeared to be delusional in nature during times when he was severely depressed
- He reported a history of episodes characterized by impulsive dyscontrol
- His intellectual capacity appeared to be within the average range
- His insight was good

## Summary & Discussion:

The information currently available to this psychiatrist indicates that Mr. Johnson's childhood years were characterized by repeated exposure to violent physical abuse, psychological abuse, and profound neglect. More specifically, he was severely physically abused by virtually everyone who was ever responsible for his custody and care, especially his maternal great-aunt, but also his mother and father. He was neglected in that as a very young child his most basic needs for food, clothing and shelter were not met; although once he was sent to live with his great-aunt, those most basic needs were met she was emotionally detached; and no one consistently provided the structure and continuity of care that he required. He was further neglected and psychologically abused in that no one provided him with the type of parental protection, nurture and care that might have helped mitigate the impact of the repeated exposure to abuse that he endured; he was repeatedly rejected and abandoned by his parents and parental surrogates; and he was repeatedly inappropriately exposed to sexual situations, substance abuse, and other violent behaviors.

It is the opinion of this psychiatrist, to within a reasonable degree of medical certainty, that as a result of this extremely difficult childhood, coupled with Mr. Johnson's above noted genetic vulnerability to the development of psychiatric difficulties, he developed several major psychiatric difficulties.

More specifically, it is the opinion of this psychiatrist that Mr. Johnson developed a Dissociative Identity Disorder. As noted in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V), "Dissociative disorders are characterized by a disruption of and/or discontinuity in the normal integration of consciousness, memory, identity, emotion, perception, body representation, motor control, and behavior. Dissociative symptoms can potentially disrupt every area of psychological functioning." "The defining feature of dissociative identity disorder is the presence of two or more distinct personality states; the overtness of these personality states varies as a function of the level of stress, internal conflicts and dynamics, emotional resilience and other factors; there are gaps in recall; and the symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning."

Mr. Johnson reported a long history of experiencing two distinct personality states, Kevin and Kris, who were eventually joined by a third one, Kyle. His detailed description of these personality states and their capacity to take over and control his behavior differentiates his difficulties from those seen in individuals suffering from other psychiatric disorders such as psychotic disorders, seizure disorders or other anxiety disorders. This clear description and his report of associated, but far less known symptoms of Dissociative Identity Disorder strongly indicate that he is not malingering, and there is no evidence that his symptoms are better explained by other factors, such as the use of certain substances. The reports of others with regard to such sudden changes in Mr. Johnson's speech, look and behavior lend further support to this diagnosis, as do Mr. Johnson's reports, supported by the observations of others, that he has a less than fully clear memory of what has happened when he is being controlled by Kris.

As noted in the DSM-V, although Dissociative Identify Disorder is a type of trauma-related disorder, it is quite different than Posttraumatic Stress Disorder or Acute Stress Disorder. In Acute Stress Disorder, specific, characteristic symptoms (similar to those seen in PTSD) develop following exposure to a traumatic event; those symptoms may last for several days to a month; and those symptoms may include dissociative reactions. During Mr. Johnson's state post-conviction review, the diagnosis of Acute Stress Disorder was offered as an explanation for his 'flipping out' following the death of his brother Bam Bam, which was described as the precipitating traumatic event. However, as noted above, in Mr. Johnson's case, the traumatic experiences that caused his psychiatric difficulties occurred when he was a child; his symptoms first emerged during his childhood years; and the complex of symptoms that he evidenced, including very prominent dissociative symptoms that are different than those seen in Acute Stress Disorder or Posttraumatic Stress Disorder, continued into his adult life. Therefore, although the death of his brother contributed to an exacerbation of his long pre-existing psychiatric difficulties (as described below), that event was not the cause of his illness, and his illness is more appropriately described as Dissociative Identity Disorder.

There are several major psychiatric difficulties that are commonly comorbid with Dissociative Identify Disorder, one of which is Depression. It is the opinion of this psychiatrist that Mr. Johnson has also suffered from a Major Depressive Disorder that has often been accompanied by suicidal ideation and actual suicidal behavior, and has also often been accompanied by psychotic symptoms, such as persecutory and/or paranoid delusions.

It is also the opinion of this psychiatrist that as a result of Mr. Johnson's childhood history of repeated exposure to abuse/violence, in the absence of the type of parental protection, nurture and support that might have mitigated its effect, his development was otherwise impaired. As a result, there is broad-based instability with regard to attachment and his capacity to trust others, instability with regard to his sense of self, difficulty regulating his mood with intense mood reactivity to distressing experiences, and impulsivity. It should be noted that individuals with a similar childhood history and resultant developmental difficulties may also experience dissociative episodes and/or brief psychotic episodes.

As noted by Dr. Martell, Mr. Johnson does present with symptoms of an Impulse Control Disorder that are impacted upon by his other psychiatric difficulties. More specifically, the emergence of these symptoms seem to occur when Kris is in control; Kyle doesn't understand these difficulties at all; and Kevin Johnson is confused and distressed by the behavior.

It is important to note that while each of the above noted major psychiatric difficulties impair Mr. Johnson's ability to function, they also interact with each other and thereby exacerbate each other and their effects on his ability to function. As Mr. Johnson reported to this psychiatrist, the emergence of these distinct personalities is more likely to occur when he is alone, depressed and suicidal, or otherwise emotionally stressed, and so in this way, his Major Depressive Disorder exacerbates his dissociative difficulties. His above described, underlying developmental difficulties can also exacerbate his dissociative difficulties; for example,

relational difficulties that stir his attachment and trust issues can exacerbate his dissociative difficulties; and for example, situations that make him feel all the more worthless, or empty, or a failure can exacerbate his dissociative issues.

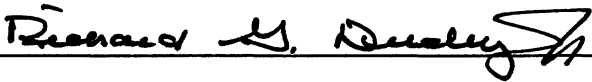
The interaction between Mr. Johnson's Dissociative Identity Disorder and his other major psychiatric difficulties becomes quite understandable when one conceptualizes the presence of distinct personality states from a psychodynamic perspective. In essence, an individual is overwhelmed by and unable to cope with all of the traumas he/she has endured; in that sense, the etiology is like any other trauma-related disorder; however in this case, in order to cope the individual splits the responses to all of that trauma into distinctly different realities, with different responses made by different personality states. Then, whatever is going on in one's environment and whatever that triggers can bring one of those personality states to the foreground; at that point it controls the other personality states; and it responds to the situation/the trigger in a way that the other personality states would never be able to respond.

During the weeks and days leading up to the crime, Mr. Johnson was suffering from an episode of his Major Depressive Disorder, he was also experiencing suicidal ideation, and there was a period of time during the day before the crime that he sat in his room with a gun at his head, thinking about killing himself. Although that time, Kyle was urging him to kill himself and Kris wasn't saying anything to stop him, ultimately he didn't kill himself because of thought about the impact on his daughter, who he was totally devoted to. However then, his inability to help celebrate his daughter's birthday in the way that he would have liked to made him feel all the more worthless. Then, shortly before the crime, his brother Bam Bam died while doing a favor for him; he had also been totally devoted to Bam Bam and had viewed himself as Bam Bam's protector; and so this loss added to his already existing sense of being a complete failure. However all of this was then mixed with his perception that the Kirkwood Police were so focused on finding him that they failed to adequately attend to his brother's needs; and the fact that McEntee fought with his mother and refused to let her inside to help his brother; and the experience of witnessing his brother being taken out of the house on a stretcher, with his leg just hanging from the side of the stretcher.

Mr. Johnson reported that then when he made eye contact with McEntee and saw that 'smirk' on McEntee's face that he had seen so many times before, he lost control and shot McEntee. He then continued in that same state until he shot McEntee again a few moments later.

Given all of the above noted, it is the opinion of this psychiatrist that when Mr. Johnson murdered Sergeant McEntee, he was suffering from all of his above noted major psychiatric difficulties and the exacerbation of each of those difficulties by the others. More specifically, he was suffering from an acute episode of his Major Depressive Disorder that was accompanied by suicidal ideation and psychotic symptoms, and the symptoms of his underlying developmental difficulties were exacerbated by the above noted things that were going on around him. Both of these disorders then exacerbated his Dissociative Identity Disorder; this resulted in a dissociative episode where Kris took control; and Mr. Johnson's normal integration

of consciousness, memory, identity, emotion, perception, body representation, motor control, and behavior was disrupted.



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Richard G. Dudley, Jr., M.D.  
Psychiatrist  
Diplomate, American Board of Psychiatry & Neurology

**DECLARATION OF AARON HARRIS**

**PURSUANT TO 28 U.S.C. § 1746**

I am an adult resident of St. Louis County, in the State of Missouri. I state the following under penalty of perjury:

1. My name is Aaron Harris. I am Kevin Johnson's uncle by marriage. My wife is Tausha Harris, Jada Tatum's sister. Jada Tatum is Kevin's mom.
2. I knew Kevin when he was growing up. I also knew his mom, Jada, his grandmother, Pat, and his great-grandmother, Henrietta.
3. Kevin did not have an ideal childhood, and it was rough. Jada, Kevin's mom, used drugs. She has rebounded now, but she was still on drugs when Kevin was younger. He didn't get to grow up with his mother. He also didn't have a male influence. Kevin's father was in the penitentiary for most of his childhood, so Kevin had to grow up without both his parents. There's just no way to replace a mama and daddy.
4. Kevin mostly stayed with his aunt Edythe. Edythe tried, but kids want stability. She was raising him by herself, and he often got shuffled around to stay with other family members. Kevin was on the streets growing up. He didn't have much guidance. Kevin would come to visit Tausha and me, and he would see the stable family that he didn't have.
5. Part of Jada's problem was that she had had a difficult relationship with her stepdad. He was a weird guy. He drank a lot. He had a van, and he would use house paint to paint the wheels white and the words "Night Creeper" on the side. That's what he called the van. None of Pat's older kids liked him, and they all tried to stay out of the house to avoid him.
6. On the day Bam Bam died, Tausha called me at work to let me know what had happened. We went out to Meacham Park to be with her family. I saw Kevin after Bam Bam had died, and he was inconsolable. He didn't seem to be in the right state of mind. I tried reaching him but couldn't get to him.
7. After the shooting, I saw Kevin again. He looked panicked. The whites of his eyes weren't showing. I tried talking to him again, and it was like he couldn't hear me.



8. After Kevin left the neighborhood, the police got to Henrietta's house. Henrietta told them that Kevin wasn't there. Henrietta was sick at the time, and the family made a line to protect her.
9. The police blocked the exit out of Meacham Park. There were about 50 police in the area by the house and hundreds of them in the neighborhood. They had their guns drawn.
10. What happened between McEntee and Kevin was two trains coming at each other. You're supposed to treat people how you want to be treated, and McEntee would carry his pistol around and threaten people. Kevin was a young guy with a troubled background. Kevin wasn't out looking for trouble with McEntee, but he had built up hurt from life.
11. I went to both of Kevin's trials. Sergeant McEntee's family was in the first couple of rows, which made sense, but then the courtroom was also filled with a lot of police officers. Some of them were in uniform, and some weren't, but they made their presence known.
12. In addition to Kevin's family background, Kevin also had it rough because he was in Meacham Park.
13. Meacham Park is a small, mostly black area that is surrounded by white people. It is right next to Kirkwood, which is a mostly white neighborhood. Meacham Park and Kirkwood are like two different worlds. There is a lot of money in Kirkwood. Growing up in Meacham Park, we always had an "us against them" mentality with Kirkwood. People in Kirkwood think they are superior to people in Meacham Park. Even now, Meacham Park people are treated like second class citizens. They look at people in Meacham Park like Meacham Park residents have a disease.
14. I started going to schools in the Kirkwood school district when I was in 4th grade because of the desegregation laws. They had bussed of us over from Meacham Park. As soon as we got off the bus, fights broke out immediately. The white kids from Kirkwood were there waiting for us.
15. There is a section of Kirkwood that has black families living in it. I was born and raised in Meacham Park, but I moved to Kirkwood when I was 14. I was in that section of Kirkwood, which is just past a set of train tracks. The houses in this part of

Kirkwood are nicer than in Meacham Park, and it is a much quieter neighborhood. Many of the people living there moved over from Meacham Park.

16. Meacham Park used to be more rural. There were outhouses and chickens running around. It was like a little country town. In the 1970s, only some of the roads were paved. They were tar roads. They used to bubble up in the summer, and the kids would burst them with their feet. Some people had plumbing and some didn't. Some people had outhouses instead of indoor toilets.
17. When Turner School was still open, it had activities for the kids. They had a summer camp and a traveling softball team. After I grew up, though, they didn't really have as many activities anymore. There wasn't as much for the kids to do.
18. Meacham Park was a community and people took care of each other, but there was a lot of crime there. When I was growing up, we didn't really lock our doors. Starting when I was a teenager, though, we had to lock our doors. Crime started getting worse in Meacham Park. If you make it out of Meacham Park, you can make it anywhere. When you grow up in Meacham Park, you see a lot of things and know how to live rough.
19. There is plenty of violence in Meacham Park. For the size of the community, Meacham Park has a lot of killings. It seems like there is at least one a year. Most of these are shootings. One of the boys in Meacham Park, Van Woods, was shot and killed when he was still in high school. This seemed to be around the time that people started carrying pistols around Meacham Park.
20. Meacham Park also has a lot of fist fights. There's bodily harm done out there pretty much every day. That's just the way of life and how things get settled in Meacham Park. Usually it's over money, but some of the fights involve gangs. The Crips and the Bloods are out in Meacham Park, mostly the Bloods.
21. Meacham Park has high drug activity. At one time in the 1990s, it was the highest drug spot in St. Louis County. People would stand out on the street and do and sell drugs. There was also a lot of gambling. When I walked out my front door, I saw people gambling and prostitution.
22. When you're a young man growing up in Meacham Park, you learn at a young age how to gamble and shoot pistols. It was like two different worlds going from school

- over in Kirkwood to my home in Meacham Park. As soon as we stepped off the bus, there would be people standing there drinking, gambling, doing and dealing drugs, and starting barrel fires. Some kids stepped off the bus and jumped right in.
23. We didn't have a lot of good role models in Meacham Park. The dope dealer was our role model. They were the ones with cars and money.
  24. In the 1990s, Kirkwood annexed Meacham Park. When they did that, they tore down a lot of houses to build a shopping center. Some people moved elsewhere in Meacham Park, but a lot of people had to move away when that happened. I don't even recognize Meacham Park now because a lot of the same people just aren't there anymore. Meacham Park is also getting a little more diverse now. Before Kirkwood took over, you almost never saw white people in Meacham Park.
  25. A lot of people relocated to University City after the annexation. During the annexation, Kirkwood stole people's houses and gave them peanuts. People got \$30,000 or \$40,000 for their houses. This seemed like a lot to people with no money, but really these houses were worth \$100,000 or more. Kirkwood had a blueprint for what it wanted to do with Meacham Park even before the annexation happened. That's the way they worked.
  26. Kirkwood officials said that the stores would create jobs for people in Meacham Park, but I don't know anyone working at those stores.
  27. Another thing that changed after the annexation was the police. Meacham Park has been under the police's thumb for a long time. The St. Louis County Police Department used to patrol in Meacham Park. People didn't have as many problems with St. Louis County Police. They still meant business when they came out to arrest someone, but they didn't come out unless they were called. They did not patrol the area.
  28. Meacham Park residents still had some problems with the St. Louis police. There were a couple riots against the police in the 1970s, although I was young and didn't know what they were about. These riots lasted for a couple days. One of the officers got his neck cut.
  29. Whenever we hung out in Kirkwood, we had to deal with the Kirkwood Police Department. There was a roller skating rink that the black families from Kirkwood

and Meacham Park would hang out at, and then people would go to a nearby McDonald's afterward. The police would come and break up any large groups at the skating rink and the McDonald's.

30. There was a big difference when the Kirkwood Police Department took over after the annexation. They do a lot more patrolling. Meacham Park is small, but there are four or five cops over there at any given time.
31. The Kirkwood police didn't even try to get along with Meacham Park when they first came in. It was like they were looking for vengeance. They were harassing the community and trying to put down their authority. They would ticket and even arrest people for little things, like jaywalking. Even the white kids would get pulled over if they came into Meacham Park.
32. There was a group of officers who was assigned to patrol Meacham Park, and almost all of them were bullies. They were basically a gang themselves. One officer, Geyer, was in this group and violent. He was very quick to pull his gun on people. Another officer, Bailey, was also in this group. I didn't personally have any run-ins with him, but other people in Meacham Park had problems with him.
33. Sergeant McEntee was also in this group. He was one of the worst police officers. He was a big guy; he wanted to be the tough guy. He would harass the people of Meacham Park. He was ignorant and tried to intimidate people. He was racist. He came over to Meacham Park and called us niggers. McEntee also liked to show that he had a gun. At trial, they tried to portray him as this nice family guy. That just wasn't him.
34. There was one time when I got into an argument with my wife. Somebody called the police, and McEntee was the one who responded. Instead of coming over and asking what happened, McEntee pushed his way in as soon as I answered the door. He knocked me back into a bookshelf that we had in the back of our living room. I hit the shelf really hard and fell to the floor. McEntee got down on the floor then and started wrestling me. We fell out the front door, and McEntee called for back-up. His partner came over and started trying to choke me. That was the kind of guy McEntee was.
35. Sergeant McEntee and his partner took me to the police station. Sergeant McEntee threatened me when I made bond and was at the window getting my receipt. I wasn't

doing anything, and he threatened me and told me he'd get me next time. About a month later, I was walking down the street when I saw Sergeant McEntee pull up behind me. He got out, put on his gloves, and reached down toward his gun. I remembered his threat and took off running. He chased me all the way back to my mom's house. I made it to my mom's house and slammed the door in his face before he was able to get in.

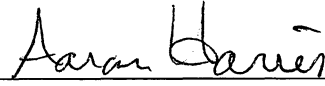
36. People in Meacham Park still talk about Sergeant McEntee to this day. We will be talking when his name comes up, and most people have a story about him. It's always about how he harassed someone or tried to beat someone up. Even other members of the police force knew how mean McEntee was. I have a friend from high school who was on the police force, and he warned me to be careful of Sergeant McEntee and try to stay out of his way.
37. People in Meacham Park are afraid of the police. The police are still harassing people, even now. If the police see a car they don't know, they pull it over.
38. Every year, there is a big homecoming event in Meacham Park for everyone from the area to get back together and celebrate the neighborhood. After the Kirkwood police took over, the police presence at Homecoming has been enormous. It takes over the festival. People don't even like to go anymore. Homecoming has always been a family friendly event. They have a festival over in Kirkwood called the Green Tree festival. The police presence there is different with much fewer cops. That event is a bunch of white people getting drunk and doing what they want, and it is less family friendly. But the police are not as present there.
39. There are a lot of people in Meacham Park with open court cases. The police will go pick up the warrants from the court and then come over to Meacham Park and start arresting people. Once the police arrest someone, the police start threatening that person. They tell us things like if we don't stay quiet, they will hurt us.
40. The courthouse in Kirkwood shows what Kirkwood is really like. Almost all the people there facing criminal charges and getting fined are black even though blacks are a tiny portion of the Kirkwood community.
41. Kevin's trial and post-conviction lawyers never spoke to me about my experiences in Meacham Park, my experiences with the Kirkwood Police Department and Sergeant

McEntee's reputation, or what I know about Kevin and his family. If they had, I would have told them the same information that I am giving now.

42. I declare under penalty of perjury that the foregoing is true and correct.

7.29.16

Date



Aaron Harris

**DECLARATION OF DAMEION PULLUM  
PURSUANT TO 28 U.S.C. § 1746**

1. My name is Dameion Pullum. I moved to Meacham Park in 1989, when I was about three years old. I grew up with Kevin Johnson – he was like my brother.
2. Kevin’s Grandma Pat basically raised me. I went to her house every day. Grandma Pat raised a lot of kids. A lot of people stayed at Grandma Pat’s house, and it was really crowded most of the time. Kevin’s uncles Tink and Wayne-Wayne were always around, and so were Kevin and Marcus. A lot of the Tatum and Ward kids stayed with Grandma Pat too.
3. Kevin’s mom, Jada, wasn’t ever really in his life. She was using drugs and people in Meacham Park knew about her drug use and getting arrested. I had it rough growing up, too, but my mom was present when I was being brought up. Kevin’s dad was locked up for as long as I can remember, and he never really had a father. Neither did I, and this was something that bonded us.
4. Even when Kevin lived with Aunt Edythe in Valley Park, he was in Meacham Park all of the time. Kevin and I would play street football with other boys almost every day after school. Aunt Edythe didn’t really spend too much time in Meacham Park. I saw her at events in Kirkwood, like homecoming, but she would come to Meacham Park to go to Grandma Pat’s and then leave again.
5. Kevin and I were really close when we were growing up. When Kevin, me, and our friends were about 7 years old, we started chasing girls, and getting “coochie,” or “getting skin.” We were just kids playing around and experimenting.

6. Around this age, Kevin and I and a few other friends would go down to Fillmore Park with some girls and play a version of spin the bottle. The girls would sit on the merry-go-round at the playground and we would spin it. Wherever they landed, they would have to mess around with that guy. The kissing usually led to other stuff. We would act out stuff that we saw in movies and on television.
7. Growing up in Meacham Park meant realizing that you or someone you love might die young. I lost a lot of people that I cared about at a young age. My friend Reddy was shot in the head and killed when he was 15 years old. I was incarcerated when I found out and it really shook me up. My other friend Elroy Regland, who I played football with, was shot in the head and killed in retaliation because one of his best friends killed someone. That really hurt because Elroy just had a daughter, he was in school, and he had a full time job. He didn't mess around in gangs, but somehow he still got killed. Even with these losses, I never lost anyone as young as Bam Bam was when we lost him.
8. Kevin raised Bam Bam. He was the one who made sure Bam Bam was taken care of when no one else did. Kevin is a family person and he had a really good understanding of his family's problems. Because of this, Kevin made sure to be there for Bam Bam. Kevin bought him clothes, food, and even took him to do fun things. He went above and beyond providing basic needs for Bam Bam and really tried to make sure Bam Bam saw him as a father figure.
9. Kevin hit a big roadblock with Bam Bam's death. Bam Bam's death hurt Kevin badly because he was trying to help Bam Bam and raise him up right. He saw him as not only his little brother, but his son. I think that if Bam Bam were alive today, he would



be a good man thanks to Kevin's leadership. Kevin had a fatherly way about him, even though he never had his dad in his life. That became clearer when his daughter was born.

10. From the day Cori was born, Kevin made sure to spend time with her every day.

Everyone who knew Kevin knew that Cori was his world, just by how he was when he was around her. Even though he was young, he made sure to provide for her in the ways a father should. When Kevin had her in the car, she would be in the car seat in the back and he would be making her laugh and smile when they were stopped. He was always so happy to be with her, and he took very good care of her.

11. I knew Kevin's ex-girlfriend and Cori's mom, Dana, before Kevin even met her.

Dana was like my god-sister. I met Dana at my neighbor Paul's house, when Dana was around 12 years old. We drank and smoked marijuana. She got into smoking, drinking, and having sex at a very young age. She got addicted and caught up in the situation. Kevin had to realize that he couldn't control Dana and that she was a little wild thing, and she was a tough cookie who would stand up for herself. It was hard for Kevin to see Dana hanging with the wrong crowd and doing things that weren't good for her. He especially had a hard time with it when she was doing it around Cori. Kevin really stopped messing with Dana like that, and only interacted with her so that he could take care of Cori. Kevin is very protective of people he loves.

12. One time, when we were about 17 years old, Kevin and I went to a party in Meacham

Park. Everything was going okay, but these girls that invited us didn't seem to be interested in hanging out with us. I was getting frustrated, and I had a temper when I was younger. These other guys showed up and the girls were paying them a lot more

attention than us. I got mad and provoked one of the guys, and next thing I knew, they were all jumping me and trying to beat me up. All of the sudden, Kevin stepped in to stop them from hitting me. Kevin had a quiet way about him, but he would step in and protect his loved ones when necessary.

13. The Kirkwood police didn't like Meacham Park. They made it clear that people from Meacham Park were not welcome in Kirkwood. When I would go to Kirkwood to visit friends or my girlfriend, cops would interrogate me about why I was there and tell me to go back to Meacham Park. If any white people came to Meacham Park and we were all hanging outside, cops would often come and tell them to go home.
14. Once, Grandma Pat's boyfriend, Flip, was outside waxing his car. The Kirkwood police pulled up and started harassing him for no reason. They tried to restrain him, and started roughing him up. Grandma's boyfriend got mad and started resisting. Backup was called, and they beat him up very badly. You can still see the scars on his face.
15. Most of the Kirkwood police, especially Sergeant McEntee, were racist against the neighborhood. We called Sergeant McEntee Tackleberry because he was big, and he would tackle and beat people up. McEntee was scandalous – he was known as a harasser, and someone who planted dope on people.
16. In 2004, after a Kirkwood High School football game, some of the high school kids came to Meacham Park to hang out. Marcus, Arthur Miller, Kevin, and I were hanging out with the high school kids, listening to the car radio. I saw a police car pull into the church parking lot. The cop sat in the car and watched us for about 20 minutes. Then, Sergeant McEntee came around the corner in another police car and

pulled up next to us. McEntee got out of the car, and was pushing his way around, telling everybody they needed to go home. We protested, because it wasn't even curfew yet. McEntee started spraying mace on all of us, and everybody started running. At one point, another cop had one of the high school students pinned to the ground. McEntee went over to help the cop. Arthur Miller pushed McEntee away. Multiple police departments were called in to Meacham Park, and they locked down the neighborhood. Police patrolled the streets on foot in riot gear, with shields and vests, and there were patrol cars everywhere. Eventually, the cops left. There was no reason for them to be there in the first place.

17. Kevin's uncle Wayne-Wayne got jumped on too. Wayne-Wayne, Kevin, Marcus, Kenny, and I were hanging out in front of Grandma Pat's house with Wayne-Wayne's white girlfriend and four or five of her friends. We were all just sitting there, not doing anything. A Kirkwood police officer pulled up and told us to get on the porch, and told the women they had to leave. Wayne-Wayne told us to get up on Grandma's porch, and was kissing his girlfriend goodbye. The cop became angry and grabbed Wayne-Wayne, and swung him around, slamming his head into the bumper of his girlfriend's car. Everyone on the porch was getting upset, and we were about to come off the porch to help Wayne-Wayne. But McEntee and several other cops pulled up in patrol cars, got out, pulled their guns out and pointed them at us. McEntee and the other cops stayed there with their guns drawn until Wayne-Wayne was forced into the police car and taken away.
18. Another time, I was playing a dice game in Meacham Park with my friends Jason Clark and Anthony Davis. McEntee showed up and broke up the dice game. I was

walking away when McEntee ran up and grabbed me from behind and knocked me unconscious. The next thing I knew, I was at the jail, where I was booked in for gambling. McEntee first came into the jail cell, and took my shoes. He came back again, and told me to take the string out of my sweatpants. I just bought these Nautical sweatpants and they were really expensive, so I said I wasn't doing it. McEntee came back with about 5 other officers, and demanded that I take off my pants. I asked him why he wanted my pants. McEntee came into my cell and wrestled with me. Another officer came in, threw me to the ground, and put his knee on my neck to pin me down. McEntee yanked the string out of my sweatpants and ripped them completely. They had a large can of mace, and they sprayed the entire can on me. Then they hogtied me with handcuffs and chains, and carried me like that to another cell. My skin broke out in a rash, I could not see, my eyes and throat were burning, it was hard to breathe, and all I could do was scream. No one came to help me, until my mom came to bail me out several hours later.

19. Had Kevin Johnson's trial attorneys spoken with me and asked me about the things in this declaration, I would have told them. If asked, I would have been willing to testify about all of these things at Kevin's trial.

I hereby certify that the facts set forth above are true and correct to the best of my personal knowledge, information and belief, subject to 28 U.S.C. § 1746.

Date: 5/22/16

Missouri

Dale

Dameion Pullum

**DECLARATION OF JASON CLARK**

**PURSUANT TO 28 U.S.C. § 1746**

I, Jason Clark, hereby swear, affirm, and verify as follows:

1. My name is Jason Clark. I grew up in Meacham Park, alongside Kevin Johnson. I have known Kevin since I was approximately 4 years old, and we have always been like brothers. I also know and have spent a lot of time with Kevin's extended family.
2. My mother, Gearlene, and Kevin's mother, Jada, have been best friends my whole life. Both of our mothers were addicted to drugs throughout our childhoods. Kevin's father and my father were both incarcerated during our childhoods, and, for a time, they were in the same prison.
3. During my childhood, my father wasn't around much. My mother hustled in any way she could. I helped her by selling drugs.
4. When Kevin and I were kids, before Kirkwood annexed Meacham Park, Kevin's uncles Tink (Cleveland Ward, Jr.) and Wayne-Wayne (Cameron Ward) stayed at Kevin's Grandma Pat's house. Kevin stayed there a lot too. Tink and Wayne-Wayne sold crack throughout the day and night on the streets of Meacham Park. Tink was a quiet, non-flashy guy, and he was good at making drug sales look like he was fixing people's cars or something. When you got to know Tink, you realized he had a lot of money, and a lot of women. Wayne-Wayne was a heavy drinker, so he did not make and save money like Tink did.
5. When I was about 13 years old, I also began selling crack in Meacham Park. That's also when I got my first gun. Meacham Park by then was an open air drug market. There were people everywhere buying and selling crack and other drugs. For years, the cops wouldn't even come into the neighborhood because they thought it was so dangerous.
6. During our shifts selling drugs, we were so busy that we could not leave the block. Some of the older women in Meacham Park would set up makeshift stores to sell us food, beer, and cigarettes so that we could stay and make money.
7. Successful drug dealers in Meacham Park could get a lot of girls. Some girls were called "runners," because they would have sex with a lot of guys at the same time. Some girls did not like everyone knowing they were runners, but others did not mind. Likewise, some guys were uncomfortable with relatives

or friends seeing their junk when having sex with runners, but others, including Kevin, Marcus, and I, were confident enough that we didn't care. The girls who weren't runners had sex with us too; they just did not want to have more than one guy in the room at a time.

8. When we were kids, Kevin and I, and our friends, started messing around sexually with girls. When I was younger, Dionne Hodges and me were childhood boyfriend and girlfriend, but when Dionne became older, she became interested in girls, so she became like one of the guys.
9. When we made a lot of money from drugs, my friends would start robbing each other a lot. This was all a game until you were the one who was robbed. One time, when I was carrying a lot of money and valuables, I pulled up to the park where my friends were shooting dice with about twenty other guys on the sidewalk. I knew I couldn't get caught slipping, so I locked most of my money and valuables in the glove compartment of my car. After joining my friends for a few games of dice, I was grabbed from behind and choked out. I came to on the hood of my car, and my money and valuables were gone. Everyone on the sidewalk was still shooting dice. I knew it was my cousin, a close friend, who did it. Things had started to change for the worse, and I could see that something was going to happen and that it would change everybody's lives in the 'hood.
10. Kevin could be what I call emotionally impulsive. One minute he would seem fine and the next he would just fly out of control. It was like somebody flipped a switch. Once, when we were shooting dice in the Park, Kevin and LB (Jamar King) were just talking about whether LB could take Kevin's car. Out of nowhere, Kevin snapped and punched LB. Kevin then returned to the game as if nothing had happened. None of us knew what made Kevin snap this way. It was a combustion of a lot of things.
11. In 1997, my cousin, Bear (Myron Clark), was shot and killed in Meacham Park. Although I was only 10 years old at the time, I remember the killing vividly. No one was ever prosecuted for Bear's death, but everyone in the neighborhood thought Clifford and Delmar Drummond were responsible for it. The cops didn't care. If he had been a white kid, it would have been totally different.
12. One time when I took my younger brother and cousin to get tattoos, I got a call from someone telling me that Clifford Drummond had stabbed my cousin, Mike P., Bear's older brother. The cops didn't care about that either. In their view we were all just poor and black.
13. Every year in Meacham Park, the first Saturday of June was "Homecoming." People who had moved away from Meacham Park would come back for a big community celebration. Homecoming was also a time to remember people

from the community who had been killed. After my cousin Bear was killed, the community held a spontaneous memorial service on the street corner. That year, at Homecoming, people wore Rest in Peace Bear t-shirts to honor Bear. Likewise, after Kevin's former girlfriend and baby momma Dana was shot and killed, people wore Rest in Peace Dana t-shirts at that year's Homecoming. At the Homecoming after Kevin went to prison, people wore Free Kevin Johnson t-shirts. There were always a lot of cops at Homecoming, because they figured that a big group of us spelled trouble.

14. In the early to mid-1990s, the police did not come to Meacham Park much, because they were afraid to. Something really bad had to happen before the police would come into the neighborhood. Usually, someone had to call the police before they would come in.
15. In the late 1990s to early 2000s, after Kirkwood annexed Meacham Park, the Kirkwood police started cracking down. The police would drive through Meacham Park in trucks, with binoculars. If they saw an activity or a gathering they didn't like, they would get out of their trucks, put on gloves and other gear, and would yell, curse, threaten and grab people, even kids, and arrest anyone they thought was causing trouble, or for no reason at all.
16. After the sidewalks were built in Meacham Park, cops began arresting a lot of people for things like jaywalking. It was just an excuse. One time, when I was crossing the street to get to the sidewalk, a cop threw me to the ground, handcuffed me, and arrested me for jaywalking. Sometimes, when cops would frisk us, they would take money out of our pockets and keep it and let us go.
17. Once, around 2003, the cops began chasing me for no apparent reason. Everyone around me started running, and a cop found Kevin and me in a back yard on Alsobrook Street. The cop pulled his gun and threatened to shoot us. It really freaked Kevin out. The cop arrested me and took me to the station. Once we got to the station, the cop realized I was not the person they were looking for, so he released me.
18. Sergeant McEntee was pro-white. He was always swearing and grabbing us and interrogating us. He did this to Kevin lots of times. Whenever any white person pulled up in the neighborhood to buy drugs, McEntee ignored them. But whenever any black person bought or sold drugs, McEntee would go after them. McEntee was on everybody in Meacham Park. He would sit in his patrol car, and if he saw a black person doing something he did not like, or if he just decided to mess with them, he would get out of his car, put his gloves on, and go after them.
19. One time I was playing a dice game with Damion Pullum and Anthony Davis. Sergeant McEntee showed up, and broke up the game. We were taken to jail, and Damion was in another cell down the way from me. I saw McEntee and

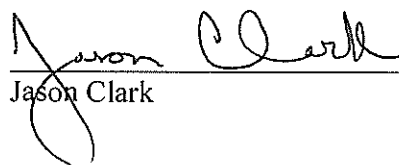
other cops spraying a lot of mace on Damion through the cell door. Damion couldn't breathe. Then, I saw them carry Damion down the hall to another cell. He was wearing only boxers and socks, and he was drooling and spitting from being sprayed with mace.

20. On the day Bam Bam died, I was with Marcus and some other friends at Six Flags. Dionna Shepard called and people were looking for me. Eager to make sales, I left Marcus and the others at Six Flags, and returned to Meacham Park. When I got back to Meacham Park, something was clearly wrong. I learned that Bam Bam was dead. The lampposts on the block where Bam Bam died were covered with teddy bears and balloons, a spontaneous memorial to Bam Bam. I saw Kevin leaning against a fence at the corner of Orleans and Saratoga, crying. I stopped, rolled down my car window, and told Kevin I would be right back. Kevin did not say anything; he seemed totally out of it, and just nodded his head. I drove around the block to park my car. Within a few minutes, I heard gunshots.
21. When you grow up as rough as Kevin and I did, there comes a point in your life where your world crashes down around you. After a while you just become numb to all the violence and craziness around you. That's what happened to me and that's what happened to Kevin. When Bam Bam died it just sent Kevin over the edge. When I saw him that day he was just gone.
22. No one from Kevin's trial or post-conviction defense teams has ever contacted me. If Kevin's trial or post-conviction attorneys had asked me, I would have told them everything that is presented in this declaration.

I hereby certify that the facts set forth above are true and correct to the best of my personal knowledge, information and belief.

4/4/16

Date



Jason Clark



**DECLARATION OF EMMANUEL JOHNSON**

**PURSUANT TO 28 U.S.C. § 1746**

I, Emmanuel Johnson, hereby swear, affirm and verify as follows:

1. My name is Emmanuel Johnson. I have lived in Meacham Park my entire life. I have known Kevin Johnson since we were little kids.
2. Growing up in Meacham Park was hard. I remember my grandma telling me I was not allowed to leave our street because she was scared something would happen to me. I was allowed to play with the other kids in the neighborhood, but I had to stay on my street.
3. Meacham Park was full of violence due to drugs and gangs. Kevin and his siblings grew up right in the mix of it all. They were confronted with violence at a young age. While I was asleep in my bed, they were out roaming the streets. I would often hear gunshots while I was in bed at night.
4. Kevin and his brother, Marcus, were allowed to go down to the park and play. They had less supervision than our other friends. Kids knew that Kevin and his siblings were on their own a lot. They were free to run the neighborhood. His dad was never around and his mom, Jada, was using drugs. Some people just have it harder than other people, and Kevin's family had it harder than other people.
5. I have happy memories of Kevin. When I got older and could go to the park with our friends, it was fun to play football and basketball with Kevin.
6. Living in Meacham Park meant living in fear of the police. I usually would try to leave an area if the police showed up, but I watched a lot of my friends get chased by the

cops. One time the cops started harassing me and my friends because we crossed the street. We had done nothing wrong, but the cops said we acted like “we owned the street”.

7. Most of my friends referred to Sgt. McEntee as “Mac”. It was well known that Mac was one of the police officers you wanted to stay away from. He would harass you for the smallest things. Even a small thing could escalate and result in an arrest.

8. The day before Sgt. McEntee was shot, I was with Kevin. We were celebrating the 4<sup>th</sup> of July. I would have never predicted that all of this would happen.

9. The day of the shooting, I was at Six Flags with Kevin’s older brother, Marcus, and a few other friends. Someone called one of our other friends and told us that Kevin’s younger brother, Bam Bam, had died. We didn’t tell Marcus what happened, but told him we had to go home.

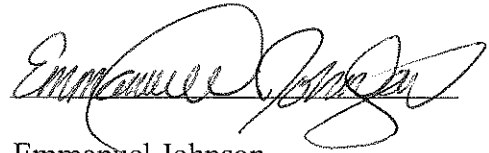
10. When we got back to Meacham Park, Marcus found out that Bam Bam had died and Kevin was on the run after shooting Sgt. McEntee. I have never seen Marcus break down and cry like he did in that moment. The police arrested him right there for no reason. He was sad and grieving, and they arrested him because they could. That was really messed up.

11. In the few days following the shooting, Meacham Park was like a war zone. There were cops everywhere. When I got back from Six Flags that day, they pinned me on the ground and had a <sup>guns</sup> ~~sniper~~ in my face. I think they thought I was Kevin because I had a football jersey on. It was scary and crazy.

12. No one from Kevin's trial or post-conviction defense teams has ever contacted me. If they had I would have told them everything that is presented in this affidavit and I would have been willing to testify at trial and any additional hearings.

I hereby verify under penalty of perjury, subject to 28 U.S.C. § 1746, that the foregoing is true and correct.

Date: 9/14/16

  
Emmanuel Johnson

**DECLARATION OF CANDACE TATUM**

**PURSUANT TO 28 U.S.C. § 1746**

I am an adult resident of St. Louis County, in the State of Missouri. I state the following under penalty of perjury:

1. My name is Candace Tatum. I grew up in Kirkwood and Meacham Park, Missouri. I am Kevin Johnson's aunt by marriage. My husband is Roscoe Tatum, Jada Tatum's brother. Jada Tatum is Kevin's mom.
2. I have known Kevin since he was born. He was always laidback despite what he was going through. There is one particular memory of Kevin that really stands out for me. Kevin has a daughter, Cori, and he cherishes his baby girl. One day, I was on the way to my grandma's house in Meacham Park. I saw Kevin with Cori at the park. He was sitting on the ground in front of the baby swing, pushing her. They were just looking at each other, and there was so much love there. Cori was smiling down at him. I yelled over at Kevin to say hi. Usually when Kevin saw me, he was happy and excited to say hello to his auntie. But that day, he just quickly waved and barely looked over at me. It was their time together. He didn't want anything to take away from his time with his baby girl.
3. Kevin was very involved with Cori and paid attention to how Dana, Cori's mom, was raising her. He got mad at Dana one time. I heard that it was because Dana was in bed with another guy in front of his baby.
4. Kevin got a tattoo of Cori's name on his neck. When I first saw it, I started to say something about it, and he said, "Calm down, auntie, that's my baby's name." His daughter was a new life for him. One of the worst things about this whole situation is that Cori was robbed of the opportunity to have a father. If anyone would have been the perfect single dad, it would have been Kevin. He wanted to give his daughter what he never had as a child.
5. Kevin had to grow up without his mom and dad. Kevin's dad was in prison, and Kevin was taken away from his mother at a young age. Jada used crack when Kevin

was a baby. She used drugs in front of Kevin. She did sexual things with guys in Meacham Park for drugs.

6. Kevin also experienced physical and emotional abuse and neglect. Jada used to punish her kids by punching them in the chest. Even when his mom was around, she was emotionally unavailable. Kevin and his siblings were dirty a lot of the time. He didn't get the love and nurturing that he needed.
7. Kevin's grandma, Pat, and great-grandmother, Henrietta, lived right next to each other. When Jada was around, she lived behind Pat's and Henrietta's houses in a shed. Kevin and his brother Marcus were still living with her when she was back there. The shed was really dirty. It had mice, rats, and bugs crawling around. It had clutter and clothes everywhere. There were usually parties going on at Jada's, ~~Pat's~~ <sup>CT</sup> and ~~Henrietta's~~ <sup>CT</sup>. I almost never went back to the shed when it was just Jada and the kids. Other people were usually back there, sometimes even staying overnight. The adults would be smoking weed and drinking in front of the kids. Jada would yell and cuss at the kids a lot, saying things like, "Get your ass out here," and "Get the fuck away from me."
8. Finally, Kevin was taken away from his mom. This was hard for Kevin. Since Kevin's dad was in prison for most of Kevin's childhood, Kevin's aunt Edythe raised him. Edythe was just a substitute. She might have tried with Kevin, but he wanted his real mom. Not having Jada around was an emotional toll on him. He had to wonder why his mom didn't want him. Every kid wants their mom and dad around.
9. For a while, Edythe was ~~dating~~ <sup>married to</sup> ~~CT~~ K.K. She got out of the relationship because she knew it wouldn't work out. K.K. was a wild party animal. He was into drinking and loud music. He wanted to have fun and stay young.
10. I left Missouri from 1990 to 1998 and was living in Kansas. During that time, Kevin was living with Edythe. By the time I came back, Kevin was getting into trouble with Edythe and sometimes stayed at group homes.
11. Edythe was very strict with Kevin. She gave him a strict curfew and wouldn't let him have company. Once he was a teenager, he had hormones. He was sneaking girls in. But Edythe had one way that she wanted things done. ~~She didn't try to work with~~ <sup>CT</sup>

Kevin and was very harsh with him. <sup>(CT)</sup> Because Kevin broke her rules, Edythe turned Kevin over to group homes.

12. I saw Kevin and his brother Marcus a lot when they were kids. They weren't used to hearing "I love you" and getting big hugs. They had so much potential there, but it wasn't getting fed.
13. Even though Edythe had Kevin, he also spent a lot of time at his Grandma Pat's house. My husband and Jada had to move around a lot when they were kids, and then Kevin got moved around, too. Pat's house was about the same as Jada's shed, just with a little more room. Kevin's grandma was raising a lot of kids, and it was such a tight budget. There was always something turned off, like the gas or the water. There wasn't enough food to go around, so there were times when the kids did not get to eat. Pat tried to keep the house clean, but with so many kids it was pointless. It was always dirty. Pat worked a lot, so the older kids would look after the young ones. The kids were often running around by themselves. When they got into trouble, Pat would discipline the kids by whooping them, yelling at them, and cussing. ~~Nobody to~~  
~~know~~ <sup>(CT)</sup>
14. Pat's husband was a drunk. He had a reputation for being a mean drunk and yelling at people. He was out of the house a lot, ~~and he was always drunk~~ <sup>(CT)</sup>. I didn't even know that he was her husband because I always saw him at the liquor store and not her house.
15. Kevin also spent time at his great-grandmother Henrietta's house. When I started dating Roscoe Tatum, who is now my husband, I would go over and visit him whenever he was staying at his Grandma Henrietta's house. Anything went at Henrietta's house. The kids ran in and out as they wanted, and they basically raised themselves. There was no curfew and no discipline unless somebody broke something. No one ever knew where any of the kids were. Once Henrietta was in bed for the night, she wouldn't come out. That's when I would sneak in to spend the night with Roscoe. It was still like that years later when Kevin was going to Henrietta's.
16. There were a lot of people in and out of Pat's and Henrietta's houses. I never even knew who actually lived there and who was just visiting. Family would be there; neighbors would be there. Jada, Kevin, Jada's other kids, and Keith Johnson all spent

time there. There wasn't enough room in those tiny houses, so people would sleep on couches, chairs, and the floor.

17. Once you get in trouble the first time, your credibility is never good again. Kevin and Marcus were both labeled after they both got into their first fight. The police would ride around and give them dirty looks when they weren't doing anything. They would ask Kevin and Marcus what they were doing. When someone calls a child "bad," it sticks. That wasn't Kevin. He was not a bad person, but his spirit was beaten down. Then he and his brother didn't have a reason to stay out of trouble because they knew nobody would listen anyway. They would get blamed for things whether they did them or not.
18. Kevin and Marcus also had to deal with the reputation of his mother's family – the Tatums. The Tatum family had a reputation with the police and with the courts. Kevin's uncle Reggie was in and out of jail. Jada was also arrested and sent to prison a few times. Kevin's father also went to prison, although I rarely saw him interacting with Kevin after he got out.
19. The Tatum name had a reputation among the people in Meacham Park, too. Reggie and Kevin's father were boxers, so everyone knew that they were good fighters. Other people would try to fight them to make a name for themselves. Reggie especially got into a lot of fights and was known for being a good fighter.
20. Kevin was also related to the Hurst family on his mother's father's side. The Hursts had the same reputation. They were wild and would fight at the drop of a hat.
21. Growing up, Marcus had so much more anger than Kevin. Marcus would get into a lot of fights. Marcus was a good fighter, so other people in the community would come get him to fight for them.
22. Kevin was an amazing athlete. He could have done anything he wanted, but nobody showed him any attention. When you are a black boy from Meacham Park, the community just doesn't look at you that way.
23. I don't think Kevin felt like he was ever heard from when he was a child on up. Nobody ever gave him a fair shake, and the cards were stacked against him from birth.

24. Meacham Park is a rough neighborhood to grow up in. There are high rates of crime. There is a lot of stealing. There were fist fights, which would either happen in people's homes or out on the streets. There were a lot of homicides among friends. My brother lost a lot of friends in Meacham Park. It would just be over stupid things. One man was killed over a bottle of wine, another because of \$20. Some guys started fights that they just couldn't win. In the late 1980s and early 1990s, right before I moved away, there were 5 or 6 older guys who were all killed. Meacham Park is such a small community that when something happens, everybody knows about it.
25. When people started moving in from the city around the 1980s, the neighborhood really took a turn. Before, there were a lot of fist fights, but everybody would be cool with each other right after. After people came in from the city, there was more chaos, madness, and shooting. There was one every few years and about 15 that I knew about since the early 1980s. My mom was the one to let me know whenever somebody was killed. After a while, the element of surprise was gone and I got used to hearing about these murders.
26. Drugs have also been a problem in Meacham Park. In the 80s, crack and weed were very popular.
27. There is a trend in Meacham Park that a lot of people go in and out of jail, but almost no one goes to college. It is almost like jail is the college education. A lot of men came back from prison and would act like street lawyers. They would act like they knew about the law and each other's' cases. It was like going to jail was respectable.
28. This is where Kevin grew up, so he had to deal with seeing these things on top of his life without his parents.
29. There is an ugly side to Meacham Park that nobody wants to talk about, and that's molestation. There is a lot of molestation and rape in that community. Many older men in the community are part of the Crown Royal Motorcycle Club. They did a lot for the community, but a lot of them also molested the young women. Some of them also molested boys.
30. It's hard to find out about it because the kids are taught not to tell anyone. Even when it comes out, a lot of people won't side with the kids. My uncle molested some of the kids in my family. My nieces and nephews were molested in Meacham Park when



they were kids. I don't know for sure if anything happened to Kevin, but I do know that he spent time with the same people who molested my nieces and nephews. I think it is likely that Kevin was also molested. A lot of the molestation occurs because people in Meacham Park will just let anyone stay over at their house. Pat was the same way, so there were a lot of different people were exposed to Kevin and his siblings when they were kids.

31. There are even females in Meacham Park molesting young boys and girls. In the late 1990s and early 2000s, women on drugs would perform oral sex on 10- and 11-year-old boys just to get the boys' pocket change to go buy more drugs.
32. Young people in Meacham Park know so much about sex that you just know that something either happened to them or they were pressured to have sex. A lot of girls also have sex in front of their babies, so the kids just grow up seeing it. When I was in elementary school and riding the bus to Turner School, boys would stick their hands down girls' pants on the bus. It went way beyond curiosity. These boys actually knew what they were doing. Older males in Meacham Park often pressure young boys to start having sex early. They encourage the boys to go get girls. These men tell the boys that a real man smokes weed, deals drugs, drinks beer, and has sex.
33. Girls in Meacham Park also start having sex at a very young age. There are 11- and 12-year-old girls who already have a full sexual reputation. Many of the Meacham Park girls thought I was bougie in middle school because I hadn't had sex yet. It was not uncommon for girls to lose their virginity at 7 or 8. Many of the young girls have sex with older men. It was nothing to go through the back streets of Meacham Park and see a little 11- or 12-year-old girl riding a grown man right out in the open. <sup>in their cars.</sup> The men would encourage each other. If they knew that one of their friends was sleeping with a young girl, they'd laugh and say, "He's getting that young pussy." Girls in Meacham Park are looked at like prostitutes. The men will pick out who they're going to get next, and everybody shares everybody.
34. Prostitution is common in Meacham Park. It would happen right in the middle of the street, in the kids' parks, on community steps. You could look over, and there would be one girl on her knees in front of a line of 20 guys.

35. STDs are a problem in Meacham Park. A lot of the sex there is unprotected. There used to be a clinic in Meacham Park, and I would go there for my annual exam. Sometime around 1998 I overheard a nurse talking to somebody else, and she said that around half of the males in Meacham Park were HIV positive. There was also a gonorrhea epidemic. Most people treated it like a joke. Men would go to the clinic and then come home and tell other people in the neighborhood, "I just went and got a shot." Many men and women in the community also have herpes.
36. There is also a lot of in-breeding in Meacham Park. It is such a small community that practically everyone is related somehow. I warned my own sons not to date anyone from Kirkwood, Meacham Park, or Webster because they are probably family. My uncle's wife is my husband Roscoe's aunt's sister. And Tink's girlfriend is my cousin. Roscoe and I have the same aunt. It is all by marriage, but I'm sure that at some point our families get tangled up. When we go to family reunions, it's the same family.
37. Some couples in Meacham Park are more closely related. There are some brother-sister couples. Billy Johnson, one of Kevin's cousin's, has three kids with his own mom. They got together because the mom was on drugs and the son sold them, so they just coupled up.
38. The shooting in this case happened on July 5th, the day after the Fourth of July. Earlier that morning, Bam Bam had been outside playing with fire crackers. Sergeant McEntee came over and yelled at him. Bam Bam tried explaining that his grandma had bought the firecrackers for him. McEntee raised his gun and traumatized poor Bam Bam. Bam Bam went running back to the house.  
 he ran home & collapsed in the door, that is (LT)
39. ~~Later that day is~~ when Bam Bam died. I was a banker at the time, and I was at work when it happened. Somebody called to tell me to get to the hospital because something was wrong with Bam Bam. He had collapsed in front of the Kirkwood police at Pat's house. By the time I was able to leave work, I found out that Bam Bam had already died and that I should just get to Meacham Park to be with the family instead.
40. I was over at my grandma's yard with a bunch of the kids when I heard the gunshots. I didn't know what was going on. Kevin came back up the street. I could tell by his

face that he was shocked and scared. He looked at me like, “Oh my God, what just happened?” Kevin had to have snapped. He looked so spooked. I have never seen him look like that before. It wasn’t his face. That facial expression was not my baby. Given everything in Kevin’s past, he was just the pot that boiled over.

41. The situation in Meacham Park was very tense after Sergeant McEntee was shot. I was so terrified for his life in that moment. I thought the police were going to kill Kevin right in front of me. Kevin ran off, and the police started searching for him. The cops were stopping people and asking for their address and phone number. They were going through people’s yards with their guns drawn.
42. Eventually, I went home to University City with my sons. My <sup>middle</sup> ~~oldest~~ son, Bryant, was only 13-years-old at the time, and my <sup>oldest</sup> ~~middle~~ son has Down’s Syndrome. The police came to my house in University City looking for Kevin. They knocked on my door and I went outside. They pointed their guns at me. I told them that Kevin wasn’t there and that I had children inside. They pointed their guns inside then. Bryan had to think quickly and told his brothers to take off their shirts and lift their arms up so that if they were shot everyone would know they weren’t armed. My sons put Marcus, my son with Down’s Syndrome, in the middle to protect him. My boys were scared to death, and the officers put their guns right in these kids’ faces. The police came in and tore my house apart. They flipped over furniture and caused damage to my house. There are still scratches on some of the walls and the door to our storage space.
43. There was a lot of media coverage of the shooting. When I went on my Facebook, I saw people that I’d known since school commenting and writing blog posts. They were using “n-words” all over the place.
44. There has always been tension between Meacham Park and Kirkwood. I was born in <sup>Meacham Park</sup> ~~Meacham Park~~, and my mom moved to Kirkwood when I was <sup>born</sup> ~~in high school~~. I left the area when I was 17. Part of the reason why I left was because of the racism I experienced in Kirkwood.
45. Kirkwood never wanted anything to do with Meacham Park until it saw money. Meacham Park used to be its own place. It had stores, arcades, and a barber shop. There was a homecoming event every year for everyone from Meacham Park, and the residents threw block parties that lasted an entire weekend. One of the residents got

go-karts, and he would charge the kids \$1.00 to ride them through the neighborhood. The Crown Royal Motorcycle Club would have an Easter egg hunt for the kids each year. If somebody died, everyone in Meacham Park was family and would come help out. It was a very self-sufficient community.

46. In the 1990s, Kirkwood annexed Meacham Park. This is when the Kirkwood police department took over the Meacham Park area. Before that, the St. Louis County Police Department was in charge of Meacham Park. They would drive through the area and ask how people were doing. The Kirkwood officers were more aggressive and would stare out at us like, "I'm looking at you." Our friends from outside of Meacham Park knew that they were bound to get pulled over if they came over to visit us.
47. The Kirkwood Police Department had a reputation for being racist, and Sergeant McEntee was one of the most racist. One of the main reasons why I left Kirkwood was because of Sergeant McEntee. When I was 16-years-old, I was ~~walking~~<sup>CP</sup> down the street <sup>from my house at 7-11</sup> ~~when I saw another girl and her boyfriend~~ <sup>CP</sup>. This girl was white, 22-years-old, and she had a reputation for being racist. I planned to just walk by her. She tried picking a fight with me, and I ignored her. She slapped me then, and we started fighting. Then the girl's boyfriend jumped in. ~~There was a 7-Eleven right by where~~ <sup>we were inside</sup> ~~we were fighting, and an employee looked out the window and~~ <sup>CP</sup> saw the fight. She called the police. Sergeant McEntee was the one who responded. He separated us and talked to the couple first. He asked them if they wanted to press charges. They said no because they had already beat me. I told Sergeant McEntee that I wanted to press charges and that they were the ones who had started it. McEntee looked me up and down and said, "You <sup>Get</sup> ~~go~~ <sup>CP</sup> back home, nigger."
48. After that, I never felt the same about Kirkwood. That was my home. I grew up riding my bike all around there. But after my run-in with McEntee, I had a new hatred for the place.
49. There were a lot of problems with police officers in Kirkwood. One officer, Guyer, was really bad. My brother is a computer programmer. He has had the same job for years. On many days, when he left for work or was on his way home, Officer Guyer pulled him over and searched his car. I was in the car with him one time when this

- happened. Officer Guyer followed us back to my ~~brother's~~<sup>mother's</sup> house and searched his car in the driveway. Another time, we were on our way to a concert when Officer Guyer pulled us over and ran our names through the system. Guyer stopped my brother all the time. He knew there was no reason to search his car or check for warrants.
50. When we need the police, they won't help the black people in the area. When I was growing up in Kirkwood, my mom was friends with one of the officers, Officer Morrison. He would even come over sometimes. Six years ago, my niece started having problems with her child's father's new girlfriend. The girlfriend even made death threats against my niece and her baby. I told Officer Morrison about it and asked for his help. Instead, he called up my niece and cussed her out. The police refused to get involved any further. If it had been a white family, the police would have done something.
51. Some of the businesses in Kirkwood make their black patrons feel uncomfortable. One restaurant, Spencer's Grill, didn't allow any black people to eat there until the 1990s. Legally we were allowed to go, but no black people went because we knew that they would mess with our food or even mess with us. There was also a pool hall called the Kirkwood Kue Klub. The owners spelled it the way they did on purpose so that it was the KKK. That business didn't shut down until 1998, and while it was open the name never changed.
52. I had problems with racism at work in Kirkwood. In 2000, I worked at the Target in Kirkwood. Four black college students came in, and security was immediately on them with their walky-talkies out. Six white kids came in shortly after, and they saw that security was busy following the black students around. The white students were in line at my register, and they told me, "Your security's a joke." They grabbed their items and left without paying. I paged security and management, but they were still too busy following the black students.
53. Another time I was working at the Sam's Club in Kirkwood. Bam Bam and Kenneth were still young kids, and they came in to go to the pizza place. Usually people need a membership card to get into Sam's Club, but they could get in without a card to go to the café and get food. My manager came up and told me that Bam Bam and Kenneth needed to leave. I explained that they were my nephews and just getting

- pizza. He said, "We don't want neighborhood kids coming in here." This rule only applied to black kids from Meacham Park.
54. Eventually I was fired from Sam's Club. Customers are supposed to come through the entrance and show their membership card and then go out a separate door where somebody else checks the receipt. When I was working there, I was at the front entrance. One day, a white man tried leaving through the entrance. He had a cart full of items that he had not paid for yet. I explained to him that he had to go through the exit where they would check for a receipt. He started yelling racial slurs at me. I knew that the management would not help me against this white man, so I let him go and said, "God bless you." I was fired for saying that, even though this man had been standing there yelling racial slurs at me.
55. Marcus was also fired from the Sam's Club. He worked in the café area. A white man was there showing off for his girlfriend, so he poured his drink on Marcus. Marcus jumped over the countertop and beat the man up, so he got fired. When Kirkwood opened new businesses, the city officials promised that it would create more jobs for Meacham Park residents. Kirkwood was able to get around that by firing people. They might hire you, but that didn't mean they had to keep you.
56. I went to school in Kirkwood. There was a problem with racism in the schools. They did a play where they threw cotton on the ground and made the black students pick it up and sing "I Wish I Were in Dixie." They only had the black kids do this because they said they were trying to be historically accurate. I moved out of the area because I didn't want my kids to have to go through the same thing.
57. When I was in high school, I wanted to participate in the pep rally. The school told me no. Only white kids were allowed to participate in the pep rally.
58. I was friends with some of the white students when I was in school, but I was never able to go to their house. We could be friends outside and at school, but not in each other's' houses.
59. One of my friends in school was an athlete. He was such a good athlete that we all thought he would go to college. He was also black. When he finally asked his coach about where he might go, the coach laughed and said, "Oh, I didn't know you wanted to go to college." The coaches had thrown away all the letters from colleges

interested in meeting with him. The school had used him to make Kirkwood look good, but afterward they didn't care if he succeeded. Now they sell the black kids who excel at sports after Kirkwood and try to take credit for their success. Jeremy Maclin is a local kid who played at Kirkwood, and now he plays in the NFL.

Kirkwood makes sure that everyone knows that.

60. At the Kirkwood schools, the black Meacham Park kids just slip through the cracks. The poor white kids who hang out with the black kids also don't get any attention. The rich white kids get education and tutoring if they need it.
61. When my niece was in 9th grade, she was reading at a 3rd grade reading level. I contacted the school, and they said she was doing good. Reading at a 3rd grade level when you are in 9th grade is not "good."
62. My youngest son has dyslexia. He started off going to school in Kirkwood. The school never did anything when he started mixing up letters and writing his numbers backward. They said there wasn't anything wrong. I took him to get tested myself, and that's how we found out he has dyslexia.
63. The racism in Meacham Park is so bad that my kids and I only go over there to visit our family. We never buy anything there or go out to eat there because we don't want Kirkwood to benefit from our taxes. I still own my mother's old house over in Kirkwood. My niece is living there. I asked my son if he wanted the house, but my kids refuse to go over into Kirkwood unless they have to.
64. Kevin's trial and post-conviction lawyers never spoke to me about my experiences in Meacham Park, Sergeant McEntee's reputation, or what I know about Kevin and his family. If they had, I would have told them the same information that I am giving now.
65. I declare under penalty of perjury that the foregoing is true and correct.

8/7/2016  
Date

Candace Tatum  
Candace Tatum

**DECLARATION OF MARCUS TATUM**

**PURSUANT TO U.S.C. § 1746**

I am an adult resident of St. Louis County, in the State of Missouri. I state the following under penalty of perjury:

1. My name is Marcus Tatum. I am Kevin Johnson's older brother. We are only one year apart. Kevin and I have been best friends for our entire lives. We grew up together and have seen each other through everything in our lives. I love my brother.
2. Kevin and I had a very hard life. Our mom, Jada, had me when she was only 16 years old. She met my dad, Myron, when he was in his early 20s and she was only 13 years old. My dad had no business messing with a girl her age. My mom was used to being with older guys. At the time, my dad was married to another woman, but he had a sexual relationship with my mom and she got pregnant with me. I was born on July 10, 1984.
3. My dad got my mom pregnant once before I was born, but they lost the baby. They got together through Jada's dad Leon. One day Myron was talking to Leon and said that little Jada was hitting on him. Leon told Myron "You might as well do her. If you don't, someone else will."
4. My mom and dad were never together. My dad was absent for most of my childhood. When my dad met my mom, he was using drugs. He used drugs for many years, although he doesn't use them now.
5. Soon after I was born, our mom met Kevin's dad, Kevin Sr., who we called Big Kevin. My mom and Big Kevin had my brother Kevin in September 1985 and our sister Kanesha, who we call Nee Nee, in January 1987. Big Kevin, our mom, Kevin and I all lived together in a shack in the back of our great-grandmother Henrietta's house. The



shack was two rooms, the kitchen and living room, but they weren't separated by a door. The whole thing was barely as big as a prison cell, which is about 10 feet by 8 feet. When we entered through the door, we were in the living room. Right behind the living room was the kitchen. A lot of the time, we slept in the kitchen. That's where the bed was. The only door inside the house was the one hooked up to the bathroom, which was sort of an attachment to the house.

6. Around the time Nee Nee was born, Big Kevin was arrested for murder. He killed a woman over drugs and was sentenced to prison for 20 years. He didn't get out until Kevin was in his early teens.
7. When Big Kevin was sent to prison, our mom had a really hard time. By that time, crack was on every corner in Meacham Park, and our mom started using. It was easy for our mom to get crack. It was right outside her door. Once she started using, that's when everything really fell apart for Kevin and me.
8. Our mom was high all the time. She was badly addicted. She also started seeing older men. She didn't date these men, but they spent time together and had sex. One of those men was Mr. Waller. Mr. Waller seemed really old. He was bald on top but had a ring of hair around his head. There was some exchange happening between Mr. Waller and our mom. Mr. Waller was either paying our mom for sex or keeping her high for sex.
9. Our mom had sex with other men for money or for crack as well. Once, I saw my mom have sex with a man I didn't know. I was a momma's boy, so I went everywhere with my mom. I hated to not be by her side. One night, my mom took me to a house near my great-grandma Henrietta's house. A neighbor lived in that house, but no one was home at the time. My mom met a guy there. The guy was old and he had a tow truck. I stayed in

the living room while my mom and the man went into the bedroom. I was only four or five years old at the time. I waited for a while but eventually I went looking for my mom. I walked into the bedroom and saw her bent over the bed while the man was having sex with her from behind. My mom was wearing a pink jumpsuit. Afterwards, the guy took me and my mom to White Castle. I think that the man felt bad, but it is crazy to think that buying a kid White Castle will make up for something like that. I didn't judge my mom. She was doing what she thought she had to do.

10. When I was about 4 years old, Kevin, Nee Nee and I were taken away from our mom.

Our mom was using crack so much that she couldn't take care of us. It really hurt us that our mom chose drugs over us. We are her children. That was a very painful time.

11. At that point, Kevin, Nee, and I were separated. I went to live with our Grandma Pat,

Kevin went to live with our great-aunt Edythe, and Nee Nee lived with our great-great-aunt Betty and our great-aunt Joyce. Later, our mom had our little brother Kenneth while she was in jail, and then had our little brother Bam Bam. Bam Bam was born with a heart defect because our mom was using drugs while she was pregnant. She used drugs while she was pregnant with Kenneth, but he had no visible defects. Our mom had another daughter, too, named Nae, but she was given up for adoption right after she was born. Nae was also born with drugs in her system. I think of her sometimes and wish I could know her, but we don't know where she is.

12. My mom had my youngest sibling, Brittany, with her boyfriend Norman Madison. My mom stopped using drugs before Brittany was born, even though Norman was a crack user. Norman also had been in trouble for molesting or raping a young girl.

13. Kevin and I were especially protective of Bam Bam because he was disabled. Bam Bam, Nae, Kenneth, and maybe even Brittany were all born addicted to crack. When they were born, they had to be weaned off of crack. Bam Bam had a heart defect because <sup>mom</sup> ~~Jada~~ <sup>was</sup> ~~was~~ <sup>me</sup> using drugs. When Bam Bam was brought home from the hospital, Kevin and I saw that Bam Bam was covered with tubes. He was so small. His disability was one reason that Kevin and I were so protective of him. And Bam Bam needed them. <sup>mom</sup> ~~Jada~~ <sup>wasn't</sup> ~~wasn't <sup>me</sup> even with Bam Bam when he was brought home. I don't know where she was. As Bam Bam got older, Kevin and I looked out for him. Kevin used to give Bam Bam money for candy and it was so funny because Bam Bam was stingy and would never share. When Bam Bam died, it tore Kevin and I apart. I cried for weeks.~~

14. It was a hard life at Grandma Pat's house. At Grandma Pat's, we had no money and no supervision. Our Grandma Pat had her own life and wasn't around us much. Our house was a wreck. It was filthy and crowded. There were too many kids and Grandma Pat never cleaned. Grandma Pat had ten kids, so it was a full house, even after her older kids left home. Pat had four older kids, including our mom, Reggie, Tausha, and Roscoe, and then had six more kids by her husband, Cleveland Ward. The Ward kids, who are Kevin and my aunts and uncles, are Cleveland Jr. ("Tink"), Cameron ("Wayne Wayne"), Ivori, Alicia, Maudis, and Chris. They are close in age to Kevin and me. Alicia <sup>Ivori and Chris</sup> ~~is~~ <sup>actually</sup> ~~is~~ <sup>me</sup> younger than ~~us~~ <sup>me</sup>, even though she is <sup>my</sup> ~~our~~ <sup>me</sup> aunt.

15. At Grandma Pat's, there wasn't enough food for us kids. Grandma Pat didn't cook and was gone a lot. We used to get food stamps back when they looked like actual money—before the EBT card—and they were scattered around the house. When we got hungry,

we had to try to find the food stamps. A lot of the time we found them in random places—like under grandma’s bed. If we didn’t have food stamps, we had to steal food.

16. Although Grandma Pat was married to Cleveland Ward, they lived in separate houses for most of the time I was growing up. Cleveland had his house and Grandma Pat had her house and they got together for sex. Grandma Pat had other boyfriends and had sex with other men as well.
17. Cleveland and Pat fought a lot. They pushed each other around, held each other down, and screamed at each other. Pat had a terrible mouth and would swear like crazy. Once, Grandma Pat got mad and screamed at Cleveland: “Suck this bloody pussy!” In addition to drinking, I also think that Cleveland used drugs, which was another problem.
18. Grandma Pat had a bad temper and was violent. She used to beat us. She beat at least one of us kids nearly every day. I got beaten especially bad because I wasn’t Grandma Pat’s son. I was like Cinderella. I used to have to clean the house while my aunts and uncles played.
19. Grandma Pat whipped us with whatever she could get her hands on, including switches and extension cords. She beat Kevin and me, as well as her own kids. Once, Grandma Pat threw a doll with a hard plastic head at her son. The doll hit her son in the head so hard that it cut his head open and he was bleeding. The beatings were bad for everyone. Sometimes the beatings broke my skin and I bled. Other times I had big welts. Once, when I was a teenager, my grandma even came after me with a box cutter. She acted like she was going to cut me up. I don’t believe in hitting women, but I pushed her and left the house.

20. I was scared of Grandma Pat's whippings. In fact, I can't remember being scared of anything my whole life, not even dying, but I was scared of those whippings. I used to cry, but eventually I stopped crying. Pat didn't like that. She told us kids that we had to cry.
21. Our aunts and uncles by Grandma Pat and Cleveland could also be really mean. They used to tease me about my mom being a crack addict. I used to cry when they teased me and when I was beaten. Everyone in the neighborhood knew about my mom because it was a small community. It hurt me when my aunts and uncles teased me, but if I fought with any of them, I would be punished instead of my aunts and uncles. Eventually, I stopped crying. This was the way my life was and there was nothing to do about it. I learned to be strong mentally and physically. That was the only way to survive.
22. A lot of our aunts and uncles had very bad tempers, especially the Ward kids, who we grew up with. They used to be very quiet generally, but they would snap at little things. Our aunt Maudis was particularly crazy. Once, Maudis told me that she was going to whip me, and she grabbed a belt. I talked back to her and said she wasn't my mom. Maudis grabbed a knife and went after me. She was going to stab me, but I ran away and was faster than she was. I was scared so I went upstairs and grabbed my BB gun and aimed it at the door in case Maudis came after me with the knife. Another time, Maudis stabbed Grandma Pat's boyfriend, Flip.
23. Sometimes, it was so bad at Grandma Pat's that I would do something illegal just to get taken away to juvey or placed in another home. I could free my mind when I was outside of that house, even if I was in custody.

24. Meanwhile, Kevin lived with Aunt Edythe. When Kevin went to live with Edythe, I missed talking to him. We were very close. We still hung out because Edythe came and got me sometimes and took me to Valley Park to play with Kevin. And, of course, Kevin spent time with me at Grandma Pat's and Henrietta's houses.
25. Aunt Edythe's house was different from Grandma Pat's house in a lot of ways. First, Edythe had a nice apartment in Valley Park. The apartment was always clean. Kevin had food and toys. I used to go visit Kevin in Valley Park and we would play outside in the woods near his apartment. We would ride bikes and catch turtles.
26. Kevin was lonely living at Aunt Edythe's. She worked a lot and Kevin was by himself. He told me about a friend that he had, but the friend was not real. He didn't tell me his friend's name, but he had a name. I just laughed when he talked about it because I was not sure that I understood. But I was cool with whatever Kevin was into.
27. Although Kevin had things that I didn't have, there were hard things about living with Edythe. Edythe was very strict. Kevin was on punishment all the time, which meant that he couldn't hang out with anyone or do anything. Edythe also gave Kevin whippings. She had a paddle that had his name on it. Edythe was hard on Kevin and was on him all the time. Once, Kevin wet the bed when I slept over. I also wet the bed until I was about 11, but Kevin wet the bed even longer. Kevin woke up wet and Edythe whipped him for it.
28. At Grandma Pat's, I had no rules, but at Edythe's, Kevin had many rules. When he messed up, he was punished, even when he was little. Even though I didn't like living with Grandma Pat, I wouldn't have wanted to live with Edythe either. She wanted to do the right thing, but I could not have handled having so many rules and being punished all

the time. I think that it was even worse for Kevin because he was there alone, but the rest of us kids lived together in a community where we had friends.

29. When Kevin was at Grandma Pat's, we did not have much supervision, and so we were exposed to sex at a young age. The first time I had sex, I was with Kevin. Tink set it up by telling us we had to do it or we couldn't hang out. I was about 7 or 8 years old. We had sex together with a girl named Gigi, who was also about my age. She didn't live in Meacham Park, but she sometimes stayed with a family member in Meacham Park on the weekends and in the summer. We had sex on an old mattress outside of grandma Pat's house. No one ever caught us.
30. After that, Kevin and I had sex with a lot of girls. When Kevin was about 12, he had some girls over to Edythe's house while she was at work. Kevin's cousin on his dad's side, Little Billie, was also there. That day, Kevin and I had sex with a girl named Sandra at Edythe's house while Edythe was at work. After that, Kevin hung out with Sandra a lot and they kept having sex. I think Kevin had a crush on her, but I continued to have sex with her as well. Sandra slept with a lot of guys at once.
31. Kevin had a girlfriend named Dana. He later had a daughter by her. Dana had sex with a lot of Kevin's family members. Kevin's dad also had sex with Dana. She was too young for Big Kevin to be having sex with her—she was probably only 15 or so. Dana had sex with anyone and everyone. She was something else.
32. We were all very sexual from a young age. There were so many of us kids at grandma's house, sometimes we would rub on each other. Several of us had sex with our cousin Regina, who is our uncle Reggie's daughter. We were all young at the time. Regina was

probably 10, but she wasn't a virgin. She knew what she was doing when we had sex.

She used to guide my penis into her. Regina even had sex with her half-brother, LB.

33. Because Regina was so young, I realized that someone must have been messing with her.

A few years ago, I talked to Regina's mom, Reggie's ex. She said that Reggie used to sexually abuse his daughter. He had sex with Regina at a young age.

34. Even though we were having group sex at grandma Pat's house, we almost never got

caught and our grandma didn't really care. One time, I was having sex with a girl

downstairs at grandma Pat's house when my grandma woke up for work at about 5 or 6

in the morning. Grandma came downstairs and stuck her head in the room where we were

having sex. She saw us, but didn't say anything. Our cousin L.B., who is our uncle

Reggie's son, was in another room having sex with some other girl. After work, Pat made

a comment about us having a good time or something casual. She didn't care.

35. Kevin and I knew about sex because we were around it. For example, once I walked into

Pat's room to get something, and she was having sex with someone. She didn't stop or

anything; I just closed the door and walked out. That's how it was. Sex was out in the

open and we saw it.

36. Grandma Pat didn't seem to care about us having sex, but Edythe did. When Kevin and I

had sex with Sandra, we had sex on the pool table and it broke. Edythe found out about it

and kicked Kevin out of her house and turned custody over to the State. That's when

Kevin started going to group homes.

37. Edythe put Kevin in group homes because he wasn't obeying her rules, but Kevin was a

good kid. He wasn't in the streets; he wasn't in gangs. Except for only a few times, Kevin



didn't even drink. That's actually amazing because there was a lot going on in the streets of Meacham Park. Most of us got caught up in it, but Kevin didn't.

38. Crack came to Meacham Park in the late 1980s and hit hard. Drugs were everywhere in the community. Crack was as common as weed. Kids as young as 12 and 13 were selling crack in the streets. Although Meacham Park wasn't big, there were so many crack addicts that there was always room for more kids selling. A lot of people smoked crack outside, in clear view. People sold drugs on the corner. No one needed to sell it over the phone. Back then, it was so easy to sell crack that you just stood out in the street and dope fiends drove up or walked up.
39. Meacham Park used to be a million-dollar set. By that I mean that millions of dollars of drugs were bought and sold in the small community of Meacham Park. People from all of the County suburbs came through Meacham Park to buy crack. We saw people from Webster Groves, Kirkwood, St. Charles, everywhere. People would drive up to you on the corner, and you could reach out your hand with the rocks and they could choose the best ones. You had to be careful though—some people played games and they would hit your hand so all the rocks spilled out, including into their car.
40. Around the same time crack came to the community, people in Meacham Park also started joining gangs. Before Meacham Park was taken over by Kirkwood, it was a much larger community that was divided into two parts by Milwaukee Street. On one side, the 100 and 200 block, it was Blood territory. On the other side, the 300 and 400 blocks, it was Crip territory. Chocolate City was a housing project that used to be in Meacham Park before Meacham Park was annexed by Kirkwood. Chocolate City was also Crip territory. Behind the projects, there were small storage sheds, and people used to use crack in

those. There were also some houses that served as dope houses, which means that was where people stored weight, like kilos or half kilos. Sometimes those places would distribute the smaller packages to dealers.

41. My relatives on my mom's dad's side are mostly Bloods. That's on my grandpa Leon Telfair's side. When I was young, I lived in the Blood part of the neighborhood, at 145 New York, but I never claimed Blood. My uncles Wayne Wayne, Roscoe, Reggie, and Tink all claimed Crip. They all sold drugs and banged.
42. I wanted to be Crip like my uncles, especially Wayne Wayne and Tink, who I grew up with at Grandma Pat's. I wanted to join a gang and start selling drugs because I thought it was the good life. I saw that my uncles and their friends had money and nice clothes and jewelry and cars. When we were little, the older guys would give us dollars, and they would pull out a huge wad of bills. We knew how they were getting their money; drug dealing was out in the street. It was in the open. I wanted to be like them.
43. I wanted to be Crip instead of Blood. I don't know what the Bloods stand for, but Crip stands for Community Resistance in Progress. When I was little, someone wanted me to be Blood and used to give me dollars, but I always knew that I wanted to be a Crip.
44. I joined the Crips when I was ten years old. I was jumped in, which meant that a group of people already in the gang beat me up. What I had to do to get in was keep fighting back no matter what. My uncle Wayne Wayne was part of the group that jumped me in. I think that the group went easier on me because my uncle was involved. I got hurt, but not that bad.
45. I started selling crack when I was 13 years old. The older Crips taught me how to sell crack, and they also taught me how to sell fake stuff. For my first sale, I made fake crack

out of bread and water. I tore off chunks of bread and wet them, rolled them into stone-looking balls, and then let them dry. After that, I put oral numbing gel on the outside of the bread, so that if someone put his tongue on it to taste it, his tongue would go numb and he would think it was real. The dope fiends have their tricks, and sometimes we have ours. It's part of the game. I sold those fake rocks that first time for \$40. I didn't worry about it coming back on me. Tink was with me that first time, to make sure everything went okay.

46. After I got the \$40, Tink took the money and got me some weed to sell. He was selling crack. Eventually, I started selling crack too. A lot of the time, it was already cooked for us, but I cooked it a few times on the stove. I wasn't very good at it because by the time we got the cocaine, it was already cut a lot of times with other things. Then we had to stretch that cut product. Sometimes we could cut off a piece for a junkie and pay him so that we could cook crack on his stove. Other times, we would cook at my grandma Pat's house when she wasn't home, but we tried not to do that.

47. Our Uncle Reggie was really good at cooking crack. He was big in the game. He had been selling and cooking crack for a long time, which is probably why he was so good at it. Practice makes perfect. Tink was also a very good businessman. He cooked crack in the microwave and on the stove. Tink, Wayne Wayne, and Reggie—they never used drugs, which made them better at what they did. Roscoe did use for a little while, and he sold too. He had his gangbanging days. Our great-uncle Syl used crack as well.

48. I never sold drugs to the Wards or my immediate family, but I did sell to some of my mom's side and dad's side of the family. I also didn't use drugs except for weed until my brother Bam Bam died and Kevin went to prison. I didn't even use weed until my 20s,

which was rare in our neighborhood. After Bam Bam died, though, I started using drugs to ease the pain.

49. Around the same time that I started selling, I also got my first gun. I was 13 years old. I took it from another kid. It was a .38. He had let me shoot it, then I gave it back. He let me shoot it again, and I went around the corner to shoot it, then I just left with it. I told the kid some story about how the cops had chased me and I had to throw it. He believed me. Later, I think he knew I had his gun, but he couldn't fight me or take it from me at that point.
50. A lot of people in Meacham Park carried guns. People carried them for self-protection. With the drugs came violence. As crack got bigger and bigger, people started getting more territorial. You couldn't sell drugs on the 100 or 200 block if you were Crip, or on the 300 and 400 block if you were Blood. There were shootings and murders in our community. People started turning on each other over money and drugs. Girls turned themselves out for crack. Crack was bad. I knew that I would never smoke crack after what I saw.
51. Growing up, sometimes the Bloods and Crips got into it. We mostly fought over money and territory. It wasn't often that the Bloods would try to come into our territory—they knew better than that. But sometimes they would get dope fiends to go to them for drugs rather than to us, and that affected our money. So we fought, sometimes with our hands, but there were shootings too. Kevin and I had a friend <sup>Kenny Johnson</sup> ~~Jason Clark, who we called Fats.~~  
m. T. His uncle Vince was shot to death over some gang stuff.
52. When I was very young, Kevin and I saw our Uncle Keith, who was Big Kevin's twin brother, shot in the face with buckshot from a shotgun. Kevin and I were outside and the

shooting took place out in the open. Kevin and I saw our uncle bleeding around his face from the buckshot.

53. In addition to the shootings, I saw someone killed in Meacham Park. This man was shot by his home boy over some heroin. His name was Bear. Bear was Blood and he was a really big player. Everyone was afraid of him, and so he would rob and steal from people. Eventually, people had enough of it, so someone shot and killed Bear. I saw him shot down and laid out in the street. He was shot in the chest. I didn't let the murder get to me because I couldn't. We had to be hard growing up. The only thing certain in life is death.

54. When I was about 7 or 8 years old, Pat moved the family to <sup>North St. Louis off Riverview Street</sup> Riverview. I think she was evicted from her house in Meacham Park. <sup>North St. Louis</sup> Riverview <sup>MT</sup> was also very dangerous, but me and Kevin and the whole family were tougher than the people in Riverview. There used to be drive by shootings in <sup>North St. Louis</sup> Riverview <sup>MT</sup>. One time, someone drove by in front of our house and shot someone standing on the street. I saw the whole thing. Kevin might have been there too. I wasn't scared because I knew what to do by then. When you hear gunshots, you get down. I had heard gunshots before in Meacham Park. I don't know if the man lived or died.

55. In <sup>North St. Louis</sup> Riverview <sup>MT</sup>, Pat started being more absent. She started dating a guy named "Flip," whose real name is Philip Walker. I don't know why Pat was more absent, maybe it was because she had separated from her husband. Anyway, we were left alone a lot of the time. Pat went to work and then went out with Flip. There were days when we kids didn't eat anything at all. A lot of times, there was no food in the fridge. We were hungry.

56. There was a corner store that was run by an Arab guy with a glass eyeball. We used to go there to buy a big thing of bologna and bread, which we would eat for a long time.

Sometimes, when we didn't have any food, I would go steal from the store and bring food back for everyone. I was always the person that the other kids told to go do that. Maybe the other kids were scared. I used to go into the store with my backpack and stuff it full of cupcakes and candy. Then I would go home and give it to all the kids. Sometimes I would stuff candy in my pockets and coat. Once, I was stopped by a lady who worked at the corner store. She said she saw me put something in my pocket, so I pulled out one cupcake and gave it to her, and she said she knew it. I left with the rest of the food in my pockets. I didn't think this was fun. It was about survival.

57. We only stayed in <sup>North St. Louis</sup> Riverview for a year or two before moving back to Meacham Park.

<sup>MT</sup>  
We moved to a house on Saratoga Street in Meacham Park, next door to great-grandma Henrietta.

58. Everyone in St. Louis thought <sup>North St. Louis</sup> Riverview was bad, but Meacham Park was bad too. I saw <sup>MT</sup> drugs and shootings in Meacham Park all the time. They were right outside our door. As I got older, the violence in Meacham Park got even worse.

59. For a long time, people in Meacham Park were loyal to each other. You could count on one another. But then people who were selling started using, and people started getting greedy and selfish. Then it all started to fall apart. People were out for themselves. If you bought some stones, you couldn't always trust the guy you were buying from, because he might weigh the stones when they were wet, and once they are dry they are lighter. So he might be cheating you. People were also killing each other over money and drugs. You couldn't trust anyone.

60. My cousin Marko was killed by my other cousin Nick. Nick Tatum is Reggie's son and Marko Hurst is my grandfather Leon Telfair's sister's grandson. So one night, Nick and

Marko and some friends were hanging out in Meacham Park. They were getting high on prescription pills and drinking. Apparently, Marko took some of Nick's pills, and Nick flipped out. Marko tried to make it right and gave Nick some money and bought him a bottle of liquor to make up for it, but Nick shot and killed Marko right there in Meacham Park. You can still see the blood stain on the street. It's really sad. Both of them lost their lives. Marko died, but Nick will probably be in prison for the rest of their life.

61. Back in the day, Meacham Park was really rough. The Hursts have their own story. In the early 90s, Steven Hurst, who was nicknamed Baby D, and his friends went to California and robbed an older guy from Meacham Park, Harold Newton. At that time, Harold was making a lot of money in California. Steven and them did some bad stuff—they stole his money and dope, then they tied up his wife and raped her and made Harold watch while they did it. Then, they came back to Meacham Park.
62. Later, Harold moved back to St. Louis and he started making moves again. He was selling drugs and got robbed, and he owed money to the people he bought the drugs from. Harold said he got robbed, but he blamed it on the Hursts, who didn't actually do this robbery. The guys who Harold owed went after Steven Hurst, but when they got to Steven's house, Steven hid in the basement and the guys took Neal instead. They put Neal in the backseat of the car and were driving down Lindbergh when the cops started following them. They shot Neal and threw his body out of the car. Then Harold ran out of the car and into Meacham Park, because at the time they knew that Kirkwood police couldn't follow them into Meacham Park and they would be safe. This was before the annexation.

63. Kevin's girlfriend, Brittany Jones, was stabbed by our cousin, Michael Berry. I wasn't there when the stabbing happened, but I ran up when I heard Brittany screaming. Apparently, before the stabbing happened, Brittany's cousin DJ owed Michael Berry money. Michael Berry and his friends ended up beating up DJ and really humiliating him; like, they stuck a finger up his ass. So DJ and Brittany ended up jumping Michael.
64. Michael always carried a blade with him. Michael and I had been playing dice earlier that day and Michael was playing with his knife. It was about 5 inches long. When Brittany and DJ jumped him, he stabbed Brittany in the stomach. I heard Brittany screaming, and that's why I ran over. When I saw that it was Michael that had stabbed her, I made sure Brittany was okay, but I also hung back because Michael was my cousin. It was a deep cut though, and I could see her intestines poking through the cut. I am not sure if Kevin was there to see that.
65. Michael Berry is also dead now. He was shot to death in his mother's basement, which is located outside of Meacham Park.
66. Tink was also attacked. In the mid-1990s, Tink was a successful drug dealer. He sold crack and knew how to save his money. He also knew how to cook crack. Around this time, he was attacked by a woman that he was dating and her guy friends. The men came up behind him in his house and they put ammonia and bleach on a cloth and put it over his mouth. Tink passed out and the men dragged his body out of the house and put him in the bushes while they robbed him. Tink nearly died. He could have died if he didn't get fresh air, so it was a good thing that the men dragged him out of the house. Tink had to go to the hospital and have tubes inserted on each side of his chest and in his throat.



When he came home, he had patches over the holes. Kevin and I both saw it. We were about 12 or 13 years old.

67. Also in the mid-1990s, Roscoe was badly injured. He was sitting on the car hood between two cars when two people got into a fight. One of the guys in the fight jumped into his car and backed up into Roscoe, crushing his legs from the knees down. It was an accident, but Roscoe was unable to walk for a very long time. Roscoe used to use crack, but this incident changed his life. This is when he started getting sober and cleaning up his life.
68. My half-sister on my dad's side, Dionne, was stabbed in the head.
69. Kevin and I have been in a couple of rough fights too. Once, we got into a fight with an older guy named Roy. Kevin and I were teenagers at the time, maybe 16 or 17, and Roy was in his 20s. Roy was the guy that killed Dana. When Kevin and I got into it with Roy, it started because Roy's family was messing with Poo Poo (Kenneth). Kenneth told Kevin and so Kevin and Roy got into it, and Kevin beat up Roy even though Kevin was younger. Kevin had called me, but I didn't get there in time. Later, Roy and his friends and family went looking for Kevin. Kevin and I were looking out because we didn't know if Roy and his family would come after us with guns or what. When Roy did find them, it was just me, Jermaine and Kevin. Then Roy pulled up with two cars full of people. Jermaine ran away, so it was just Kevin and me against all grown people. One grown woman who was with Roy beat Kevin in the head with a car jack. Kevin didn't get knocked out, but he was bleeding from where he was hit. Me and Kevin stood our ground and fought hard, and eventually the group left us alone. It was a respect thing. The people had respect for Kevin and me. Now, Roy is serving life in prison for killing Dana.

70. This whole time that my family and I were in the streets, Kevin stayed out of gangs and drugs. Kevin was always pretty square. He only drank a handful of times. Kevin also did well in school. Kevin did his homework. He even helped me with my homework.
71. When Kevin was 11 or 12, he and his aunt moved out of the apartment in Valley Park to a house on Ohlman in Meacham Park. Even though Kevin spent nearly every day with us at Grandma Pat's when he was living in Valley Park, we spent even more time together once he moved on Ohlman. It wasn't long after Kevin moved to Ohlman that he got into trouble with his aunt and had to start living in group homes. Even though Kevin didn't do anything bad, especially compared to what was going on around us, he started getting into more trouble with his aunt when they lived on Ohlman. It was hard for him because he wasn't even involved in the streets like the rest of us, but he wanted to hang out with us and we had no rules. Kevin broke curfew, had sex, and missed school sometimes, but we all did that. Kevin, however, got put in group homes for it.
72. Kevin and I were very close. We were best friends. We hung out a lot. We went to elementary school together. Kevin was smart. I wasn't as good at school as Kevin because I had trouble paying attention and keeping focus. I was held back in the third grade and after that Kevin and I were in the same grade. We both went to Nipher Middle, but then Kevin transferred to North Middle and I went to an alternative school called The Collaboration School. Around this time, I was also starting to go in and out of juvey, and Kevin was in and out of group homes, so we saw each other less.
73. Growing up, Kevin and I only had a few big fights. We wrestled and boxed a lot though. Kevin could beat me in wrestling because he had so much upper body strength, but I was

a better boxer than Kevin. We horsed around and fought each other, but we loved each other. Usually, it wasn't serious.

74. One of the times that Kevin and I actually did get into a fight was when our cousin Jermaine and I were fighting, and Kevin told me to get off Jermaine. I was so upset because I am Kevin's brother, but Kevin was always standing up for Jermaine. So I punched Kevin in the head so hard that Kevin couldn't stand up, and he had to crawl away.
75. Even though we fought sometimes, Kevin and I always stuck together.
76. Kevin and I fought his dad, Big Kevin. Big Kevin got out of prison around the time that Kevin started going to group homes. Kevin stayed in group homes for a few years before he finally moved in with his dad. Kevin and his dad were cool, but they got into it a few times.
77. One time, when Kevin was living with his dad, they got into a huge fight. Kevin's dad came to Meacham Park to get him. Kevin and I were inside my Grandma Pat's house when Kevin's dad came over. Kevin and I knew that Big Kevin was mad, so we both went out onto the porch. I wasn't going to let Kevin go alone. Kevin's dad punched Kevin, and we all tussled. I jumped into the fight too. Kevin's dad was strong and he started dragging Kevin away. Then, Kevin's dad maced Kevin. Kevin covered his eyes and was yelling, "Get him Marcus!" We were all trying to throw each other off the porch, but Kevin's dad was too strong. We were only teenagers at the time. Eventually, Kevin's dad left.
78. Later, I was at my <sup>Kevin's</sup> ~~aunt's~~ <sub>mt</sub> house with Kevin when Kevin's dad just popped up. I was ready to defend us. I was ironing my clothes at the time, so I had a hot iron and I was

ready to use it if I had to. But Kevin's dad didn't try to fight us. He just said that he was trying to do what was right for Kevin. They made up after that.

79. Kevin's dad made mistakes, but he wasn't a bad person. He was gone most of Kevin's childhood, so it was hard when he came back. By that time, Kevin and I were teenagers and we had been on our own. We didn't need someone coming in and telling us what to do. But Kevin's dad did some good things. He picked us up and took us to his apartment. We went drinking one time when I was about 16 or 17. We went to the park and were drinking some kind of dark liquor, like Hennessy. Kevin had only ever drank a few times, and that time he drank too much, got sick, and threw up. We laughed. He had to crawl up the two stairs to get into Grandma Pat's house that night. Kevin's dad could be really fun.
80. It is crazy that Meacham Park existed for over 100 years, then Kirkwood just bulldozed it. They just wanted to get rid of all the black people. There used to be a big project in Meacham Park, we called it Chocolate City. It was at least seven buildings with at least ten apartments each. It was huge. Kirkwood tore it down in around 1998. Most of those people had to move, but I don't know where.
81. The Kirkwood Police were hard on young men from Meacham Park. There's a lot of times when me and my uncles got into it with the police. One time, I was walking down the street with a basketball and these two cops—I don't remember their names—came up to me and started messing with me. I got really mad because I didn't understand why these cops were after me because I hadn't been doing anything. So I started cussing, and the cops told me not to cuss. So I said another swear word and the cops maced me and beat me with clubs. Then they arrested me for something small—I doesn't even

remember what—something like obstruction or resisting arrest. That made me really mad because I hadn't done anything, I was just walking down the street that day.

82. Another time, I was with Kevin and the cops were after Wayne. Wayne is really small and the cops grabbed Wayne and threw him down on the ground for something, but I don't remember what. The cops had a knee in Wayne's back and were really rough with him, so Kevin and me jumped out and tried to tell the police to back off. The police told us to go away. One of the police pulled out a gun on us, and that made me back up, but Kevin stayed right where he was. The cop said, "Back the fuck up or I'll blow your fucking brains out." I have always remembered that. I was like holy shit that is crazy.
83. No one from Kevin's trial or post-conviction defense teams has ever contacted me. If they had I would have told them everything that is presented in this affidavit and I would have been willing to testify at trial and any additional hearings.

I hereby verify under penalty of perjury, subject to 28 U.S.C. § 1746, that the foregoing is true and correct.

Date: 8-11-16

  
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Marcus Tatum

**DECLARATION OF FRANKLIN MCCALLIE**

**PURSUANT TO 28 U.S.C. § 1746**

I am an adult resident of Hamilton County, in the State of Tennessee. I state the following under penalty of perjury:

1. My name is Franklin McCallie. I currently live in Chattanooga, Tennessee. I used to live in Kirkwood, Missouri. I was the principal of Kirkwood High School for 22 years from 1979 to 2001. I lived in Kirkwood during that time.
2. I started teaching right around the time that desegregation laws were going into effect. When I got to St. Louis in the 1970s, the city and county schools were still feeling the impact of *Brown v. Board*.
3. Originally, the City of St. Louis had prospered and separated itself from the rural St. Louis County. At one point, St. Louis County consisted of 95 separate communities and 23 separate school districts. The communities in St. Louis County became mostly white and much wealthier than the city of St. Louis. The residents of these communities did not want to go back to the city. In the end, St. Louis County was divided by race and money, with poor minorities in the city and much wealthier whites spread around the county.
4. In the 1960s, a large Jewish population existed in University City in St. Louis County. They opened their doors to black people, and the blacks came for the education. As a result, many of the schools in University City had high populations of black students. Still, most county schools were mostly white.
5. In the spring of 1980, a court order came down in *Liddell v. Board of Education*, a school desegregation lawsuit in St. Louis that had been going on since the 1960s. By that point, the schools in St. Louis County and St. Louis City had separate school boards.
6. Most of the county high schools had very few or no black students. Kirkwood High had about 16 to 20% black students at the time. The court order said that the county schools had to start taking black students, and it covered all schools with a black student population of less than 50%. This meant that the schools in University City, Normandy,

- and a few others were not covered by the order. The order included specific quotas depending on what percentage of black students each county school district already had.
7. As part of the order, black students could apply to any white school in the county, and the state would fund their bus transportation and give the schools per-student funding. This way, each black student would be fully funded.
  8. As an alternative, the judge suggested breaking the county and the city into five districts that would combine black and white parts of the county into the same districts. This scared everyone. All county school districts would be combined into districts with the city schools in their region. School administrators and Boards of Education preferred the transfer system.
  9. After this order, some Boards of Education fought the order. The school districts in the southern part of St. Louis County were particularly resistant. One district spent over \$300,000 in legal fees over two years trying to fight the order. They had almost no black students.
  10. Eventually, all of the school districts covered by the order joined the program. Once one of the hold-out districts realized they could get black athletes, though, they finally gave in. These were schools that suddenly started winning football state championships.. Recruiting athletes was not allowed, but it still happened under the table.
  11. The school buses had to go all over the city and county to make this transfer program work. Many students were on the bus for 30 minutes to an hour to get to and from school each day. At one point, there were 12,000 black kids from the city getting bussed to all of the white districts. White students from the county were also allowed to go to magnet schools in the city if they wished, but only a little over 2000 white students volunteered to go to city schools.
  12. Since only the schools taking more black students got this funding, University City, Normandy, and other majority-black school districts were left out and did not get an increase in funding.
  13. When I moved to St. Louis, I became assistant principal of University City High School. It was right before this order came down. Prior to coming to St. Louis, I had worked at an all-black school in Chattanooga, Tennessee.

14. I was hired as Kirkwood High School's principal in 1979. At the time, Kirkwood High School was about 84% white and 16% black. Prior to the decision in *Brown v. Board*, the students in Meacham Park would go into the city for high school rather than coming to Kirkwood High School. After *Brown v. Board*, the kids from Meacham Park started coming to Kirkwood High for high school. After the *Liddell* order, Kirkwood High's black student population went up to 25%.
15. When I got to my interview for the Kirkwood principal position, there were ten members of the school's central office present. They were each supposed to go around and ask me a question. The first question they asked was what I would do if a white student and a black student did some specific thing. I was happy because this was right in my bailiwick. I wondered if they knew my extensive background in working with black students. The next question they asked was what I would do if a black teacher and a white teacher did something. This made me think that they were definitely asking about my background. The third person went and asked me what I would do if a black parent and a white parent did something.
16. I stopped their questioning after the third question. I told them that it sounded like they had an interracial problem. In three questions, they had not asked about how I would run a school, about my administrative skills, or anything like that. All of the questions were about how I would handle people of different races.
17. My interviewers admitted that they did have a problem. Two mothers from Meacham Park had filed a grievance with the Office of Civil Rights in Kansas City claiming that black students at Kirkwood High School received harsher discipline for committing the same offenses as white students who received lesser consequences. The Office of Civil Rights had a whole stack of discipline papers to document what was happening. When I interviewed, the school district wanted to know what the new principal would do about Kirkwood High School's relationship with the black community.
18. I was hired for the position and started at Kirkwood High in the fall of 1979. Seven months into my new job, the Office of Civil Rights decision came back. It found that Kirkwood High had practiced discriminatory discipline procedures. The superintendent was devastated. He didn't think the school was guilty. However, I wanted to make



changes as soon as I started. The black mothers who had filed the grievance reported to the *St. Louis Post-Dispatch* that the new high school principal had changed things.

19. There was a gap at Kirkwood High between the white students and the black students. Most of the black students came from Meacham Park, which is a lower economic neighborhood. Meacham Park is an old neighborhood bound by Interstate 44 and Kirkwood Road. It had a federal project in the middle, known to the black students as "Chocolate City." There was also a part of south Kirkwood that had some black residents, but for the most part Kirkwood and Meacham Park were divided by race.
20. When I took over, I made race relations at the school a priority. There was a lot of work needed in the 1980s and 1990s to fix the problems at the school. I had to work on it every single day. I tried my best to know every student's name. I held large and small group discussions with the black and white students.
21. I worked closely with one African American retired police officer, Joe Cole, who had lived in Meacham Park his entire life. Mr. Cole asked me if I wanted to meet the men of Meacham Park. In October of 1979, we went to a small cinder block house. A lot of the men in the community were members of the Crown Royal Motorcycle Club. Joe Cole brought me to meet them. Most of them had Harleys and wore big, black coats. Mr. Cole put a stool in the middle of the room and sat me there. I was surrounded by about 30 of these men. I talked to them for about 45 minutes about how I wanted to change the race relations at the school. Between that and a couple other community members, word began to spread through Meacham Park that the new white man at Kirkwood High was okay.
22. However, it was difficult to integrate the kids as much as I wanted to. It was tough getting the black kids and the white kids to sit together in the cafeteria. It looked like salt in one area and pepper in the other. I tried to lead by example. I am a large man, so everyone could see me, and I wanted everyone to know that I would sit with anyone. I sat with different groups of kids every day, both white and black, but it was hard getting the kids to do the same.
23. The football team had both black and white players. They would be friends at practice and on the field, but players of the opposite race rarely went to each other's houses.

24. One of Kirkwood High's cheerleaders was an African American girl. She was friends with the other white cheerleaders. She came back to talk to me after she graduated. She and some of the other cheerleaders went to the University of Missouri for college. She thought that she would be with her friends, just like always. When they got to campus, the other cheerleaders told her that they would be rushing for the white sororities and knew that she would rush for the black sororities, so they did not think they should spend much time together anymore. She was surprised and hurt by this because she believed they were friends.
25. The student events were not as integrated as I wanted them to be. The biggest event for the black students became the annual Friendship Dance between Kirkwood High and Webster High. The tradition had started to die off, but it was revived during my time at Kirkwood. The kids were allowed to bring someone from any other school. At times, there were about 2000 kids at the dance. It was the biggest dance for black kids other than the prom. The Webster and Kirkwood kids knew each other really well.
26. I also noticed a difference in participation between the white parents and the black parents. Over three summers, I asked the Parent Teacher Organization (PTO) to hold "Meet the Principal" gatherings. Different parents hosted these meetings in their homes. During those meetings, no black parents participated until one of the meetings took place at a black parent's home. That meeting was not in Meacham Park.
27. Kirkwood High started having parent-teacher conferences in 1979. I paid attention to the participation rates, so I would look at the parent sign-in sheets after each parent conference. Usually, about 62% of the white parents would show up for the conferences, but only about 32% of the black parents would come.
28. It concerned me that we weren't getting many black parents at school events. There was almost no integration between the black parents and students and the white parents and students. We started having a potluck before the football games. That was the best integration of parents we got because so many of our black students were playing football, and the white football parents came to the potluck too.
29. Once Kirkwood High started getting students from St. Louis City, the PTO and I implemented a partnership program between the black athletes and the local families. This mainly involved our students playing football, basketball, and track. Since the city

- kids lived so far away, they would go to a local home after school for supper and then come back for games. Then the transportation program would get taxis to take the kids home after games. The state paid for these taxis, but sometimes they would not come. Certain coaches and I had to give some students a ride home when this happened.
30. The Pope came to visit St. Louis sometime in 1999. The city of St. Louis was afraid the streets would be clogged, so the school buses didn't run from the city. I asked the PTO to step up and allow our city kids to stay over so they could get to school. At Kirkwood High, about 80 students stayed with host families. Some of the hosts were from Meacham Park.
31. Because of all of this attention on the kids coming in from the city, at first there was tension between the black Meacham Park students and the city kids. Some Meacham Park students already had a negative feeling about the school district because of the past. The city kids had only heard good things about the Kirkwood School District and all of the resources it had, so they came to our schools and tried hard. The Meacham Park kids had already been beaten down so much that they felt like we rolled out the red carpet for our transfer students. They thought that they had never been treated that well, and really that was true. The Office of Civil Rights finding showed that.
32. The administration before me was the one accused of mistreating the black students. The former principal had hired an assistant principal to be the chief disciplinarian. When the parents went to the Office of Civil Rights, they had ten grievances they complained about. The actions of this assistant principal was one of them.
33. When I first started, I kept that assistant principal for one year. I found that this assistant principal didn't like any of the kids; was harsh, mean, and by-the-book; and didn't show any student much empathy. I got negative feedback about this assistant principal from every student I spoke to. When I was at the school for my interview, I heard kids yelling taunts at this assistant principal. That kind of activity garnered no respect for the administration and had previously set the tone of the school. This assistant principal left Kirkwood High School after my first year.
34. In the late 80s and early 90s, we continued to work on race relations at the school. Many things became black vs. white. I called a meeting with some of the student leaders and kids who were vocal among their peers. I brought in 50 black kids and 150 white kids and

broke them into groups, all of the same race. I asked the groups what their problems were with the other race. Many in the groups were irritated. They wanted to know why the other race did this and that. The black students wanted to know why the white students looked down on them. The white students complained that the black kids from the city often slept through first period. I pointed out that these kids were tired from getting up early to catch the bus. Many of them stayed at basketball games until 10, then went home and studied. The white students hadn't thought about it that way. It became obvious that the kids didn't actually know each other.

35. Sometimes the race relations at the school got more tense. One of the hardest times was when a black student stole marijuana from a couple white students, then flushed it down the toilet. A group of 15 black boys and 25 white boys then approached each other in the hall. The Associate Principal and I had to jump into the middle to prevent a fight from breaking out.
36. There were a couple incidents with guns at school. On the first day of school one year, we had a new black male from the city. He was transferring as a sophomore. He was one of four kids who didn't have paperwork from his old school. I told my staff that we would take them anyway. These kids were there to learn, and I wasn't going to stop them. Either that school year or the next, I looked out my window and saw him waving a stick around in the smoking area. A couple days later, one of his teachers informed me that he had missed a field trip he was supposed to go on the day before. I called him into my office to ask about that, and he had a trench coat on even though it was warm outside and not raining. While this student was waiting in my office, a custodian came up and asked to talk to me. The custodian brought a bag in and pulled out a shotgun. He had been taking out the trash when he found it. It was a sawed off .410 shotgun, and it had been loaded when the custodian found it. I went over the speaker and told the students that someone had brought a gun to school and I wanted information. Two girls came to me and identified this student. It turned out the stick I'd seen him waving around a few days before had actually been the gun. I had to suspend him from school and request expulsion.
37. Another one of my students brought a gun to school. He was a black student from South Kirkwood. He was a nice kid with a wonderful mom. He and three of his friends got in

his car on a Friday night and went to Crestwood Plaza, a local mall. A group of guys from another school approached them. They exchanged words and maybe got into a fight. There was a problem with that at the malls at the time. They decided to go back the next night. One of the other kids brought his father's gun. They didn't find the other group, so they left. They stashed the gun in the trunk of this student's car. The following Monday, this particular student was going to return his friend's gun at school. It was a hand gun, and it was loaded. He took it to class and carried it around with him for 6 periods, showing it to fellow students. No one said anything. He finally took the bullets out and clicked the gun during the last period of the day. A girl reported it. I had to call the police and the juvenile officer. The police took the gun. They did not press charges, but we had to expel this student. The student's mother told me she was going to send him to Illinois to live with his grandmother.

38. We also had problems with strange kids from other high schools coming on campus from time to time. I remember we had two black kids in our library who weren't students. Another time we had two white kids in our senior hallway. I recognized all my kids' faces, if not always their names. I knew right away that these weren't my students.
39. In the 1990s, gangs arrived in our community. Some students in the white communities were getting addicted to drugs. For the black students, Mr. Cole told me, "Some of the students are getting addicted to gangs."
40. When the gangs got to Meacham Park, Mr. Cole told me they came in from the city. The gangs arrived at Kirkwood High School in approximately 1991. I was unaware of them for a few months. One of the black coaches told me that we had gangs at the school. This caused dissension on campus. It was the hardest on black freshmen and sophomores. Some were heavily involved in gangs. I told the kids that they couldn't come to school in gang colors. The number of students involved in the gangs, mainly black students, was small in terms of overall population, but their impact in the hallways was gargantuan in comparison. There were a number of fights in the hallways involving these students.
41. In 1996, on the last day of exams, we had one of the worst fights in my time at Kirkwood High. The white students usually left school immediately. They had cars, or they could walk home. The black kids would wait in the library or the cafeteria. We had teachers walking around, but that day there was no one in the cafeteria. There was a group of

black students sitting there. Two of the kids in the group didn't like each other, so one of the kids sent someone to get his brother out of class. After that, a fight broke out between the two groups. Three female teachers stepped in to stop it and got knocked down. One of the kids swung right at a teacher's face, and she ducked. The teachers went to the ER to get checked out. Four or five of the kids dropped out after that. Two of them were expelled. I wished then that I had more school resource personnel.

42. Sometimes the hardest part was working with the parents. After that fight in the cafeteria happened, the student's mom said her boy was so quick that if he had wanted to hit that teacher, he would have.
43. The media heard about the fight, and I explained about the gangs. I let the reporters into our school because I always talked to the press. I wanted them to get all the good stuff, so I had to talk to them about the bad stuff, too. Some of the white families avoided our school the next year because of this reputation for gang fights.
44. After that fight, I held a meeting with black parents and about 15 to 20 kids who I knew were in gangs. There were both Meacham Park and transfer students in this group. Most of them were Crips, but one of the seniors was a Blood. That group included some girls. These girls were fighting each other because they identified with their boyfriends. I warned them that if this continued I would have to recommend their expulsion. Their parents said that it wasn't that bad. One of the mothers had brought her boyfriend because he wanted to see how her son was treated. He blamed me and said that I didn't understand black kids and that this wasn't a gang problem. My assistant principal at the time, Shepard Pittman, was a black man, and he tried to dissuade them. The kids were sitting there watching. They saw their parents band against the principal. All of a sudden, the senior Blood started sobbing. He said he wanted out of his gang but they would kill him. He ran out of the room crying, and a mother went after to comfort him. That kid ended up dropping out of school, and I don't know what happened to him. However, this event allowed me to regain control of the meeting. The mother's boyfriend then kept his mouth shut.
45. We held many counseling sessions for gang-related problems with students who refused to stop fighting at school. Some of the gang members told us we were wasting our time trying to get them out of gangs because they "would be dead by 21."

46. I finally had to start recommending for expulsion the students who would not stop fighting over gangs. Out of all of the black kids from the city and Meacham Park, I had to request expulsion for 15 of them because of their involvement in gangs. Another 35 of the black males thanked me, though. They had been pressed to join the gangs at school. In trying to save some kids, I was putting others in jeopardy.
47. One day, Mr. Cole told me that one of my students from Meacham Park was the president of the Crips. This student had been a great kid up until then. He was on the freshman football team and scored the most points out of anyone on the team. He had also been a member of Club 44, a group Mr. Cole had started with a white nun in the area. The “44” stood for “for God and for Country.” During the summer, the group took parents, teachers, and students to places like Disneyworld and Houston, Texas. The kids would be on the bus trip for a week. They didn’t have enough leaders one summer, so they made this twelve-year-old student a leader for the visit to Disneyland in Los Angeles and gave him 5 kids to supervise. He was the best leader in the group. He was smart; he was brilliant at math. One of his math teachers once said that he might eventually be good enough to work for NASA.
48. But in this student’s freshman year, he slipped through the cracks academically. By his sophomore year he was ineligible to play sports. When he couldn’t play football anymore, he joined the Crips. He put the same effort into that as he had into football and Club 44. He was failing his classes. The teachers couldn’t control him. He cursed at the Associate Principal, a man who used crutches after suffering from polio. He wore gang apparel to school. His behavior got so out of hand that I had to request a long-term suspension. I couldn’t administer my school with this student thinking he could just say and do whatever he wanted.
49. After we suspended him, I heard on the radio that he had been killed in a nightclub. I went to visit his mom, but when I got there, she told me it was actually the older brother who had been injured. My student was sitting right there in the living room. I told his mom that he was the president of the Crips. I told this student that he needed to get out or he would end up killing someone or get killed. He denied everything, and his mother insisted she knew nothing about any connection he had to the Crips. I pointed out her son’s entire clothing apparel of blue that day as he sat on their couch, from his blue shoe

strings, to the blue belt, to the blue bandanna and hat that he was wearing, but she would acknowledge nothing having to do with gangs. Her words were, "I don't know anything about that." I told her, "I am not here to argue; I came to give my condolences, and I am glad he is alive. But now I must let you know of this critical problem in his life." Seeing that the conversation was going nowhere, I left.

50. This young man was shot and killed six months later on the street, only one block away from his house in Meacham Park. The gunman was known to him, also a Kirkwood High student and a member of the Blood gang. Within a day of the murder, the St. Louis Post-Dispatch called me requesting a statement concerning the deceased student. I was as honest as I could be about this young man and the circumstances of his death. I said that he had been a great athlete and a student leader in previous years with Club 44. I cited what math teachers had said about his potential in that field. But I also said that he had grown addicted to his gang membership and that this had taken his life. The next day, that story was printed in the Post-Dispatch almost exactly word for word. Two days later, I went to the visitation at his home and was angrily accosted at the front door by the deceased student's mother who said she had read the article and knew nothing about what I said concerning gangs. I told her I had only come to pay my respects, but that I had sat in her living room six months before and had pronounced to her his involvement with the Crips. I had even told her about his being the president of the local Crip chapter. When she again denied knowing anything about that, two or three adult men – I was told they were her brothers – came forward and said they wanted me to leave the house immediately, which I did. I also did not attend the funeral knowing that I was unwelcome there. This interaction was not unusual concerning parents and the gang membership of their sons. While some parents worked with us to keep their sons from gang membership, an equal or greater number were in denial, at least when it came to talking to school officials.
51. I had to go to several of my students' funerals. I attended at least five students' funerals for those who died in car accidents. Several of our students committed suicide.
52. In the mid-1990s, Joe Cole said to me, "Franklin, this is the worst I've seen it in Meacham Park." He said there were more drugs, more gangs, and more drug houses. He wanted the gangs out of Meacham Park.



53. Beside the gang violence, there were a lot of problems with the black girls fighting each other at school. I had to work a lot on the girls fighting over nothing. There was one incident where the school bus stopped at one of the Meacham Park stops. A small Kirkwood High girl got off, and ten other girls came up and beat on her.
54. In the 90s, there was a group of freshman girls from Meacham Park who fought a lot. There were two of them who fought more than the others and about eight other girls who would encourage them. I finally brought in the girls and all of their parents and sat them all across the table from one another. I asked each girl to explain what was going on, one at a time. By the time they were all done, none of it made sense. None of the adults knew why they were fighting. I asked my assistant to bring in their grades. Between the girls, they had no A's and almost all D's and F's. One of the girls' grandparents said, "Now we know these girls come to school to fight," and he admonished them for about 20 minutes. I gave the two girls one day of suspension and made them come back and shake hands. I gave all ten girls' names to each of their teachers and told the girls that if they fought again, I would suspend them for ten days. These girls had been fighting since elementary school. They were from Meacham Park. Their behavior tainted how the other students felt about them. The white students saw the black girls fighting and didn't understand. After this, though, none of the ten girls fought at Kirkwood High, and one who showed me her report card as a senior had made four A's and three B's.
55. My staff and I did what we could to address the needs of our black students. I brought in counselors. But we never got to the point where enough of our black students were achieving what they should have.
56. Part of the problem was the assumptions placed on the black students that they would not achieve as much as the white students. In the spring of 1993, a black female student, Nicole, moved in with my wife and me. She stayed with us for the rest of the school year and all of the next year. She was very smart and a leader in the school. She was a member of the Pommies, Kirkwood High's dance team. Nicole was from the city before moving in with us, and she had to ride the bus about an hour to school each day.
57. When Nicole moved in with us, her GPA was a 2.1. It went up to a 2.4 by the end of the year, and then her senior year she got a 3.8. I thought her grades went up because she had us as tutors. She also wasn't allowed to watch TV on school nights at our house or talk on

the phone. It wasn't until ten years later that I talked to her about how her grades increased so much. She told me that only one of her teachers treated her the same before and after she became the "principal's daughter." Once she moved in with us, all her teachers expected her to make A's. Their recognition of her ability went up. She was able to achieve better grades once that happened.

58. I had been telling my teachers for years that without high expectations, the kids won't make it. I wanted them to have the same expectations for the black students as for the white students. But there was a difference in expectation for the black kids, including the ones from Meacham Park. Nicole could tell when her teachers expected more out of her. Even if this wasn't true for all of Nicole's teachers, it was at least true for some of them.
59. Alcoholism and drugs were also a problem among some of our students. The heroin and crack epidemic hit our area, and it was scary as hell.
60. Because of many events locally and nationwide, the School District eventually found it necessary to hire a school resource officer for Kirkwood High School. Three officers signed up for the interview. Sergeant McEntee was one of them.
61. I had met Sergeant McEntee a couple times before. He had responded to some of my calls for an incident at the school. I noted during the interview that Sergeant McEntee was very big and strong. He was a force. He was straight policeman, like he had been born and bred as an old-line police officer.
62. I heard some of the black students talk about the police sometimes. There was a feeling on the part of some of them that they wouldn't get a fair shake from the Kirkwood police. There were certain officers that the kids had a negative feeling for. I didn't get the feeling that there were many positive feelings between the Meacham Park kids and the Kirkwood police.
63. When Nicole was living with us, she started dating one of the other black students. He was one of the nicest, smartest boys at school. He had a 4.0 GPA. My wife and I had raised two daughters before Nicole, and whenever their boyfriends came over, they would leave afterward and go straight home with no involvement from the police. But Nicole's black boyfriend was stopped four different times by Kirkwood police officers and asked what he was doing on the way home from my house. The street I lived on did not have any black families, but I was right next to the high school. I lived on Essex

Road, which was one of two major roads that led right to the high school. Even if the police knew that he didn't live around there, there was no reason for them to think he was doing anything other than coming from or going to his school. He was stopped because he was black.

64. My wife and I were friends with the police chief. This was the one before the current chief of police. My wife called to tell him what was going on, but she didn't get much reaction. He did not seem to think that this evidenced racism. This was no surprise to the young man who was dating my daughter.
65. Many people in Kirkwood looked down on the residents of Meacham Park and even thought it was dangerous over there. Some events in Meacham Park perpetuated the rumors that the people in Meacham Park were inferior to those in Kirkwood. For example, one night in 2005, somebody in Meacham Park called Imo's to order some pizza. A young white female, a Kirkwood High graduate who was about 19 or 20, took the delivery. Two or three boys pulled her out of the car, raped her, and beat her.
66. For some of the citizens of Kirkwood, this incident became the symbol of "That's what we've been telling you about all along." Racist feelings got worse after that.
67. Mayor Herb Jones, the mayor of Kirkwood in the late 80s and early 90s, wanted Meacham Park to become part of Kirkwood. A lot of people said yes to this, but some of the blacks in Meacham Park thought that this would open the door for Kirkwood to do what it wanted with Meacham Park. They felt that Kirkwood had never cared about them before, so what did they want now?
68. Others in Meacham Park thought the annexation would be good for the neighborhood. Before the annexation, Meacham Park had poor housing. There weren't many sidewalks, if any, and I was told the sewer system was awful. Some white Kirkwood officials wanted to tear out the houses near Kirkwood Road and put in businesses and restaurants. They promised this would create jobs.
69. Some people in Kirkwood thought that they had to destroy Meacham Park to save it. It was like the mentality during the Vietnam War that they had to destroy the village in order to save it, but then there is no village left to save.
70. After the annexation of Meacham Park by Kirkwood, Kirkwood ended up tearing down about one-third of Meacham Park homes. They replaced these homes with stores like

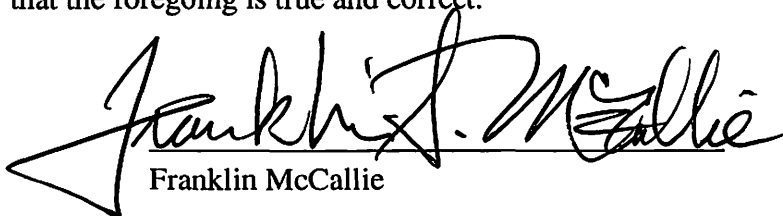
Lowes, Target, and Walmart. I have heard from some people that the black citizens in Meacham Park rarely got the jobs at these stores, although I don't know the exact numbers. Another common complaint by Meacham Park citizens was that Kirkwood didn't pay the Meacham Park residents enough money for their houses to afford good houses elsewhere. A significant number of Meacham Park students came to school upset because they had to move away from Kirkwood High. As I remember, most moved to North County.

71. Two incidents reflected the tensions between Meacham Park and Kirkwood. One was Sergeant McEntee's death. The second was Cookie Thornton. Cookie was a black resident of Meacham Park who had lived there his entire life. He thought that he would get construction jobs from all of the changes happening in Meacham Park. He had actually been one of the most outspoken advocates for the annexation. He came in with trucks for a demolition, but Kirkwood had already hired a white-owned company. The construction company told him that they already had 22 trucks and didn't need his two trucks. He had been promised work worth over a million dollars, and he only made \$70,000, not even enough to cover the cost of his new equipment. He was finally arrested for owing so much money in fines for parking his construction equipment in restricted areas. Cookie told me that while he was in jail, the City of Kirkwood auctioned off his stuff for \$1 on the steps of the Kirkwood City Hall.
72. Then, Kirkwood implemented new rules about parking in Meacham Park. The officials in Kirkwood were perceived as the white man coming in and making the neighborhood "look nice." Cookie had his trucks parked in the neighborhood. He moved his trucks around on Sundays when people were in church and made some residents angry. Cookie thought that he should be grandfathered in and that he should not have to follow these new rules. The city fined him for numerous violations, which added up.
73. Cookie Thornton ran into the racism of Kirkwood. He didn't get much help. I am convinced that if Cookie had been white, more people would have helped him. Instead, in February of 2008, Cookie shot and killed five people and wounded two others during a city council meeting, with one of the wounded dying a few months later. Cookie was shot and killed by the police who responded.

74. After the shooting, there was a 300 person meeting to discuss race relations in Kirkwood at the Kirkwood Baptist Church. The black people in attendance said that they felt uncomfortable in downtown Kirkwood, like they were never welcomed there.
75. After hearing some of the Meacham Park residents speak, a white Kirkwood resident who was president of a bank said to me, "I did not know what I did not know." Another white woman said that she had lived in Kirkwood her entire life and attended Kirkwood High School, but she had never been in Meacham Park. That woman had been in the PTO. She had heard me talk about bridging the two communities, but she still hadn't really understood what the black people in our community were feeling. She asked a new black friend from this meeting at the Kirkwood Baptist Church to take her for a visit to Meacham Park for the first time.
76. More attempts to unify the communities came after the incidents involving Sergeant McEntee and Cookie Thornton. On the next Martin Luther King Jr. Day, there was a unity meeting at one of the churches in Meacham Park. About half the people in attendance were white and half were black. The black minister spoke and his wife sang gospel songs, but no whites were involved in the leadership of this "interracial" meeting. The wife of the white minister of Kirkwood Baptist, Cecelia Stearman, had previously started a mixed-race gospel choir and had a beautiful voice. I slipped a note to the pastor of the church we were at to see if Cecelia could sing. He invited her, and she sang "Nobody Knows the Trouble I've Seen" for the entire group. The applause was loud. It really brought everyone together. That was one instance when both races were able to come together, but we needed so much more of that.
77. Overall, I knew a lot of people in Kirkwood and Meacham Park who put a lot of work into improving race relations between the two communities. At Kirkwood High, many students, staff, and parents put a tremendous effort into this work. Others put in similar effort out in the community. But as much as I and others tried to lead in changing race relations at Kirkwood High School and by extension the community around us, it certainly didn't change everything. Otherwise, the Cookie Thornton tragedy never would have happened. In the end, there was no reason for anyone who lived in Meacham Park to have ever felt that Meacham Park was treated the same as Kirkwood.

78. Racism in Kirkwood is based in white privilege. Whites there don't have to be concerned about black people; blacks don't matter to a number of whites. In some white families, everything white children are taught about race is a lie. I grew up in Tennessee in a white, racist family. When I was growing up in the 40s and 50s, only one white person ever told me that blacks are human. It wasn't until I was in college that I realized that blacks and whites are equal in humanity.
79. Many southern white families raised their children in the 1940s and 1950s with the belief that black people were inferior because of the curse of Noah on Ham in the Bible. In that story, Ham sees his father Noah naked. He laughs at his father and tells his brothers, who cover their father up without looking at him. As punishment for laughing at his naked father, "Ham's descendants would forever serve others." In some interpretations of this story, Ham was darker than his brothers and provided Biblical support for the American South's enslavement of black people and the idea that black people are inferior to white people. This is the lesson that I and others like me learned growing up.
80. The belief was similar in Missouri for parents who taught their children this story. The dark people were servants and not actually whole people. This type of ignorance existed in a number of white people in Missouri, in St. Louis, and in Kirkwood.
81. Kevin Johnson's trial and post-conviction lawyers never spoke to me about my knowledge of the Meacham Park/Kirkwood area or the Kirkwood School District. If they had, I would have told them the same information that I am giving now and would have been willing to testify if subpoenaed.
82. I declare under penalty of perjury that the foregoing is true and correct.

15 JUNE 2016  
Date

  
Franklin McCallie

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- **Criminology**
- **Security**

July 16, 2016

Shawn Nolan, Esq.  
Chief, Capital Habeas Unit  
Federal Community Defender's Office  
601 Walnut Street  
Suite 545 West  
Philadelphia, PA. 19106

RE: **Kevin Johnson**

Dear Mr. Nolan,

I am writing to share my opinions regarding Mr. Johnson's case.

## **Referral Questions**

You have requested a comprehensive neuropsychological examination in order to address Mr. Johnson's neurobehavioral strengths and weaknesses, pursuant to his habeas corpus appeals.

## **Materials Reviewed**

I have reviewed six bound volumes of background materials that you have provided in this case that encompass: (1) Mr. Johnson's statement to the police; (2) his Court records; (3) Mental Health records; (4) Social History records; (5) Family Mental Health records; (6) various additional records; and (7) declarations.

I have also reviewed a large volume of materials on CD that include materials from Dr. Levin's file, including Dr. Levin's notes and reports; Mr. Johnson's Family Court records; residential treatment records (Father Dunne's, St. Joseph's Boys Home, Epworth Crisis Care, Daybreak Center, etc.); school records; police and jail records; Dr. Lemp's notes; St John's Medical Center records; St. Louis County Mental Health records; and DOC records.

Finally, I have reviewed a comprehensive bio-psycho-social history prepared by Richard Ruffin, MSW.

### **Scope of Examination and Informed Consent**

Mr. Johnson was examined and tested in a quiet, private meeting room at the Potosi Correctional Center on January 12 and 13, 2016; and again on April 15, 2016 for a total of approximately twelve (12) hours.

He was advised that I have been retained by the Federal Community Defender's Office, and of the limits on his confidentiality in this forensic context. He was also advised that I might be asked to prepare a report and/or come to Court to testify about him. Finally I explained to him that I was not there to treat him for any problems that he might be having. He consented to participate in the examination with this understanding.

### **Tests and Procedures Administered**

Rey's 15-item Memory Test

Validity Indicator Profile

Test of Memory Malingering

Wechsler Adult Intelligence Scale - IV

Wide Range Achievement Test - IV

Wechsler Memory Scale -IV (Flexible Approach)

California Verbal Learning Test - II

Luria's Tests of Grapho-motor Sequencing and Inhibition

Luria's Tests of Motor Sequencing and Control

Wisconsin Card Sorting Test

Stroop Test

Tests of Verbal Fluency (F-A- S)

Animal Naming Test

Boston Naming Test

Hooper Visual Organization Test

Delis-Kaplan Executive Function System: Design Fluency Test



Copy Cross and Cube  
Reitan-Klove Sensory Perceptual Examination  
Trail Making Test, Parts A and B  
Tactual Performance Test  
Booklet Category Test  
Finger Tapping Test  
Grooved Pegboard Test  
d2 Test of Attention  
Barrett Impulsivity Scale - 11  
Time Estimation  
I-7 Impulsiveness Questionnaire  
Personality Assessment Inventory  
Minnesota Multiphasic Personality Inventory – II  
Clinical Interviews

### **Background Information**

Mr. Johnson experienced an extremely abusive and neglectful childhood, involving a drug abusing mother, and absent incarcerated father, abusive placements out of the home, and multitudinous contacts with social services.

His extensive history is very well summarized in the bio-psycho-social history prepared by Richard Ruffin, and will not be reiterated in detail here. Rather, only additional information he provided during the examination will be presented.

**Educational history.** He reported that he repeated the 12<sup>th</sup> grade due to missing finals, and was undertaking his fifth year of high school at the time of his arrest on the present charges. He stated that he obtained his GED while attending an Alternative School in county jail.

**Work history.** He described holding several short-term jobs in the fast food industry (McDonald's, Sonic, and White Castle).

**Medical history.** He stated that he has suffered from asthma since he was, "two or three." He also suffers from Raynaud's disease, a disorder of blood circulation in the extremities.

**Abuse history.** He described being physically abused by both his Aunt and his Grandmother, although his Aunt was the primary perpetrator, and his great-grandmother ultimately intervened with her to stop the abuse.

He reported that his Aunt would use a "thick switch off a tree," a belt, a baseball bat, or, "a paddle made at work" to beat him. He indicated that she had two paddles made at work for this purpose. He said that the bat was his toy. He was also made to "hop in the corner" on one leg for 1-2 hours, which he stated he hated worse than the whippings.

He indicated that the beatings varied each night from the time he was 6 until he was 17. It occurred nightly when he was younger, but decreased to weekly as he got older. He stated that the beatings usually occurred late at night when his Aunt would come home from work (10-11 pm).

When asked how this made him feel, he replied, "Terrifying. Especially when you know it's coming."

When asked if he felt he deserved it, he stated, "No, not really." He indicated that he felt that it was his Aunt's, "frustration over things going on in her life more than what I was doing."

He reported that the whipping would break the skin that would bleed at times. The paddle, switch, and belt left welts. She would treat his wounds with alcohol, peroxide, and ice.

### **Psychiatric History**

Mr. Johnson has a longstanding history of psychiatric disorders, including diagnoses of Major Depressive Disorder, psychosis, Attention Deficit Hyperactivity Disorder, and a severe impulse-control disorder.

**Risk factors for mental illness and brain dysfunction.** Notably, the same psychiatric disorders run in his family, which is significant due to the genetic risk that underlies these disorders.

His sister Kenesha was diagnosed with Intermittent Explosive Disorder and Bipolar Disorder, for which she was treated with psychotropic medications including Adderall, Guanfacine, Seroquel, and Depakote. [Spirit of St Louis Hospital records, 12/4/2001]

His father's twin brother Keith Johnson Bey also has an extensive psychiatric history, including hospitalization with diagnoses of Bipolar Disorder, and Schizophrenia, paranoid type. [Christian Hospital records, 11/23/2006] On 3/31/2006 he was taken to the Emergency Room and was involuntarily committed to the Metropolitan St. Louis Psychiatric Center. He is described as being irrational and paranoid (people were out to kill him, policeman took his money). He had to be placed in 4-point restraints and was medicated with Haldol (an anti-psychotic) and Ativan (a sedative and anxiolytic).

Treatment notes indicate that he was disorganized, agitated, his speech as rambling and incoherent, his mood was labile, he was producing "word salad" (a profound form of formal thought disorder associated with psychosis), and had paranoid ideation with impaired insight and judgment. He was diagnosed with a Psychotic Disorder NOS. [Metropolitan St. Louis Psychiatric Center records, p. 1455-1458; 1462]

This followed an event during which he flagged down a truck, jumped on it, and struck the driver. "He reported that 2 women were looking for him to set his vehicle on fire. He believes the police are trying to kill him." [Application for 96 Hour Immanent Harm Admission, bates 1470]

Mr. Johnson's neurodevelopmental history is also significant with regard to risk factors for mental disorder. His Daybreak Center records indicate that it was believed that he was drug exposed as an infant. [Daybreak Center records, bates DL001158]

It is reported that Kevin did not begin to walk until age two because his head was enlarged. [Father Dunne's Newsboy's School records, p. 44]

A psychological evaluation by Richard R. Taylor in May of 2001 when Mr. Johnson was 15, noted a history of closed head injury without loss of consciousness when he was three (3) years old, after a fall requiring stitches. In addition, he reported an accident when he was "four or five" years old when he fell on the concrete, losing consciousness and requiring stitches in his head. He reported experiencing multiple concussions without loss of consciousness while playing football in high school. Finally, he reported being hit in the forehead with a car jack during a fight, and being hit in the head and knocked to the ground, both without losing consciousness.

Notably, in in the same report to Family Services, Dr. Taylor notes that Mr. Johnson acknowledged a history of auditory hallucinations.

**Suicide history.** He reported that he attempted suicide while at St. Joseph's home for Boys when he was 13 or 14, "I tried to hang myself from a doorknob." He described this as a "serious" attempt that he undertook in response to feeling depressed, and "no love."

**Psychiatric hospitalizations.** Medical records from South Pointe Hospital indicate that Mr. Johnson's first psychiatric hospitalization was on 10/30/99 at age 13, following his father's release from prison. Treatment notes state that he was agitated, aggressive, and depressed. He exhibited poor eye contact, a flat and blunted affect, isolative behavior, and a depressed mood. He was diagnosed with Major Depression, Attention Deficit Hyperactivity Disorder, and Conduct Disorder; and treated with "psychotropic intervention," which included prescriptions for Ritalin (a stimulant used to treat ADHD), and Tofranil (brand name for imipramine, an anti-depressant).

On 12/29/99 he was again admitted to South Pointe from St. Joseph's Boy's Home presenting with an inappropriate affect, tangential thinking, poor insight, poor judgment, suspiciousness, and angry outbursts. He was treated for "agitation and explosive behavior" and continued being medicated with Ritalin and Imipramine.

**History of explosive impulsive behavior.** Across his history beginning in his teenage years, including during and after the events involved in the instant offense, there is persistent evidence that Mr. Johnson exhibited distinct episodes of pathological explosive impulsive behavior consistent with an impulse control disorder.

His bio-psycho-social history reflects acts of impulsive aggression directed indiscriminately at those in his environment, including both peers and adults.

Early notations in his records date to at least 1990. His Department of Family Services records include a note that states:

DFS became involve [sic] with Kevin since 1989. He was placed with his maternal great aunt for relative care placement in February 1990. He was non-compliant and had poor impulse control & would not follow directions while in the physical custody of his aunt. DFS gave support services to his aunt when needed. [DFS records]

By 1999, records reflect that "outbursts of violence against others" resulted in his removal from Daybreak Center. [Charles H Burns, MA, Boys Program Manager, DL001170]

That same year, therapy notes from St. Joseph's Residential Treatment Center document his lack of emotional resources and strategies to control his impulsive urges:

6-18-99: ... his difficulties clearly were more in the areas of impulse control and learning to sustain his attention span.

6-29-99: Kevin began with reporting that he had had a fight with a younger resident, R.J. Kevin then expressed how he actually liked this resident, but he did not know how to avoid the provoking behavior from escalating into a fight. ... Kevin is displaying the same difficulty following rules and limits here in the facility that he had when he was at home. He is impulsive and defiant, but often passively so. He needs lots of practice just to recognize his feelings, before he can even attempt to express or communicate them.

In January of 2003, he underwent a psychological evaluation for the Family Court, during which the examiner, Dr. Levin, noted his observations of impulse control problems:

He approached the tests effortfully, and some impulsivity was noted in his approach to problem solving. ... Kevin appears to be at risk for acting impulsively and with poor judgment in times

of stress. [Psychological evaluation, 1-8-03 age 17, p. 42-45]

Jason Clark, a childhood friend provides a somewhat more intimate description of Mr. Johnson's impulse control problems:

Kevin could be what I call emotionally impulsive. One minute he would seem fine and the next he would just fly out of control. It was like somebody flipped a switch. Once, we were shooting dice in the Park, Kevin and LB (Jamar King) were just talking about whether LB could take Kevin's car. Out of nowhere, Kevin snapped and punched LB. Kevin then returned to the game as if nothing had happened. None of us knew what made Kevin snap this way. It was a combustion [sic] of a lot of things.  
[Declaration of Jason Clark, bates 1477]

Michael Wade, Mr. Johnson's associate high school principal and football coach stated in his declaration:

"When the media reported about the trial, and things were said about Kevin being "in a trance" when he killed Sergeant McEntee, it reminded me of a time when Kevin was in trouble in high school. He was in the lunch room and a peer cut in front of him in the lunch line. Kevin punched the other student and knocked him to the ground, moved forward, got his lunch, paid for his lunch, sat down and began to eat. Kevin appeared to not realize what had just happened. He didn't respond to anyone until I got to him. This is an important memory for me because I never seen [sic] Kevin seem so unaffected after doing something that hurt another person. It was almost like he was not present.  
[Declaration of Michael Wade, 04/16/2016]

There is a distinctly dissociative quality to Mr. Johnson's behavior reflected in this account.

Similar descriptions of Mr. Johnson's behavior at the time of the instant offense are provided by witness Cecil Jones:

"I saw Kevin when I came back inside. I looked right at him. It was like he was somebody else. He looked possessed. I had never seen Kevin like this before. I could just tell from his demeanor that something was wrong. He even looked different physically. He was hyped up, and his eyes were opened really

wide. It didn't look like the Kevin I knew.

I still wonder what was going on with him mentally. There had to be something wrong. I don't understand how he could be Kevin his whole life, and then in that moment turn into somebody completely different. Then afterward, he went back to being Kevin. But that's what I saw. He changed into something else for just that moment. Whatever happened to him in those 20 minutes, only God knows." [Declaration of Cecil Jones, bates 1480]

These accounts are related to the facts of the instant offense, during which Mr. Johnson has testified that he "flipped out" and shot Officer William McEntee after his 12-year old brother's death, due to what he perceived and the officer's role in restraining his mother (preventing her from coming to his brother's aid) and allowing his brother to die.

In his 2009 psychological examination report, Dr. Levin again addresses his concern that his warning years earlier about Mr. Johnson's problems with impulse control had gone unaddressed:

In my evaluation of him at age 17, I said that he is prone to acting impulsively in times of stress, that he needed psychotherapy to address his history of loss and trauma, and that he would be at risk of future behavioral problems without that therapy.

### **Prior Cognitive and Psychological Testing**

Mr. Johnson has not previously had full neuropsychological examination, but did have intelligence testing during his childhood and early adulthood. Results from that testing have generally shown him to have average to above-average intellectual functioning, but with patterns of performance suggestive of difficulties in frontal lobe functions.

His test scores are summarized below:

<b>Year</b>	<b>Age</b>	<b>Doctor</b>	<b>Test</b>	<b>Verbal IQ</b>	<b>Performance IQ</b>	<b>Full Scale IQ</b>
1985	13	Fenger	WISC	98	98	97
1986	14	Unknown	Unknown	--	--	97
2003	17	Levin	WAIS-3	97	87	93
2008	22	Sneed	WAIS-3	108	110	110
2009	23	Cross	WAIS-3	111	124	117

Dr. Cross noted patterns of performance on his I.Q. testing suggestive of frontal lobe dysfunction:

The Verbal Comprehension Index Score of 110 and the Perceptual Organization Index Score of 121 reveal a difference of 11 points. This difference is statistically significant at the .05 level and suggests possible minimal brain dysfunction involving frontal lobe executive function. The Perceptual Organization Index Score 121 and the Working Memory Index Score of 97 differ by 14 points and is statistically significant at the .05 level. Again, possible difficulty in frontal lobe executive function is suggested. [Dr. Cross's 12/31/09 report, p. 6]

In 1985 when Mr. Johnson was 13, Dr. T. Nick Fenger administered a test for ADHD called the T.O. V.A. (Test of Variables of Attention) which indicated that presence of Attention Deficit Hyperactivity Disorder. He found that:

Kevin has an attention span of about five minutes. After that time his attention wanders and he has difficulty getting himself back in focus unless the task changes or someone reminds him to return to task. This is true whether it is a low or high demand task. This makes it difficult for him to sustain learning and may increasingly interfere with both his achievement and intellectual functioning. It has already shown up in his low object assembly score and shows that he lacks the ability to stay with a task long enough to complete it if he has to think about it for any length of time.

During a psychological evaluation in May of 2001 when Mr. Johnson was 15, Richard R. Taylor administered the Peabody Picture Vocabulary Test on which Mr. Johnson obtained an average score (92). On the Wide Range Achievement Test he was, "at or above grade level in all areas." [Taylor report, p. 4]

Psychodiagnostic testing at that time with the Millon Adolescent Clinical Inventory revealed a boy who was fearful, somber, withdrawn, sulky, and depressed:

Unfortunately, his inability to regulate his emotional controls and his feelings of being misunderstood only produce further tension with others and erratic moodiness on his part, results that



heighten his persistent unhappiness and depression.” [Taylor report, p. 4]

Dr. Sneed conducted a psychological evaluation for the DOC in 2008. He reported that the results from a neurocognitive screening test (Cognistat) were “unremarkable,” but that, “This test, however, cannot detect all cognitive deficits. Therefore, cannot [sic] be taken as conclusive evidence that brain pathology does not exist.”

Dr. Sneed also administered an MMPI-2 at that time, and concluded:

An assessment of his personality indicated that he has a pattern of cynicism, persecutory ideas, and aberrant or unusual experiences. He also scored is [sic] disorganized, bizarre, and circumstantial. [Dr. Sneed’s report, PC00006107]

### **Present Examination Findings**

#### **Behavioral Observations and Mental Status Examination**

Mr. Johnson is a 30-year-old, African-American man who presented for testing appearing fit and well-groomed, wearing prison issued scrubs. He had a long full beard and mustache, and his hair was styled in short braids. He is right-handed, and wore glasses. He had tattoos visible on both forearms.

He was well oriented to the world around him, knowing who he was, where he was, the correct date and time, and the reason for my being there. He was pleasant, cooperative, and effortful on all three days of examination and testing.

He was observed to be easily distracted, and to have a low tolerance for frustration leading him to give up easily at times.

He made good eye contact. There were no observable abnormalities of posture or gait.

He was quite soft spoken. His speech was clear and produced with a distinct regional accent.

His thoughts were expressed in a coherent, logical, and goal-directed fashion. There was no evidence of active psychosis, including hallucinations or delusions.

Emotionally, his observable affect was mildly dysphoric. He described his appetite as, "good," relating that he is, "into fitness," and watches what he eats. He reported sleeping 8-9 hours per day. He denied any recent changes in motor skills, cognition, speech, libido, or interest in social interactions. His underlying mood was inferred to be depressed. Insight was limited.

### **Neuropsychological Test Results**

#### **Data Validity**

In any forensic examination, it is critical to evaluate the level of effort being put forth by the examinee, in order to maximize confidence in the validity of the test results. For this reason, a battery of both free-standing and embedded measures of effort was administered to Mr. Johnson, interspersed throughout all three days of examination and testing.

The individual measures are summarized in the table below:

<b><u>Test</u></b>	<b><u>Result</u></b>
Validity Indicator Profile	
-Verbal subtest	Valid
-Non-verbal subtest	Valid
Reliable Digit Span	Valid
Bolter Index (Categories Test)	Valid
Rey's15 Item Memory Test	Valid
Test of Memory Malingering	Valid
CVLT-II Forced-Choice Trial	Valid

The results of these tests were all valid, indicating good effort by Mr. Johnson. The resulting neuropsychological data provide an accurate, valid, and reliable indication of his current level of neuropsychological functioning.

### **Test Findings**

Mr. Johnson's tests results were almost entirely within normal limits, with the exception of focal deficits in frontal lobe executive functioning. The test findings will be briefly summarized below.

**Intelligence.** Commensurate with his prior I.Q. testing, Mr. Johnson's Full Scale WAIS-IV I.Q. was in the Average range (108). His individual index scores are summarized in the table below:

#### **Composite Score Summary**

<b>Scale</b>	<b>Sum of Scaled Scores</b>	<b>Composite Score</b>	<b>Percentile Rank</b>	<b>95% Confidence Interval</b>	<b>Qualitative Description</b>
Verbal Comprehension	31	VCI 102	55	96-108	Average
Perceptual Reasoning	34	PRI 107	68	100-113	Average
Working Memory	25	WMI 114	82	106-120	High Average
Processing Speed	23	PSI 108	70	99-116	Average
Full Scale	113	FSIQ 108	70	104-112	Average
General Ability	65	GAI 104	61	99-109	Average

Confidence Intervals are based on the Overall Average SEMs. Values reported in the SEM column are based on the examinee's age.

The GAI is an optional composite summary score that is less sensitive to the influence of working memory and processing speed. Because working memory and processing speed are vital to a comprehensive evaluation of cognitive ability, it should be noted that the GAI does not have the breadth of construct coverage as the FSIQ.

An analysis of discrepancies between his Index scores is presented in the table below:

**Index Level Discrepancy Comparisons**

Comparison	Score 1	Score 2	Difference	Critical Value .05	Significant Difference Y / N	Base Rate Overall Sample
VCI - PRI	102	107	-5	8.32	N	37.1
VCI - WMI	102	114	-12	8.81	Y	18.1
VCI - PSI	102	108	-6	12.12	N	36.8
PRI - WMI	107	114	-7	8.81	N	31.8
PRI - PSI	107	108	-1	12.12	N	49.2
WMI - PSI	114	108	6	12.47	N	34
FSIQ - GAI	108	104	4	3.68	Y	23.3

Base rate by overall sample.  
 Statistical significance (critical value) at the .05 level.

The 12-point difference between his Verbal Comprehension Index (102) and his Working Memory Index (114) is significant, and reflects similar discrepancies noted on the WAIS-III administered by Dr. Cross in 2009.

An analysis of his individual subtest scores shows an area of weakness for Vocabulary:

**Differences Between Subtest and Overall Mean of Subtest Scores**

Subtest	Subtest Scaled Score	Mean Scaled Score	Difference	Critical Value .05	Strength or Weakness	Base Rate
Block Design	10	11.30	-1.3	2.85		>25%
Similarities	10	11.30	-1.3	2.82		>25%
Digit Span	11	11.30	-0.3	2.22		>25%
Matrix Reasoning	12	11.30	0.7	2.54		>25%
Vocabulary	9	11.30	-2.3	2.03	W	15-25%
Arithmetic	14	11.30	2.7	2.73		15-25%
Symbol Search	12	11.30	0.7	3.42		>25%
Visual Puzzles	12	11.30	0.7	2.71		>25%
Information	12	11.30	0.7	2.19		>25%
Coding	11	11.30	-0.3	2.97		>25%

Overall: Mean = 11.3, Scatter = 5, Base rate = 85.4.  
 Base Rate for Intersubtest Scatter is reported for 10 Full Scale Subtests.  
 Statistical significance (critical value) at the .05 level.

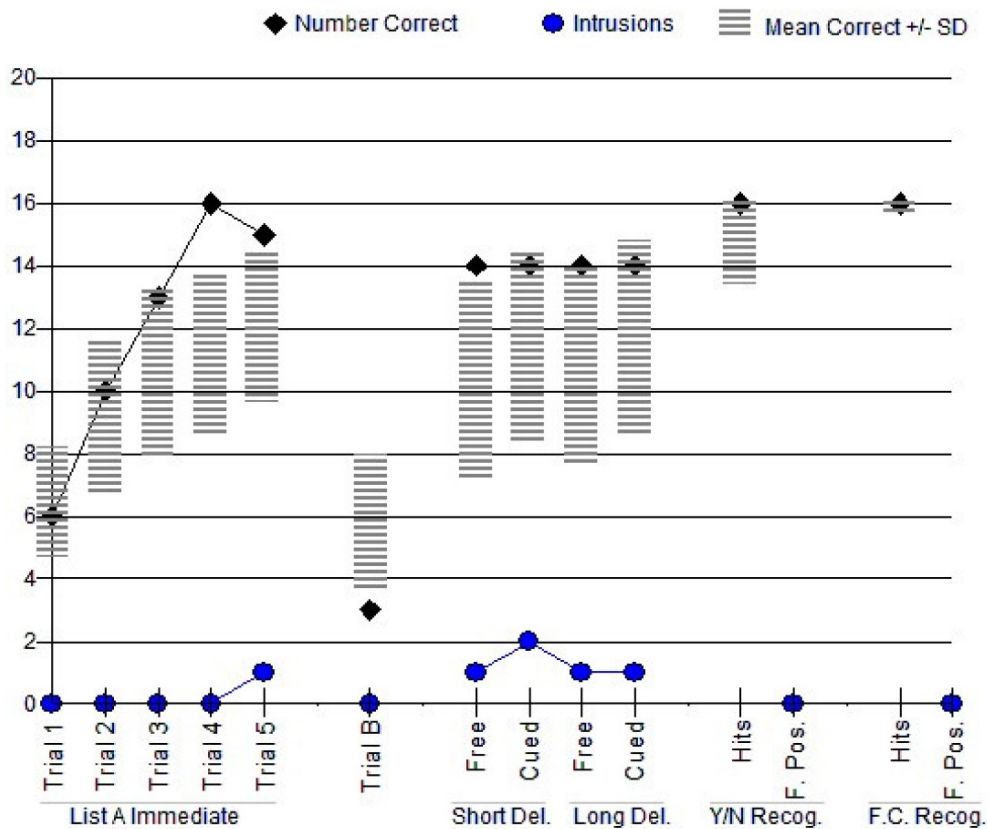
**Memory.** Tests of Mr. Johnson’s memory were also within normal limits. His scores on the Wechsler Memory Scale - IV are presented below:

**WMS-IV Flexible Approach Index Score Summary**

Index	Sum of Scaled Scores	Index Score	Percentile Rank	Confidence Interval	SEM	Qualitative Description
Immediate Memory (LMVR)	21	102	55	94-110	4.74	Average
Delayed Memory (LMVR)	18	94	34	88-101	4.5	Average
Auditory Memory (LM)	21	102	55	94-109	4.74	Average
Visual Memory (VR)	18	95	37	90-100	2.6	Average

His performance on the California Verbal Learning Test - II was average to above average:

*Raw Score Graph--Correct, Intrusions, Hits, and False Positives*



**Academic achievement.** Mr. Johnson's academic skills were assessed using the Wide Range Achievement Test – IV, which revealed functioning within the normal range (at or above the 12<sup>th</sup> grade level):

Word Reading	11.9
Sentence Comprehension	12.0
Reading Composite	SS=94 (Average)
Spelling	>12.9
Math Computation	>12.9

**Language functioning.** Mr. Johnson's naming ability was tested using the Boston Naming Test. He was able to accurately name 55 out of the sixty items, a performance within normal limits for his age and education.

**Visual perception.** His performance on the Hooper Visual Organization Test was normal (T=54). However, he did exhibit a classic frontal lobe sign, perceiving item 22 as a Pipe.

He exhibited mild to moderate constructional dyspraxia in his efforts to copy a geometric cube.

**Sensory perception.** His scores on the Tactual Perception Test were all within normal limits, indicating no impairment in tactual perception.

Similarly, no impairments were observed during the Reitan-Klove Sensory Perceptual examination.

**Motor functioning.** Both motor speed (Finger Tapping Test) and fine motor dexterity (Grooved Pegboard) were within normal limits.

**Attention and concentration.** Mr. Johnson's attention and concentration are within normal limits, as reflected by his performance on the Digit Span subtest of the WAIS-IV, and the D2 test of attention.

**Speed of information processing.** There was no indication on impairment in Mr. Johnson's processing speed. He had intact performances on the WAIS-IV Digit Symbol subset, and the Trail Making Test, Part A.

**Frontal lobe executive functioning.** The frontal lobes are the largest part of the brain, and subsume a variety of neurobehavioral functions. Mr. Johnson exhibited normal functioning in some aspects, and focal deficits in others.

His capacity for abstract problem solving and shifting ideas in response to feedback, (Categories Test, Wisconsin Card Sort), divided attention (Trails B), verbal fluency (F-A-S and Animal Naming), and grapho-motor sequencing (Luria's) were all intact.

However, he demonstrated specific impairments on tests tapping planning, cognitive flexibility, response inhibition, and impulse control. This included mild to moderate impairments seen on the Stroop Test, Design Fluency Test, and Hooper; and more significant impairments on the BIS-11, I-7, and time estimation tasks.

On the Stroop Test, he obtained mild-to-moderately impaired scores on the Word (T=33; bottom 5<sup>th</sup> percentile) and Color-Word (T=37; bottom 9<sup>th</sup> percentile) trials, although his Color Naming trial was within normal limits. On the Design Fluency Test, his Total Correct for Condition 1 was moderately impaired (SS=5; bottom 5<sup>th</sup> percentile); and his Total Correct for all three conditions was mildly impaired (SS=7; bottom 16<sup>th</sup> percentile), as was his Combined Empty + Filled Dots measure (SS=7; bottom 16<sup>th</sup> percentile). Notably his other scores were within normal limits on this test.

On the Barratt Impulsivity Scale – 11 his total score was 72 which would classify him as “Highly Impulsive.”<sup>1</sup> He produced elevated scores on all three subscales (Attention, Motor, and Non-Planning).

Similarly, on the I-7 Impulsiveness Questionnaire<sup>2</sup> he obtained scores that were one-and-a-half to almost two standard deviations above the

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<sup>1</sup> Matthew S. Stanford & Charles W. Mathias (2009). Fifty years of the Barratt Impulsiveness Scale: An update and review. Personality and Individual Differences Volume 47, Issue 5, October 2009, p. 385–395.

Barratt, E.S. (1994). Impulsiveness and Aggression. In Monahan, J. and H. J. Steadman (Eds.), Violence and Mental Disorder: Developments in Risk Assessment (pp. 61-79). University of Chicago Press, Chicago, IL.

mean, placing him in the top 2<sup>nd</sup> - 5<sup>th</sup> percentile in terms of impulse control (i.e., Mr. Johnson is more impulsive than 95-98 percent of people in the population based on this test).

On the time estimation test, Mr. Johnson consistently underestimated time intervals between two and 60 seconds, which is a hallmark indicator of frontally-mediated behavioral impulsivity.<sup>3</sup>

### **Psychodiagnostic Testing**

**Data validity.** Both of the objective psychodiagnostic tests used in this evaluation have built-in validity scales to detect any response bias on the part of the examinee.

In Mr. Johnson's case, the validity scales on both the PAI and the MMPI-2 indicated a problem-oriented approach to the test items, and possibly some subtle over-reporting in the service of making sure his problems do not go unnoticed. This pattern is seen in legitimate patients who are acknowledging unusual experiences, and the resulting profiles are valid for interpretation.

**Test Results.** Taken together, the MMPI-2 and the PAI results reflect a man with suicidal ideation, cognitive symptoms of depression, social detachment and estrangement, and a paranoid hypervigilance. He has a personality style that involves risk-taking, and a tendency to be quite impulsive.

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<sup>2</sup> Sybil B.G. Eysenck, P.R., Pearson, G. Easting, & J.F. Allsopp (1985). Age norms for impulsiveness, venturesomeness and empathy in adults. Personality and Individual Differences, Volume 6, Issue 5, 1985, p. 613-619.

<sup>3</sup> Marc Wittmann & Martin P. Paulus (2008). Decision making, impulsivity and time perception. Trends in Cognitive Neuroscience, 12 (1), p. 7-12

Séverine Perbal-Hatif (2012). A neuropsychological approach to time estimation. Dialogues in Clinical Neuroscience. 14(4): p. 425-432.

Mimura M, Kinsbourne M, O'Connor M. (2000). Time estimation by patients with frontal lesions and by Korsakoff amnesics. Journal of the International Neuropsychological Society, 6(5): p. 517-28.

Yoshiko K., Yuri T., & Satoshi U. (2013). Contribution of Frontal Lobe to Prospective Time Estimation. Higher Brain Function Research, 33, No. 1, p. 28-36



On the MMPI-2 he elevated on the schizophrenia, anxiety, and social introversion scales. Mr. Johnson is chronically tense, worried, agitated, and socially uncomfortable. He has poor social skills, poor judgment, and is withdrawn, isolated, and introverted. He feels a lack of rapport with other people. Schizoid or schizotypal adjustment is indicated.

### **Summary of Forensic Opinions**

Based on my review of the available materials and my examination and testing of Mr. Johnson, together with my education, training and experience, I have arrived at the following opinions to a reasonable degree of neuropsychological certainty:

- (1) Kevin Johnson is a man who was born into a violent, abusive, and neglectful environment, with a genetic predisposition to mental illness. It is very likely that he was drug-exposed as an infant based on his mother's history and the extant records. These facts placed him at increased risk for psychiatric and behavioral disorders from birth.
- (2) He experienced multiple closed head injuries beginning at an early age, both with and without loss of consciousness. Multiple closed head injuries like this also placed him at increased risk for psychiatric and behavioral disorders, as well as chronic brain dysfunction.
- (3) Mr. Johnson subsequently developed a number of mental disorders, including Major Depressive Disorder, Attention Deficit Hyperactivity Disorder, and psychosis; all of which have required treatment with psychotropic medications.
- (4) Like his sister Kenesha, it would appear that Mr. Johnson has suffered from an Intermittent Explosive Disorder (IED) since he was a teenager, although his IED has gone undiagnosed and untreated.
- (5) Intermittent explosive disorder, as defined in the DSM5, is characterized by recurrent episodes of serious assaultive acts that are out of proportion to psychosocial stressors, and are not better accounted for either by another mental disorder or by the physiological effects of a substance with psychotropic properties.

- (6) IED is characterized by maladaptive impulsive behavior, which can be defined as a, "predisposition toward rapid unplanned reactions to internal or external stimuli without regard to the negative consequences of these reactions to themselves or others."<sup>4</sup>
- (7) Aggression in individuals with IED is limited to impulsive aggression, is not premeditated, and is not committed in order to achieve some tangible objective (e.g., money, power, intimidation). [DSM5, p. 275] A review of Mr. Johnson's history of impulsive aggression is consistent with this.
- (8) Mr. Johnson's history of Attention Deficit Hyperactivity Disorder placed him at increased risk to develop IED. Data from the World Health Organization Composite International Diagnostic Interview administered to a nationally representative sample of 9,282 people has shown that those with ADHD are three times more likely to have IED.<sup>5</sup>
- (9) His neuropsychological test data, while for the most part normal, do indicate a focal deficit in frontal lobe executive functioning characterized by impairments in planning, cognitive flexibility, response inhibition, and impulse control.
- (10) Focal frontal lobe dysfunction is associated with both aggressive dyscontrol<sup>6</sup> and IED.<sup>7</sup>

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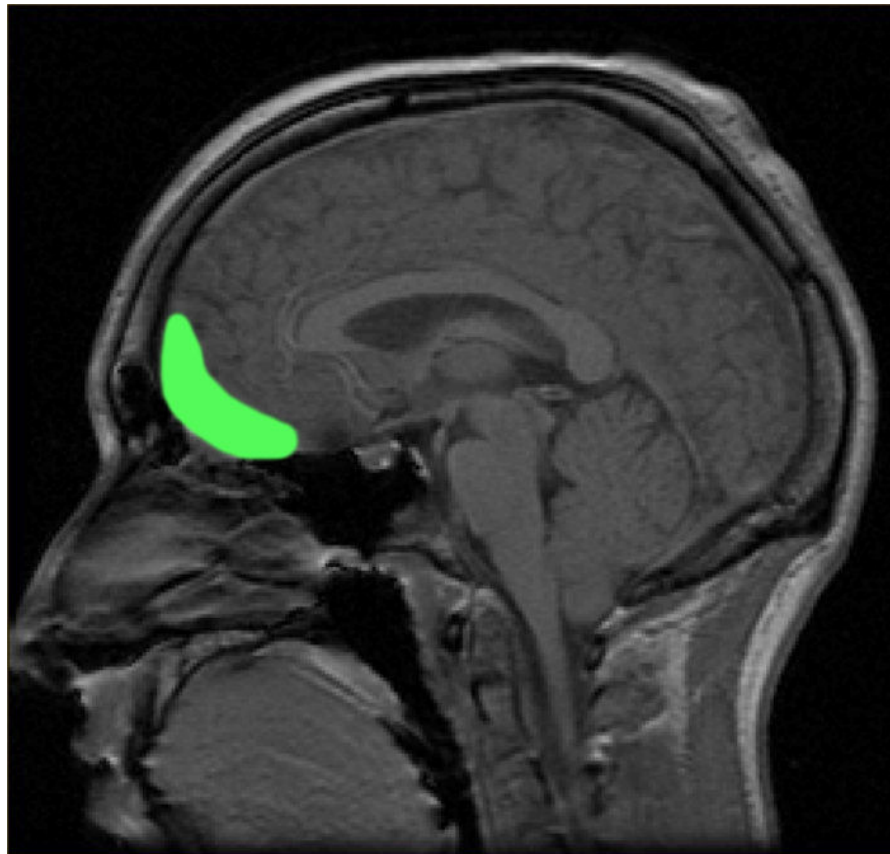
<sup>4</sup> F. Gerard Moeller, Ernest S. Barratt, Donald M. Dougherty, et al. (2001). Psychiatric Aspects of Impulsivity, American Journal of Psychiatry, 158 (11), p. 1783-1793.

<sup>5</sup> Malloy-Diniz, L.; Fuentes, D.; Leite, W. Borges; Correa, H.; Bechara, A. (2007). Impulsive behavior in adults with attention deficit/hyperactivity disorder: Characterization of attentional, motor and cognitive impulsiveness. Journal of the International Neuropsychological Society, Vol 13(4), 693-698.

<sup>6</sup> M C Brower, & B H Price (2001). Neuropsychiatry of frontal lobe dysfunction in violent and criminal behaviour: a critical review. Neurology, Neurosurgery, Psychiatry, 71: p. 720-726.

<sup>7</sup> Mary Best, J. Michael Williams, and Emil F. Coccaro (2002). Evidence for a dysfunctional prefrontal circuit in patients with an impulsive aggressive disorder Proceeding of the National Academy of Science U S A, 99(12): p. 8448-8453.

- (11) Research indicates that prefrontal patients, unlike control subjects, are oblivious to the future consequences of their actions, and seem to be guided by immediate prospects only.<sup>8</sup> This is important to understanding Mr. Johnson's behavior at the time of the instant offense.
- (12) Emotional processes underlie our decisions about moral right and wrong. To the extent that one's emotional processing is impaired due to psychiatric and neuropsychological disorders, neuroscience offers a unique perspective on an individual's capacity for moral decision-making. There is neuroscientific evidence implicating the ventromedial prefrontal cortex (VMPC), a brain region known to be important for emotional processing, in one's capacity for moral cognition.



<sup>8</sup> Ciaramelli, E., Muccioli, M., Làdavas, E., & di Pellegrino, G. (2007). Selective deficit in personal moral judgment following damage to ventromedial prefrontal cortex. *Social Cognitive and Affective Neuroscience*, 2(2), 84-92.

- (13) Studies of clinical populations, including patients with VMPC damage, reveal an association between impairments in emotional processing and impairments in moral judgement and behavior.<sup>9</sup>
- (14) Emotional states of arousal differentially effect cognitive control, providing a better understanding of the effects of situational and pathological states of arousal on behavior.<sup>10</sup> Not only are emotions engaged during moral cognition, but those emotions, particularly those mediated by VMPC, are in fact critical for human morality.
- (15) The combination of Mr. Johnson's psychiatric disorder, ADHD, frontal lobe impairment, and IED greatly contributed to his history of explosive, impulsive aggression, including his behavior during the instant offense. To the extent that Mr. Johnson's behavior was driven by his impulse control disorder, his moral compass was effectively "offline" at the time of the instant offense. This could have been raised as a mitigating issue with regard to his moral culpability at the time of the offense.
- (16) This understanding of Mr. Johnson's mental state at the time of the offense was not presented at trial, but could have been of great interest to those sitting in judgement of his crime, and of the appropriate penalty to be imposed.

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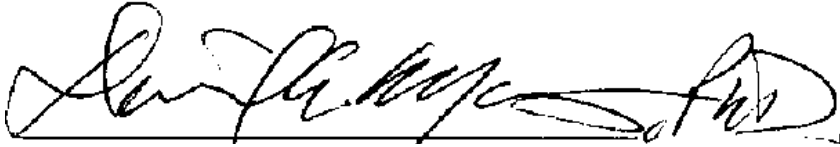
<sup>9</sup> Liane Young, & Michael Koenigs (2007). Investigating emotion in moral cognition: a review of evidence from functional neuroimaging and neuropsychology. British Medical Bulletin, 84 (1): 69-79.

Manuela Fumagalli, & Alberto Priori (2012). Functional and clinical neuroanatomy of morality. Brain: A Journal of Neurology, 135: 2006-2021.

<sup>10</sup> Alexandra O. Cohen<sup>1</sup>, Danielle V. Dellarco<sup>1</sup>, Kaitlyn Breiner, et al. (2016). The Impact of Emotional States on Cognitive Control Circuitry and Function. Journal of Cognitive Neuroscience, Vol. 28, No. 3, p. 446-459.

Thank you for the opportunity to evaluate this interesting case. If you have any questions, please feel free to contact me directly any time at (949) 230-7321.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel A. Martell". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel A. Martell, Ph.D., A.B.P.P.  
Fellow, American Academy of Forensic Psychology  
Fellow, National Academy of Neuropsychology  
Fellow and Past President, American Academy of Forensic Sciences

**Death Sentences and Executions, by Age Group, United States and Missouri, 1972-2022<sup>1</sup>**

Year	US Death Sentences	MO Death Sentences	US Under 18 Death Sentences	MO Under 18 Death Sentences	US Under 21 Death Sentences	MO Under 21 Death Sentences	US Executed	MO Executed	US Under 18 Executed	MO Under 18 Executed	US Under 21 Executed	MO Under 21 Executed
1972	4	0	0	0	1	0	0	0	0	0	0	0
1973	43	0	1	0	5	0	0	0	0	0	0	0
1974	152	0	12	0	22	0	0	0	0	0	0	0
1975	261	0	12	0	32	0	0	0	0	0	0	0
1976	208	0	9	0	27	0	0	0	0	0	0	0
1977	143	0	7	0	27	0	1	0	0	0	0	0
1978	203	0	6	0	37	0	0	0	0	0	0	0
1979	157	3	3	0	25	0	2	0	0	0	0	0
1980	178	3	7	0	31	1	0	0	0	0	0	0
1981	236	7	7	0	34	2	1	0	0	0	0	0
1982	265	9	13	1	41	0	2	0	0	0	0	0
1983	251	3	4	0	35	1	5	0	0	0	0	0
1984	282	7	5	0	37	0	21	0	0	0	1	0
1985	271	9	7	0	45	1	18	0	1	0	3	0
1986	314	10	9	1	43	1	17	0	2	0	1	0
1987	279	10	3	0	31	1	25	0	1	0	4	0
1988	301	17	4	0	33	1	11	0	0	0	1	0
1989	249	4	2	0	30	0	16	1	0	0	3	0
1990	250	5	6	0	28	0	23	4	1	0	1	0
1991	262	13	7	0	39	1	14	1	0	0	1	0
1992	265	6	6	0	45	0	31	1	1	0	4	0
1993	285	6	7	1	56	2	38	4	4	1	6	1

<sup>1</sup> Frank R. Baumgartner, Richard J. Richardson Distinguished Professor of Political Science, University of North Carolina at Chapel Hill (updated May 12, 2022)

1994	297	7	16	1	61	1	31	0	0	0	4	0
1995	309	9	12	0	64	1	56	6	0	0	7	0
1996	304	9	12	0	53	0	46	6	0	0	7	2
1997	265	10	8	1	52	1	74	6	0	0	11	0
1998	292	5	13	0	59	0	68	3	3	0	8	1
1999	271	7	13	0	49	1	98	9	1	0	20	2
2000	224	2	11	0	38	0	85	5	3	0	13	0
2001	162	5	4	0	24	1	66	7	1	0	9	1
2002	166	2	3	0	24	0	71	6	3	0	10	1
2003	153	3	0	0	23	1	65	2	1	0	9	0
2004	124	3	2	0	18	0	59	0	0	0	12	0
2005	132	2	0	0	11	0	60	5	0	0	6	0
2006	110	1	0	0	18	0	53	0	0	0	11	0
2007	127	0	1	0	18	0	42	0	0	0	13	0
2008	115	4	0	0	20	1	37	0	0	0	9	0
2009	110	2	1	0	15	0	52	1	0	0	11	0
2010	106	0	0	0	12	0	46	0	0	0	10	0
2011	80	0	0	0	9	0	43	1	0	0	11	0
2012	75	1	0	0	10	0	43	0	0	0	7	0
2013	80	3	0	0	6	0	39	2	0	0	4	0
2014	67	0	0	0	4	0	35	10	0	0	4	0
2015	47	0	1	0	5	0	28	6	0	0	5	0
2016	32	0	0	0	2	0	20	1	0	0	6	0
2017	39	1	0	0	7	0	23	1	0	0	8	1
2018	42	1	0	0	1	0	25	0	0	0	2	0
2019	32	0	0	0	2	0	22	1	0	0	3	0
2020	20	0	0	0	0	0	17	1	0	0	4	0
2021	18	0	0	0	0	0	11	1	0	0	1	0
2022	2	0	0	0	0	0	6	1	0	0	2	0