

JACK L. POTTS, M.D.

Forensic Psychiatry

October 1, 1992

The Honorable James E. Chavez
Mohave County Superior Court
Division 4
401 East Spring Street
Kingman, AZ 86401

RE: CR 13057
State v. Roger Wayne Murray

Dear Judge Chavez:

This is in reference to the above-named defendant. Your Court requested that I perform an evaluation prior to sentencing on Mr. Murray. I saw the defendant for this evaluation on three separate occasions, on September 20 and 21, 1992. At that time he was housed at the Mohave County Jail. Of course, throughout my interviews with Mr. Murray he was aware that I was performing a report for the Court and therefore our discussions would not be privileged. In addition to having a brief conversation with the defendant's mother, Ms. Brenda Murray, I reviewed multiple documents as provided to me in this matter by both counsel for the State and for the defense. Those documents included:

- 1) Mohave County Adult Probation records, including a PSI and various letters;
- 2) Mohave County Police reports;
- 3) Records from the Alabama Board of Pardons and Paroles, as well as the Alabama prison system;
- 4) Mental health evaluations conducted on the defendant from 1984 until the Spring of this year;
- 5) Medical records from Birmingham, Alabama;
- 6) Juvenile records of the defendant from Alabama;

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- 7) A brief autobiographical statement written by the defendant; and
- 8) Incomplete school records.

DEVELOPMENTAL HISTORY

The defendant was born in Detroit, Michigan as the third offspring of the union of Ken and Brenda Murray. His birth on July 28, 1970 was related as uncomplicated. There was no history of maternal alcoholism or illicit substance abuse during gestation. The Murrays moved from the Michigan area to northwestern Alabama and resided there until his incarceration in Kingman, Arizona.

I did not have much information referencing the defendant's preschool years, but he was consistently known to be hyperactive. He could not sit down for any length of time and was active on the ranch that his family moved to when he was relatively young. On the ranch and even after they left it, the father was known as a strict disciplinarian who would use corporal punishment on a frequent basis. The defendant's mother was overprotective and would cover up for her two sons in order to protect them from the abuses of their father.

For the first few years of public education, the defendant was quite active in PeeWee Football. Apparently, the team of which he was a member became the State champs, something that the defendant felt would cause his father to be proud of him. However, his father continued to remain at arms length and primarily in the role of a disciplinarian with Roger.

The defendant did not attend school on a regular basis through the latter part of his public education. He frequently would get in fights and even characterized himself as the school bully. He found school boring and apparently only did well in physical education activities. He relates to having sustained multiple fractures as a child, which is obviously related to his high energy level and propensity to get involved in physically demanding activities.

There was very little role modeling by the father during his son's youth. The mother, while being protective and loving, certainly was not confrontive or assertive in reference to Roger's inappropriate behavior. The father was active with his ranch and then later with a nightclub he owned. During these times it appears that Ken Murray was not only involved in bookmaking, but also with various women in extra-marital affairs.

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Roger Murray's medical history is significant for the multiple fractures he sustained. It is also significant for having had surgery secondary to axe trauma suffered on his foot. At the age of 12 he relates having had a fever which caused him to have hallucinatory visions. However, he denies any knowledge of generalized grand mal seizure episodes.

Even though the family changed households on many occasions while he was a youngster, they continued to live within the northwestern Alabama area. The defendant attended at least three grade schools and, later on, three junior high schools, partly because of their continued moves. He was never placed on medications to control his hyperactivity while he was in school. He continued to have fights and towards his early teens, began to "ditch" school more frequently. He denied any episodes of running away from home. He admits to frequent experimentation with alcohol, illicit drugs and toxic vapors in his early teens.

HISTORY OF ANTISOCIAL CONDUCT

The defendant first came to the attention of the police after a shoplifting incident at the age of 9. At the age of 14 he was charged with carrying a concealed weapon after having been caught with a handgun he brought to school. He was expelled from school at that time and placed in an "Attention Home for Boys."

In July of 1985, the defendant was placed in a juvenile detention facility after criminally damaging a graveyard with other youths. He was released from that facility in February of 1987. In approximately October of 1987 he was charged with unauthorized use of a vehicle for which he was granted probation.

In the summer of 1988, the defendant was charged with taking an air conditioning unit off someone's abandoned trailer. He was also charged with a robbery involving a weapon. At that time he was transferred to adult court where he was sentenced to the Department of Corrections for a period of four years. He was released from prison in January of 1990.

Various reports from Alabama indicate that the defendant, even as a juvenile, was fond of weapons. His work history is insignificant except for working as a child with his father, either on the ranch or as a "barback" at his father's club. The defendant was never married but may have been the father of a child produced by one of his ex-girlfriends.

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MENTAL STATUS EVALUATION

Mr. Roger Murray presents as a 22-year-old relatively thin, single Caucasian male who was dressed in routine jailhouse garb. He was not particularly spontaneous, but his thought processes were goal-directed and intact throughout our conversations. There was no evidence that he was suffering from perceptual disturbances such as auditory or visual hallucinations. He denied any previous history of psychiatric hospitalizations. He denied any known family history of psychiatric hospitalizations or of suicide. The defendant notes that he has an older brother who is now 27 years of age and is his co-defendant. He also has one sister, Shonna, and another, Angie. Shonna is 25 years of age and Angie is 19. The defendant relates that he had frequent contact with his half brother, Pat, throughout his teenage years. The defendant's memory was grossly intact for both recent and remote events. The defendant's affect was relatively appropriate but somewhat guarded throughout our interviews. The defendant was obviously alert and oriented to his name, the date, our location and the general reason for our interview throughout my contacts. His cognitive abilities which have been tested as variable appear to be grossly within normal limits. He was neither homicidal nor was he suicidal at the time of my interview. The defendant's abilities to abstract and conceptualize were unimpaired.

Mr. Murray notes he was quite hyperactive as a child. He also relates to having had difficulties with enuresis until approximately 15 years of age. Whereas other children might wet the bed, he in fact would get up in the middle of the night and urinate in the corner of the room. There were also a number of times when the defendant had a loss of consciousness. A couple of these episodes apparently were related to physical fights whereas another was when he was accidentally hit by a "cross-tie" while moving it. The defendant denied auditory hallucinations but did admit to at times talking with his subconscious and having labeled it as "George." Mr. Murray notes that his olfactory sense is diminished. However, he relates to having a short fuse and often experiencing what he calls blackouts prior to or around the time he "goes off." The defendant notes that he often gets out of control and will go on a violent, potentially self-destructive streak. This is corroborated by an episode at the Mohave County Jail on December 1, 1991, wherein the defendant apparently spent up to 7 hours wreaking havoc within the cell block. He notes that after these incidents he feels tired and relaxed.

As indicated above, Mr. Murray's history of substance abuse is significant. He started using alcohol at or prior to the age of 12. He was using toxic vapors into his mid-teens and graduated

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into cannabis, cocaine and other illicit substances. In fact, on the day of the alleged offense the defendant had been abusing alcohol and states he had been also using cocaine.

REVIEW OF PAST EVALUATIONS

Roger has undergone numerous evaluations. The first dates back to the winter of 1984 when he was evaluated at the River Bend Center for Mental Health. This evaluation was conducted by Dr. Joseph P. Sides, a consulting psychologist. At that time it was noted that the defendant's mother was overly defensive of the defendant and took his side against the father. It was also noted that the defendant's I.Q. was disparate in that his verbal I.Q. was 84 and performance 100 which is a significant difference. The concluding remarks were that Dr. Sides felt there would be increasing difficulty unless some drastic actions were taken. His diagnosis was that of a conduct disorder, undersocialized and aggressive. Approximately 10 months later Roger was again evaluated, this time by the Alabama Youth Services Diagnostic and Evaluation Center. The examination was conducted by Ms. Mary Sweeny, M.S., and Dr. Thomas L. Boyle, a licensed psychologist. Again there was noted a major discrepancy in his I.Q. score with a full scale of 99 and a verbal I.Q. of 86, with a performance I.Q. of 114. He was diagnosed at that time as having a conduct disorder.

Dr. Ronald Smith of Lake Havasu City saw Mr. Murray for defense counsel in April of 1992. The I.Q. scores at that time (which can be relatively sensitive to brain damage) showed the defendant as being in the borderline intellectual function range, again with a significant spread between his low verbal and relatively high performance scales. Dr. Smith noted that reports yielded "some indications of generalized left hemisphere cortical dysfunction. However, the computer analysis also suggested that a possible subcortical disorder involving attention focusing problems could have contributed to his intellectual difficulties." He made a diagnosis of abuse of various substances, as well as attention deficit/hyperactivity disorder. The Axis II diagnosis was anti-social personality disorder.

Dr. Eugene Almer of Scottsdale, Arizona saw Mr. Murray on April 24, 1992. His diagnosis was traumatic stress disorder symptomatology, as well as antisocial personality traits. He also had a history in 1990 of a cerebrovascular accident, quite probably secondary to PCP ingestion. The diagnosis of CVA was also consistent with medical records obtained from Birmingham, Alabama.

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PSYCHODYNAMIC FORMULATION

The defendant was reared in a rather chaotic household where his best friend was neither his father nor his older brother, but his younger sister. He learned to lie to avoid his father's overpunitive reproaches. His mother also reinforced his lying by siding with her children against their father. His noted level of hyperactivity contributed to his inability to bond with his father as well as his multiple needs for medical intervention because of fractures. The infidelity of his father, as well as the divorce of his parents when he was 14 contributed to the acting out antisocial behavior noticed at that age.

BIOLOGIC FORMULATION

It is clear that the defendant suffers from an attention deficit/hyperactivity disorder. He has been hyperactive throughout his life. This contributed to a lack of bonding and inability to attend appropriately to school activities. He was never treated for this disorder, nor were there any accommodations made for him within the school system. Multiple head injuries sustained throughout his youth quite probably contributed to further deterioration in reference to his ability to control impulses; he is also possibly having seizure episodes which have been masked as uncontrollable violence.

Alcohol and other substances very well may initially have had more of a soothing, self-medicating effect, but probably contributed to a decrease in his impulse control. His abilities to conform his conduct to the requirements of the law are markedly diminished because of illicit substance abuse. Furthermore, based upon the defendant's descriptions of the "blackouts" occurring around his violent rages, as well as his decreased olfactory sense and the history of repeated head trauma, there is further evidence for a seizure-like phenomena that contributes to his episodic violence.

OVERALL SUMMARY

The defendant's life has been directed by what is quite probably an organic brain disorder. The psychological testing conducted upon the defendant since he was 14 is consistent with brain damage. It manifests as hyperactivity, poor impulse control, a short fuse, violent rages, and increased susceptibility to the effects of alcohol and other illicit substances. Had he been in a more understanding and caring environment where there was less conflict and abuse, he may have been referred for and accepting of medical treatment. However, this was not the case and I believe his personality style rigidified by his mid to late teenage years with

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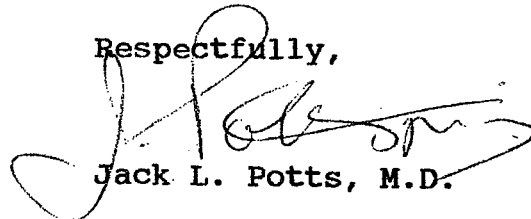
an antisocial pattern. Had it not been for the biological substrate upon which this personality was developed, the defendant and his victims may not have been condemned.

RECOMMENDATIONS

Even though the defendant meets the criteria for an antisocial personality disorder and has been labeled as "dangerous" since he was 14, one cannot ignore the attention deficit/hyperactive disorder from which he suffers. The psychological testing since his mid-teens is consistent with brain damage which clearly contributes to his inability to exist within society. He never had the time nor the training to permit him to reflect upon various courses of action and their outcomes. Today the defendant would have been treated with medications and placed within an appropriate school setting which would help instill those needed skills. And, even though I believe he should be away from society for the rest of his life, it is also certain that the defendant's biologic predisposition to hyperactivity in addition to his less than nurturing childhood have made him not as much a master of his own fate as others would have you think. He is a victim of his own brain's hard wiring, and because of this, I believe a non-aggravated sentence should apply.

Of course I remain available to the Court if there are any further questions.

Respectfully,



Jack L. Potts, M.D.

JLP:bjc