VOLUME EIGHT OF TEN
[PP 3501-4000]

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STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
(Capital PCR 2006-CP-23-7719)
The Honorable D Garrison Hill, Circuit Court Judge

Kamell Delshawn Evans, #6016,

Respondent/Petitioner,

v

State of South Carolina,

Petitioner/Respondent

APPENDIX

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Cincinnati, and University of Washington

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Lead exposure linked to delinquency

Tuesday May 16 2000
By Lucy Chubb

Children who are exposed to lead while growing up are at greater risk of developing delinquent behavior patterns, according to a new study

Herbert Needleman, professor of pediatrics and psychiatry at the University of Pittsburgh, reported his findings Monday morning at the 2000 Pediatric Academic Societies and American Academy of Pediatrics Joint Meeting in Boston, Massachusetts Needleman is well known for his many studies on the effects of lead in children

Using a special X-ray technique, Needleman measured bone lead levels in the tibias of 216 youths convicted in the Juvenile Court of Allegheny County, Pennsylvania, and of 201 Pittsburgh high school students who did not tend toward delinquent behavior

The results showed that the delinquent youths had significantly higher mean concentrations of lead in their bones - 13 7 parts per million - than the control group This held true whether the individual was white, black, male or female

"This study provides further evidence that delinquent behavior can be caused, in part, by childhood exposure to lead " said Needleman "Of all the causes of juvenile delinquency, lead exposure is perhaps the most preventable These results should be a call to action for legislators to protect our children by requiring landlords to not simply disclose known instances of lead paint in their properties, but to remove it "

Needleman s work on the impact of lead on child behavior and development has been instrumental in bringing about nationwide bans of the metal in paint, gasoline and food and beverage cans

Research conducted by Needleman in 1979 showed that children with high lead levels in their teeth, but no outward signs of lead poisoning, had low IQ scores, short attention spans and poor language skills

Another Needleman study published in 1996 found that boys with relatively high levels of lead in their bones were more likely to engage in antisocial activities like bullying, vandalism, truancy and shoplifting

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nking Brain Dysfunction to
sordered/Criminal/Psychopathic Behavior

Vol 9, No 1, 2003 Page 7

New findings again link lead, delinquency

A new study adds to evidence strongly implicating high lead levels as a risk factor for criminality

Herbert Needleman et al conducted a case-control study of 194 delinquents between the ages of 12 and 18, and 146 non-delinquent controls The researchers controlled for a variety of socioeconomic factors including parent education and occupation, family structure, race, and neighborhood crime rate

Measuring the children's bone lead using K-line X-ray fluorescence in order to determine cumulative lead exposure, the researchers found that after adjusting for socioeconomic variables, "adjudicated delinquents were four times more likely to have bone lead concentrations greater than 25 parts per million than controls "

They conclude, "Elevated body lead burdens, measured by bone lead concentrations, are associated with elevated risk for adjudicated delinquency "

The new findings are consistent with research reported several years ago by Needleman et al (see related article, *Crime Times*, 2000, Vol 6, No 3, Page 2) At that time, the researchers evaluated 216 delinquents and 201 non- delinquent youths and found that convicted juveniles were nearly twice as likely as control subjects to have high bone-lead levels

---

"Bone lead levels in adjudicated delinquents a case control study," Herbert L Needleman, Christine McFarland, Roberta B Ness, Stephen E Fienberg, and Michael J Tobin, *Neurotoxicology and Teratology Vol 24, No 6,* November-December 2002, 711-17 Address Herbert Needleman, Western Psychiatric Institute and Clinic, University of Pittsburgh School of Medicine, Keystone Building, Suite 310, 3520 Fifth Avenue, Pittsburgh, PA 15213

ng Brain Dysfunction to
dered/Criminal/Psychopathic Behavior

Vol 8, No 2, 2002 Page 7

Lead again tied to delinquency

A large-scale, prospective study of the effects of lead exposure on delinquency adds to a growing body of evidence linking high lead levels to criminal behavior

Kim Dietrich and colleagues began following their subjects between 1979 and 1985, before the children were born Blood lead levels were provided by the mothers during pregnancy, and the children's lead levels were checked every three months from birth to age six The majority of the children were African-American, and 53 percent were male

Between 1997 and 1999, 195 of the now-adolescent children were re-evaluated "Adolescents with the highest blood lead concentrations when they were first graders reported, on average, 4 5 more delinquent acts in the previous 12 months compared to children with the lowest blood lead concentrations as first graders," Dietrich et al say Exposure to lead correlated with antisocial behavior even after the researchers adjusted for birth weight, parental IQ, social class, and quality of home environment

The researchers conclude, "It appears that the neurodevelopmental effects of this avoidable environmental disease of childhood may not be limited to declines in IQ or academic abilities "

The study supports earlier findings of Herbert Needleman (see Crime Times Vol 6, No 3, 2000, p 2), (see related article, *Crime Times*, 2000, Vol 6, No 3, Page 2), who reported in a large-scale study in 2000 that convicted juveniles were nearly twice as likely as control subjects to have high bone-lead levels

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"Early exposure to lead and juvenile delinquency," K N Dietrich, R M Douglas, P A Succop, O G Berger, and R L Bornschein, *Neurotoxicology and Teratology, Vol 23,* No 6, November-December 2001, 511-8 Address K N Dietrich, Department of Environmental Health, Division of Epidemiology and Biostatistics, University of Cincinnati College of Medicine, Cincinnati, OH 45267-0056

-- and --

"Study links lead exposure to antisocial behavior," press release, Children's Hospital Medical Center of Cincinnati, February 28, 2002

INTERVIEW WITH CHRISTINA RODRIGUEZ AND DR PAM CRAWFORD (INVESTIGATOR ANTONIO BAILEY PRESENT) AT THE GREENVILLE COUNTY LAW ENFORCEMENT CENTER
4/2/03 03-51978

PC I'M A PYSCHIATRIST I'M A DOCTOR AND WHAT I DO IS I WORK FOR LAW ENFORCEMENT I WORK FOR SLED AND SORT OF MY JOB IS TO TRY AND PIECE TOGETHER WHAT I CAN ABOUT WHAT HAPPENED

CR UH-HUH (AFFIRMATIVE)

PC AND YOU KNOW HIM (KAMELL EVANS) BETTER THAN ANYBODY DOES I TALKED WITH HIS COACH I TALKED WITH THE FELLOW OVER THERE, WHAT'S HIS NAME?

CR NICK.

PC NICK

CR UH-HUH (AFFIRMATIVE)

PC WERE HE AND NICK PRETTY TIGHT?

CR YES

PC OKAY, AND HOW, HOW ARE YOU FEELING ABOUT ALL THIS?

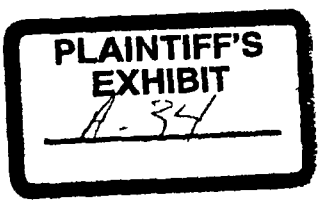
CR BAD THE SAD PART IS I'M REALLY MAD MAD AT HIM THAT'S HOW I FEEL AND THEN (LOUD NOISE) AND I THINK HE KNEW THAT CAUSE HE ELIMINATED THE TWO MOST FAVORITE PEOPLE IN MY LIFE

PC ARE YOU BEATING YOURSELF UP OVER THIS?

CR (CRYING) YES THERE'S A LOT OF WAYS, YOU KNOW, I COULD HAVE, YOU KNOW, PREVENTED IT

PC HOW COULD YOU HAVE PREVENTED IT? I MEAN, NOBODY COULD HAVE EVEN PREDICTED IT, MUCH LESS, HOW DO YOU FEEL LIKE YOU COULD HAVE PREVENTED IT?

CR WELL, MAYBE, YOU KNOW, LEFT HIM A LONG TIME AGO BUT I KEPT GOING BACK TO HIM AND GOING BACK TO HIM, YOU KNOW,



AND I FEEL BAD BECAUSE I WARNED MY BROTHER, I SAID, YOU KNOW HE'S CRAZY I SAID, YOU KNOW (LOUD NOISE) HE'S ALREADY THREATENED ME, YOU KNOW, (INAUDIBLE) BEFORE I GOT UP (INAUDIBLE) YOU KNOW NOBODY KNEW, I MEAN, HE COULDN'T BE AT HOME, YOU KNOW, TWENTY-FOUR HOURS A DAY YOU KNOW (CRYING) IT HURTS ME THAT I WASN'T THERE

PC DO YOU THINK IT COULD HAVE BEEN DIFFERENT IF YOU WERE THERE? WHAT COULD YOU HAVE DONE?

CR I DON'T KNOW HOW, I MEAN, IF HE WERE THAT MAD OR IF HE WERE TRYING, WHAT EVER HE WAS TRYING TO DO, I DON'T KNOW IF I WAS THERE HE WOULD HAVE GOT EVERYBODY

PC RIGHT

CR THAT'S WHAT I WAS THINKING BUT, I MEAN, I WOULD RATHER IT HAVE BEEN ME THAN (CRYING)

PC ALL RIGHT

PAUSE

PC DID YOU, UH, DID YOU SEE IT COMING AT ALL?

CR WELL, I GUESS I THOUGHT THAT, I MEAN, I THINK HE'S CRAZY YOU KNOW, HE WATCHED THE HOUSE EVERY TIME I LEFT THE HOUSE I WOULD LOOK OUT THE WINDOW I WAS WATCHING MY BACK ALL THE TIME HE I WAS TAKING MY SON TO SCHOOL AT DIFFERENT TIMES BECAUSE, HE SAID, YOU KNOW, I KNOW WHAT TIME YOU WERE GETTING OUT OF SCHOOL, I KNOW WHAT TIME YOUR MOM AND DAD GO TO WORK YOU KNOW, HE WAS SAYING STUFF LIKE THAT AND HE, HE DIDN'T DO ANYTHING ABOUT IT, YOU KNOW, HE'D THREATEN, HE'D THREATEN, HE'D THREATEN BUT, YOU KNOW, I'M LIKE OKAY HE'S A SANE PERSON AND HE'S NOT GOING TO ACTUALLY DO ANYTHING

PC OKAY WHEN DID YOU GUYS START DATING?

CR ABOUT THREE YEARS AGO

PC AND HOW DID Y'ALL MEET?

CR AT LIKE AT MCDONALD'S DRIVE-THRU

PC HOW DID YOU, HOW DID YOU MEET THERE?

CR HE JUST PULLED ME OVER, AND YOU KNOW, ASKED ME FOR MY PHONE NUMBER

PC OKAY

KNOCK ON DOOR

PC COME ON IN I'LL GET IT COME ON IN

INVESTIGATOR ANTONIO BAILEY ENTERS THE ROOM

BACKGROUND TALKING

PC OKAY, OKAY, COME ON IN IS THAT OKAY WITH YOU? OKAY

CR OKAY

LOUD NOISES

CR WELL, WHEN ME AND -- WE ARGUED A LOT LIKE I WOULD TRY TO COME TO HIM AND ASK HIM TO CALM HIM DOWN BECAUSE HE WAS LIKE, HE WAS LIKE PEOPLE, YOU KNOW HE NEVER WANTED TO SEE ANYTHING COME TO LIKE, HE WANTED EVERYTHING TO BE OKAY

PC OKAY

CR AND HE WAS THE TYPE OF PERSON THAT, LIKE, KAMELL WOULD LOOK UP TO BECAUSE, YOU KNOW, HE WAS DOING THE RIGHT THING AND HE WASN'T LIKE ALL HIS OTHER FRIENDS THAT WERE, YOU KNOW, OUT THERE PARTYING ALL THE TIME

PC OKAY

CR (CLEARS THROAT)

PC SO YOU GUYS MET ABOUT THREE YEARS AGO SO THAT WAS IN 1999?

CR UH-HUH (AFFIRMATIVE)

PC IN WHAT MONTH NOW?

CR JUNE OR JULY

PC AND DID YOU IMMEDIATELY START GOING TOGETHER?

CR YEAH, IT UH, YOU KNOW, LIKE ONCE IN A WHILE, HERE AND THERE IT WASN'T LIKE, YOU KNOW, HE WAS, YOU KNOW, WE WEREN'T LIKE, WE DIDN'T START DATING LIKE

PC RIGHT

CR YOU KNOW, IT TOOK A LITTLE WHILE TO YOU KNOW REALLY GET TOGETHER

PC AND SO WHEN DID Y'ALL START DATING?

CR UM, I MEAN, IT WAS LIKE, I DON'T KNOW, WE WERE PROBABLY MORE SERIOUS LIKE THE NEXT YEAR.

PC OKAY AND SO WHEN YOU SAY MORE SERIOUS THE NEXT YEAR, WHEN WOULD THAT HAVE BEEN, WHEN WOULD YOU SAY Y'ALL REALLY STARTED GETTING TOGETHER?

CR WELL, KIND OF LIKE, PROBABLY LIKE FEBRUARY OF 2000

PC SO FEBRUARY OF 2000 AND TELL ME WHAT THE RELATIONSHIP WAS LIKE

CR. WELL, I MEAN IT WAS FINE, EVERYTHING WAS OKAY, LIKE WE WOULD GO A LOT OF PLACES WE WOULD GO OUT OF TOWN AND STUFF, YOU KNOW, MY SON WOULD GO, HIS NEPHEW WE WOULD TAKE THEM, YOU KNOW

PC AND WOULD HE COME AROUND THE HOUSE MUCH?

CR HE DIDN'T REALLY BECAUSE UH, I MEAN, HE WASN'T, WE ALWAYS DID STUFF OUTSIDE THE HOUSE SO WE NEVER LIKE, YOU KNOW, CAME OVER AND MET MY PARENTS I MEAN, BUT HE DID SPEND LIKE HOLIDAYS THERE, LIKE THANKSGIVING AND CHRISTMAS BECAUSE A LOT OF TIMES, LIKE WELL HE WASN'T REALLY CLOSE WITH HIS DAD

PC UH-HUH (AFFIRMATIVE)

CR SO HE WOULD SPEND, YOU KNOW, THANKSGIVING WITH ME, LIKE HIS SISTER MIGHT BE IN CLEVELAND OR SOMETHING BUT HE CAME TO MY HOUSE FOR LIKE, YOU KNOW, THE BIG HOLIDAYS

PC WAS THERE ANY PARTICULAR REASON WHY YOU DIDN'T HAVE HIM AROUND THE HOUSE, OR --?

CR IT'S JUST THAT WE DIDN'T REALLY, LIKE HE WASN'T LIKE COMFORTABLE WHEN WE WERE OVER THERE

PC WHY?

CR WELL, I DON'T KNOW, IT WAS JUST, AND WE REALLY DIDN'T, YOU KNOW, JUST THINK ABOUT, YOU KNOW, HE WASN'T THE TYPE OF PERSON, LIKE TO MEET MY PARENTS

PC UH-HUH (AFFIRMATIVE)

CR YOU KNOW, HE WAS THERE FOR THE HOLIDAYS, BUT YOU KNOW, HE WOULD STAY FOR LIKE, LIKE TWO HOURS AND THEN HE WOULD GO BACK HOME

PC OKAY SO IN THE BEGINNING IT WAS WORKING

CR YEAH

PC AND SO Y'ALL GOT ALONG?

CR UH-HUH (AFFIRMATIVE)

PC AND HE WAS WORKING WHERE WAS HE WORKING?

CR HE DIDN'T TELL ME HE WAS WORKING HE WAS LIKE, I MEAN, HE TOLD ME ALL HE DID ALL DAY WAS, YOU KNOW, DEAL DRUGS

PC UH-HUH (AFFIRMATIVE)

CR NOBODY, I DIDN'T KNOW HE HAD A JOB BECAUSE ALL HE WOULD, YOU KNOW, HE WOULD BE GONE ALL DAY BUT I THOUGHT HE WAS OUT THERE DOING HIS THING OR WHAT EVER. I FORGOT WHAT YEAR, IT WAS ONLY LIKE, PROBABLY A YEAR AFTER I FOUND OUT THAT HE WAS REALLY WORKING AT UPS

PC WHAT KIND OF DRUGS WAS HE DEALING?

CR. LIKE, WEED AND, UH, I GUESS EVERY NOW AND THEN IT WAS COKE

PC DID YOU EVER SEE HIM DEALING?

CR I DIDN'T SEE HIM DEAL, I – HE SHOWED ME ONE TIME, THAT

YOU KNOW, HE HAD IT IN HIS BAG

PC WHICH –

CR BUT, YOU KNOW, I NEVER WENT OUT AND SEEN HIM DEALING IT

PC SURE WHAT DID HE SHOW YOU HE HAD IN HIS BAG?

CR LIKE, LIKE, YOU KNOW A POUND OF WEED OR LIKE LITTLE BAGGIES, YOU KNOW

PC OF COKE?

CR NO, WEED

PC ALWAYS WEED?

CR YEAH, IT WAS ALWAYS WEED LIKE ONCE IN A WHILE HE'D SHOW ME LIKE A FLASH OR A LITTLE WHATEVER HE HAD OF COKE

PC SO, AT SOME POINT, SO THINGS WERE GOING WELL, WERE YOU LIVING WITH HIM?

CR AT THE APARTMENT, HE HAD AN APARTMENT AT THE FAIRWAY CLUB I FORGOT WHAT YEAR. PROBABLY LIKE AUGUST OF 2000

PC OKAY

CR OR 2001 NO, AUGUST OF 2000

PC OKAY

CR AND THEN –

PC AND THEN YOU STARTED –

CR YEAH, I MEAN, I WOULD STAY OVER NIGHT THERE

PC RIGHT BUT HE WASN'T –

CR. I ALWAYS, I ALWAYS WENT BACK HOME I WAS ALWAYS BACK AND FORTH

PC OKAY AND WHEN DID, WHEN DID THERE START BEING PROBLEMS?

CR WHEN HE, UH, HE DECIDED, YOU KNOW, HE WANTED LIKE THE BIGGER THINGS HE, I MEAN, HE'D, A LOT OF TIMES, HE HAS CHEATED ON ME WHEN I FOUND OUT HE HAD CHEATED ON ME HE WOULD CHEAT ON ME ALL THE TIME

PC WHEN DID THAT START?

CR THAT, I MEAN, THAT STARTED WHEN I, I MEAN, I FOUND OUT LATER, I MEAN, IT STARTED WHEN I, WHEN WE FIRST STARTED GOING OUT HE WAS NEVER FAITHFUL SO, I MEAN, THE WHOLE TIME WE WERE TOGETHER HE CHEATED ON ME LIKE TWELVE TIMES

PC OKAY

CR AND THE WAY I AM, IS LIKE, ALL I KNEW ABOUT GREENVILLE WAS HIM I'D BEEN WITH ONE PERSON SO LONG, YOU KNOW, I NEVER BROKE IT OFF YOU KNOW, I STILL STAYED BECAUSE, YOU KNOW, I DIDN'T KNOW WHAT ELSE, YOU KNOW, I DIDN'T HAVE ANYTHING ELSE LIKE ALL MY FUN I HAD WITH HIM BUT I THOUGHT IF, YOU KNOW, I BROKE UP WITH HIM THEN, YOU KNOW, I WOULDN'T HAVE ANY FUN ANYMORE

PC WHEN YOU SAY FUN, WHAT WAS –

CR IT WAS LIKE, YOU KNOW, I WAS LIKE INSECURE I REALLY FEEL LONELY I FELT LIKE IF I LEFT HIM THAT I WOULD BE ALONE

PAGER BEEPING

PC IS THAT YOU? (SPEAKING TO INVESTIGATOR BAILEY)

PC SO YOU FELT LIKE YOU WOULD BE ALONE IF YOU DIDN'T HAVE HIM? WERE YOU NEW TO GREENVILLE?

CR I WASN'T THAT NEW

PC UH-HUH (AFFIRMATIVE)

CR BUT, I MEAN, I WAS BACK AND FORTH BECAUSE I MOVED HERE I FORGET THE YEAR, YOU KNOW, I'VE BEEN HERE PROBABLY LIKE SIX YEARS

PC OKAY

CR SO, THE FIRST YEAR I WAS HERE, YOU KNOW, I STAYED FOR ABOUT SIX MONTHS AND THEN I MOVED BACK TO CHICAGO

PC OKAY

CR AND THEN I CAME BACK BECAUSE MY SON WAS SICK. MY SON HAD A (INAUDIBLE) SEIZURE IN CHICAGO AND THEN MY MOM CAME THERE TO HELP ME AND SHE SAID, YOU KNOW, JUST COME BACK TO GREENVLLE AND YOU CAN STAY AT THE HOUSE

PC HOW WERE YOU IN CHICAGO?

CR I WAS DOING GOOD, I MEAN I WAS LIVING WITH MY BROTHER, YOU KNOW, WE HAD AN APARTMENT TOGETHER AND I WAS TAKING CARE OF MY SON, YOU KNOW AND HE WAS HELPING ME OUT

PC IN CHICAGO?

CR UH-HUH (AFFIRMATIVE)

PC OKAY

CR AND I WAS WORKING AND, YOU KNOW, DOING GOOD THERE

PC NOW, NOW, SO, SO, SO YOUR BROTHER WASN'T DOWN HERE? I MEAN HE WAS UP THERE FOR A WHILE?

CR HE, YEAH, YEAH HE WAS, HE CAME DOWN HERE PROBABLY ABOUT, PROBABLY NINETY, NINETY-EIGHT

PC OKAY, SO WHEN YOU, OKAY, WHEN YOUR PARENTS MOVED HERE –

CR UH-HUH (AFFIRMATIVE) MY DAD WAS THE FIRST ONE TO COME DOWN HERE FROM CHICAGO AND HE WAS LIVING IN AN APARTMENT HERE AND HE WORKED AT BEST BUY FOR A WHILE UNTIL HE FOUND A JOB, AND THEN THEIR HOUSE WAS BEING BUILT

PC OKAY

CR AND SO HE MOVED INTO THE HOUSE AND THEN, CAUSE I WAS PREGNANT AT THE TIME

PC RIGHT

CR SO MY MOM STAYED BEHIND IN CHICAGO WITH ME AND MY BROTHER IN AN APARTMENT AND THEN SHE STAYED UNTIL I HAD THE BABY AND HELPED ME TAKE CARE OF IT AND THEN WE CAME HERE FOR A LITTLE WHILE BUT THEN I WAS LIKE OKAY, I DON'T LIKE IT HERE SO I MOVED BACK TO CHICAGO WITH MY BROTHER

PC SO YOU WERE RAISED WHERE?

CR IN CHICAGO

PC OKAY AND WERE YOU RAISED THERE YOUR WHOLE LIFE?

CR YEAH (COUGHS)

PC SO WHEN YOUR PARENTS CAME TO THIS COUNTRY –

CR UH-HUH (AFFIRMATIVE)

PC – YOU WEREN'T BORN YET?

CR NO THEY WERE TWENTY-FIVE WHEN THEY CAME HERE

PC OH, OKAY, ALL RIGHT AND HOW OLD ARE YOU?

CR TWENTY-SEVEN

PC OKAY AND SO YOU WERE RAISED IN CHICAGO AND THEN YOU CAME DOWN HERE NOW, BUT YOUR HUSBAND IS FROM WHERE?

CR HE'S FROM CHICAGO

PC OH, OKAY

CR YEAH, HE CAME HERE WITH ME

PC OKAY, GOTCHA ALL RIGHT, SO THEN – YOU'RE WONDERFUL, THANK-YOU SO MUCH, I REALLY APPRECIATE THAT

CR THANK YOU

PC (POPS TOP ON DRINK) ALL RIGHT, SO, THAT'S WHY, SEE, FOR SOME REASON I GUESS I THOUGHT YOU HAD GROWN UP HERE SO, THAT'S WHY YOU DIDN'T REALLY KNOW ANYBODY

CR YEAH

PC NOT, NOT A LOT OF PEOPLE AND UH, SO HE WOULD CHEAT ON YOU DID YOU KNOW ABOUT IT RIGHT AWAY?

CR NOT RIGHT AWAY IT WAS AFTER, YOU KNOW, HE WOULDN'T, HE WOULD LIKE, HE WOULD SAY DON'T COME OVER AT A CERTAIN TIME, OR HE WAS LIKE, I'M CHILLING TONIGHT, YOU KNOW, YOU DON'T NEED TO COME OVER, BUT HE, HE ALWAYS USED TO SAY, YOU KNOW, GO AHEAD AND COME OVER, YOU KNOW AND THEN HE STARTED BEING LIKE, YOU KNOW, IT WAS LIKE TWO OR THREE DAYS AT A TIME, LIKE, OH NO, I'M BUSY RIGHT NOW I'LL SEE YOU TOMORROW

PC RIGHT

CR AND THEN I STARTED WONDERING ABOUT THAT AND THEN, UH, I DROVE BY THERE A COUPLE OF TIMES AND I'D SEE CARS OUT THERE AND, YOU KNOW, IT WAS LIKE REALLY LATE AT NIGHT THAT'S WHEN I KNEW HE HAD, HE WASN'T BEING FAITHFUL WHEN I WAS –

PC AND THAT WAS EARLY ON IN THE RELATIONSHIP?

CR. THAT WAS EARLY ON, YEAH

PC OKAY

CR AND IT JUST, YOU KNOW

PC DID YOU ARGUE ABOUT IT?

CR I ASKED HIM AND HE ALWAYS SAID, YOU KNOW, I'M NOT, YOU KNOW, I'M NOT CHEATING ON YOU, WHY WOULD I CHEAT ON YOU, YOU KNOW, I MEAN, THAT WAS HIS ANSWER EVERY TIME I ASKED AND I WAS LIKE, I LEFT IT LIKE THAT, I NEVER, YOU KNOW PURSUED IT OR SAID ANYTHING ELSE

PC WHEN DID THINGS GET WORSE?

CR UH, I THINK THAT WAS JUST, YOU KNOW, AFTER BEING TOGETHER FOR SO LONG, THAT YOU KNOW HOW YOU GET TIRED, OR WHATEVER, SO HE WOULD, YOU KNOW, SAY YOU'RE BEING MEAN TO ME, YOU DISRESPECT ME, AND YOU KNOW, JUST HANDLE ME LIKE THAT

PC HOW SO?

CR HE WOULD JUST CALL ME A BITCH, YOU KNOW, CALL ME A WHORE, ALL KINDS OF STUFF

PC OKAY

CR CALL ME STUPID

PC DID HE THINK YOU WERE SEEING OTHER PEOPLE?

CR NO NO

PC SO THAT WAS NOT –

CR I MEAN, HE, YEAH, CAUSE, I MEAN, THE WHOLE TIME WE WERE DATING, EVEN THOUGH HE WAS CHEATING ON ME, AT NIGHT, I WAS IN BED WITH HIM, I NEVER, YOU KNOW

PC SO WHEN DID YOU SAY THE TURNING POINT CAME WHEN THINGS STARTED GETTING WORSE?

CR THE TURNING POINT CAME IS WHEN I – I THOUGHT I WAS GOING TO GET LIKE SOME MONEY FROM MY DAD

PC UH-HUH (AFFIRMATIVE)

CR. AND, I WAS SUPPOSED TO KEEP IT TO MYSELF BUT, UH --

BACKGROUND TALKING

CR -- YOU KNOW, I GUESS IT WASN'T, I WASN'T SUPPOSED TO GET ANY SO I TOLD HIM ABOUT IT I SAID, I THINK I'M GETTING SOME MONEY, SO, YOU KNOW, MAYBE WE CAN GET SOME STUFF FOR US, YOU KNOW LIKE A CAR OR SOMETHING LIKE THAT AND, HE WAS LIKE, YOU KNOW, THAT'S COOL, THAT'S A GOOD IDEA AND THEN, SO HE STARTED DREAMING ABOUT CARS AND MATERIALISTIC STUFF AND, UH --

PC WHY DID YOU THINK YOU WERE GOING TO GET SOME MONEY FROM YOUR DAD?

CR OH, BECAUSE, UH, BECAUSE WE HAD SOME LAND IN THE PHILLIPINES THAT HE WAS SELLING

PC OKAY, ALL RIGHT

CR YEAH

PC AND SO HE, WHEN WAS THAT, THAT YOU STARTED THINKING -- ?

CR THAT WAS, THAT WAS, LIKE IN 2002

PC IN 2002, WHAT MONTH ARE WE TALKING ABOUT?

CR PROBABLY LIKE JUNE

PC OKAY AND THAT'S FINE I 'M JUST TRYING TO GET TO THE END OF THE YEAR (INAUDIBLE) ,

CR RIGHT

PC SO IN JUNE 2002, HE THOUGHT YOU MIGHT GET SOME MONEY, YOU THOUGHT YOU MIGHT GET SOME MONEY SO HE WAS –

CR YEAH, HE KEPT DREAMING ABOUT STUFF HE WAS GOING TO GET OH, I'M GOING TO GET THIS, I'M GOING TO GET THIS, YOU KNOW

PC OKAY

CR AND THEN I KEPT SAYING, YOU KNOW, I DON 'T KNOW REALLY IF I'M GOING TO GET IT OR NOT, BUT, YOU KNOW, IF I DO IT WILL BE GOOD AND THEN IT JUST KEPT GOING ON AND ON LIKE THAT AND HE KEPT ASKING LIKE AND ASKING LIKE AND I SAID WELL, YOU KNOW, I'M THINKING, YEAH, OKAY I THINK WE'RE GETTING, I THINK WE'RE GETTING IT AND, IT JUST, IT WAS JUST BACK AND FORTH LIKE THAT AND ,SO HE KEPT ASKING ME ABOUT IT AND DREAMING ABOUT, YOU KNOW, THIS AND THAT AND, YOU KNOW, MATERIALISTIC STUFF HE WAS GOING TO GET THAT'S HOW ALL HIS MINDSET WAS

PC UH-HUH (AFFIRMATIVE),

CR THAT HE WANTED TO LIVE THAT LIFESTYLE AND HE WAS GOING TO DO EVERYTHING HE COULD TO GET IT, YOU KNOW

PC WHAT DID HE SAY HE WAS GOING TO DO WHATEVER HE COULD TO GET IT WHAT DO YOU MEAN?

CR I MEAN LIKE, YOU KNOW, DO WHATEVER HE COULD, YOU KNOW TO LIVE THAT LIFESTYLE HE WANTED THE BIG THINGS AND HE WAS

GOING TO WORK HARD TO GET IT

PC WHAT DID HE WANT?

CR. HE WANTED TO BUY, HE WANTED CARS, LIKE, NAVIGATORS LIKE A NAVIGATOR, AND YOU KNOW, ALL KIND OF STUFF LIKE THAT

PC OKAY DID HE HAVE A LOT OF MONEY COMING IN WITH THE DRUG DEALING?

CR NOT – I DIDN'T REALLY SEE A LOT I DIDN'T PAY ATTENTION TO HIS MONEY BECAUSE HE KEPT THAT TO HIMSELF

PC UH-HUH (AFFIRMATIVE)

CR LIKE THE MONEY HE HAD HE WOULD ALWAYS JUST, YOU KNOW, HE WOULD COUNT IT WHEREVER, YOU KNOW, HE WOULD GO IN THE BATHROOM AND COUNT IT AND HE, YOU KNOW, HE WOULDN'T LET ME KNOW

PC HE WOULD NOT LET YOU KNOW?

CR NO

PC OKAY

CR. I MEAN, HE WOULD PULL OUT, YOU KNOW, FAT WADS OF IT BUT I NEVER KNEW, YOU KNOW, SAT THERE AND COUNTED IT

PC RIGHT DID HE BUY YOU THINGS?

CR NO NOT REALLY I MEAN, YOU KNOW, WE WENT OUT TO DINNER AND STUFF BUT, HE ONLY STARTED BUYING ME STUFF LIKE, I MEAN, RECENTLY, LIKE, LIKE AROUND THAT TIME LIKE, BEFORE THAT YOU KNOW, HE WOULD FLASH HIS MONEY AND STUFF

PC UH-HUH (AFFIRMATIVE)

CR BUT, I MEAN, AROUND THAT TIME, LIKE AROUND 2002, OR WHATEVER, THAT'S WHEN HE, YOU KNOW, HE WAS LIKE, YOU KNOW, SINCE YOU'RE GETTING THIS MONEY, YOU KNOW, I'LL GO AHEAD AND BUY YOU THIS, YOU KNOW

PC WHAT WOULD HE BUY YOU?

CR LIKE JEWELRY

PC UH-HUH (AFFIRMATIVE)

CR MY RINGS AND NECKLACES

PC OKAY ALL RIGHT SO HE STARTED GETTING MORE AND MORE THINKING ABOUT ALL THAT –

CR RIGHT, RIGHT

PC AND THEN WHAT WHAT HAPPENED?

CR YOU MEAN, IN THAT TIME IT TRIGGERED LIKE, JUST HIS WHOLE MINDSET WAS ABOUT WELL, YOU LIED TO ME ABOUT THE MONEY AND THEN HE WAS TALKING ABOUT HE WAS – HE QUIT HIS UPS JOB BECAUSE HE SAID THAT HE DIDN'T NEED IT ANYMORE

PC OKAY

CR SO, HE SAID, YOU KNOW, TO THIS DAY HE BLAMES ME FOR HIM QUITTING THAT JOB BECAUSE, YOU KNOW, HE THOUGHT THE MONEY WAS COMING IN AND THAT WAS GOING TO, YOU KNOW, HE DIDN'T NEED THAT JOB ANYMORE BECAUSE HE WAS WORKING TWO JOBS AT THE TIME AND I DIDN'T EVEN KNOW ABOUT THAT JOB

PC RIGHT

CR I JUST FOUND OUT THAT, YOU KNOW, HE JUST RECENTLY TOLD ME, HE SAID, I GOT ANOTHER JOB, AND HE SAID, I'M GOING TO GO AHEAD AND QUIT UPS AND I'LL BE OKAY

PC RIGHT

CR AND I WAS LIKE, WHY ARE YOU GOING TO QUIT, YOU KNOW, THAT'S A GOOD JOB AND HE WAS LIKE, WELL, YOU KNOW, I WANT TO SPEND MORE TIME WITH YOU I DON'T NEED TO BE THERE, YOU KNOW I DON'T NEED TWO JOBS ANYMORE BUT I THINK HE GOT THE TWO JOBS WHEN HE GOT IN TROUBLE WITH THE DRUG CHARGES I THINK –

PC (INAUDIBLE)

CR THE DRUG CHARGES

PC OKAY WHEN DID THAT HAPPEN?

CR I CAN'T EVEN THINK OF THE TIME BECAUSE, I MEAN –

PC I'M SURE WE HAVE IT SOMEWHERE

CR YEAH YEAH, I'M THINKING 2002 OR 2001

PC WHAT KIND OF TROUBLE DID HE GET INTO AND HOW DID IT HAPPEN?

CR I DON'T – I WASN'T THERE BUT I THINK I WAS OUT OF TOWN BUT I THINK HE WAS AT GAMETIME OR SOMETHING AND HE, I GUESS HE HAD SMOKED SOME WEED HE DOESN'T REALLY – HE DOESN'T DO –I DON'T THINK HE EVER SMOKED WEED BUT HE TOLD ME LIKE WHEN HE SMOKED WEED HE DOES CRAZY THINGS LIKE, I GUESS THAT NIGHT THEY WERE PARTYING A LOT AND HE DECIDED TO SMOKE SOME WEED AND HE HAD SOME WEED IN HIS CAR WITH HIM AND I GUESS, I DON'T KNOW WHAT HAPPENED AT GAMETIME BUT HE JUST – I DON'T EVEN KNOW WHAT HAPPENED ALL I HEARD IS HE TOOK OFF IN THE PARKING LOT AND THE COPS PULLED HIM OVER OR SOMETHING LIKE THAT

PC OKAY

CR AND HE GOT CAUGHT WITH ALL THAT IN HIS CAR.

PC OKAY AND HAS HE GONE THROUGH – HAS THAT – WAS THAT RESOLVED ALL THAT?

CR YEAH, HE WENT THROUGH, YOU KNOW, HE GOT THE DRUG CHARGES AND HE WENT THROUGH PROBATION

PC ALL RIGHT ALL RIGHT, SO, SO THEN HE – HE'S TALKING ABOUT, SO WE'RE IN 2002 AND HE'S TALKING ABOUT THE MONEY HE WAS GETTING ANGRY BECAUSE IT'S NOT COMING THROUGH

CR RIGHT, RIGHT AND THEN HE KEEPS TALKING ABOUT IT HE WAS LIKE, WELL, YOU SAID THIS, AND YOU SAID WE WERE GOING TO GET IT AND I QUIT MY JOB AND YOU ARE LIKE THIS AND LIKE THAT I'M NOT SUPPOSED TO, YOU KNOW, YOU KNOW, HE SAID HE COULD HAVE KEPT THAT JOB OR WHATEVER HE COULD HAVE BEEN A DRIVER MAKING MORE MONEY AND I'M

THINKING, OKAY, I DON 'T THINK YOU CAN BE A DRIVER WHEN YOU HAVE DRUG CHARGES BUT HE ALWAYS USED THAT AGAINST ME TALKING LIKE HE COULD HAVE BEEN MAKING A LOT MORE MONEY YOU MADE ME QUIT MY JOB YOU MADE ME LOSE THIS SO THAT'S WHEN HE STARTED TALKING ABOUT ME AND MAKING HIM LOSE STUFF LIKE I CHANGED HIS WHOLE LIFE AROUND

PC OKAY

CR THAT'S WHAT HE KEPT GETTING MAD AT ME, LIKE, HE WOULDN'T BE, YOU KNOW, I DON'T KNOW

PC WOULD IT END UP THAT HE WOULD HIT YOU OR --?

CR. HE WOULD – THE FIRST TIME HE DID IT WAS WHEN, UH, WHEN HE STARTED THREATENING ME LIKE THAT, HE, YOU KNOW, HE DIDN'T HAVE SHIT I AIN'T GOT SHIT, I AIN'T GOT SHIT LOOK AT ALL THEM PEOPLE OUT THERE THAT GOT MORE THAN WE GOT AND SO HE TOOK THAT OUT ON ME AND THEN, HE, YOU KNOW, WHEN HE GETS DRUNK AND THAT'S WHEN HE GETS VIOLENT AND IT WAS LIKE THE FIRST TIME THAT HE HIT ME YOU KNOW IT WAS BECAUSE OF THAT BUT, UH –

PC WHEN WAS THAT?

CR THAT WAS – IT WAS LAST YEAR

PC LAST YEAR, OKAY

CR AND THEN I SAID, YOU KNOW WHAT, I ALWAYS TOLD MYSELF THAT NO, GUY WAS EVER GOING TO HIT ME THAT I WAS GOING TO LEAVE AND THEN HE WAS LIKE, I HAD TOLD ONE OF HIS FRIENDS, GIRL FRIENDS, AND I SAID, YOU KNOW WHAT, HE HIT ME AND I'M GONE SO SHE TOLD HER BOYFRIEND AND HER BOYFRIEND'S REALLY CLOSE TO KAMELL AND HE WAS LIKE, OH I HEARD CHRISTINA WAS GOING BACK TO CHICAGO SO HE, YOU KNOW, HE CALLED ME BACK AND HE WAS LIKE, WHY ARE YOU TELLING PEOPLE OUR BUSINESS, WHY ARE YOU TELLING PEOPLE OUR BUSINESS YOU SHOULDN'T BE DOING THAT SHIT AND THEN HE HAD, I HAD PICKED HIM UP FROM WORK THAT DAY AND HE WAS LIKE, YEAH, WHAT YOU TELLING KISHA? AND HE WAS LIKE CHOKING ME IN MY CAR AND HE STARTED HITTING ME IN THE STOMACH AND STUFF AND THEN WHEN WE GOT TO THE HOUSE, TO THE APARTMENT, HE HE TOOK MY KEYS OUT OF MY CAR AND HE HELD THEM WITH

HIM AND HE JUST KEPT HITTING ME LIKE IN THE PARKING LOT AND THEN AFTER THAT, UH, AFTER THAT HE WAS LIKE, I'M SORRY, I'M SORRY, I DIDN'T MEAN IT, IT WILL NEVER HAPPEN AGAIN I LOVE YOU, AND YOU KNOW, HE MADE ME THINK EVERYTHING WAS GOING TO BE OKAY

PC SURE

CR YOU KNOW, MY DUMBASS GOES BACK.

PC UH-HUH (AFFIRMATIVE)

CR THIS ISN'T ME THOUGH I MEAN THAT'S HOW IT'S BEEN FOR ME AND THEN, HE, JUST, YOU KNOW, IT WAS STILL THAT WAY THAT HE DIDN'T HAVE ANYTHING THAT HE WAS WORKING HARD FOR NOTHING I AIN'T GOT NOTHING TO SHOW FOR IT

PC ALL RIGHT

CR AND THEN THAT'S WHEN HE STARTED BEING MORE VIOLENT, LIKE, PULLING OUT HIS GUN AND LIKE, THREATENING, YOU KNOW YOU FUCK WITH ME LIKE THAT, LET ME SHOOT YOU IN YOUR HEAD, GIVE ME YOUR HAND, GIVE ME YOUR LEFT HAND I'M GOING TO SHOOT YOU RIGHT THERE AND THAT'S WHEN HE WAS DRUNK HE WAS ALWAYS DRUNK WHEN HE THREATENED ME

PC OKAY HOW DID YOU TALK HIM OUT OF IT?

CR I, YOU KNOW, I WOULD BEG I WOULD SAY, PLEASE, YOU KNOW, PLEASE DON'T DO THIS THINK OF YOUR NEPHEWS I ALWAYS PUT HIS NEPHEWS OUT THERE BECAUSE HE LOVED THE NEPHEWS TO DEATH

PC UH-HUH (AFFIRMATIVE)

CR AND I WOULD, YOU KNOW, TRY TO MAKE HIM SEE IT THAT WAY AND HE WOULD SAY, OH, YOU'RE RIGHT, YOU'RE RIGHT, I'M SORRY AND IT WOULD ALWAYS BE I'M SORRY AND YOU KNOW I'D ALWAYS TAKE THAT SORRY I MEAN, I THOUGHT IT WAS SINCERE BECAUSE HE WOULD – HE, HE – THE WHOLE TIME WE WERE GOING OUT I HAD NEVER SEEN HIM CRY

PC RIGHT

CR BUT WHEN – THAT FIRST TIME THAT HE HIT ME, LIKE THAT, HE CAME TO ME AND HE WAS CRYING REALLY HARD, TALKING ABOUT HE DIDN'T KNOW WHY HE DID IT YOU KNOW, HE WAS SORRY THAT'S WHEN I FELT SORRY FOR HIM I FELT BAD BECAUSE, YOU KNOW, WE HAD BEEN TOGETHER SO LONG, I WAS LIKE, WELL, YOU KNOW, MAYBE YOU REALLY LOVED LIKE THAT, YOU KNOW

PC HOW MANY TIMES DID HE ABUSE YOU LIKE THAT?

CR IT WAS –

PC OR THREATEN YOU?

CR -- OKAY, HE HIT ME – THREE TIMES

PC OKAY

CR OUR WHOLE RELATIONSHIP AND THE THIRD TIME WAS THE LAST, YOU KNOW, LAST TUESDAY

PC OKAY

CR AND HE PULLED HIS GUN ON ME TWICE

PC WHEN WAS THE LAST TIME THAT HAPPENED?

CR TUESDAY

PC TUESDAY WHEN DID YOU DECIDE TO LEAVE HIM? WHEN DID THAT ALL HAPPEN?

CR IT – TUESDAY WAS THE LAST -- WAS THE FINAL, YOU KNOW, THING THAT, BECAUSE HE – I MEAN, THIS IS WHY HE DID ALL THIS, YOU KNOW, THAT'S WHY THIS HAS ALL HAPPENED NOW BECAUSE (CRYING) HE HIT ME AND THEN, IN HIS HOUSE –

PC THIS WAS LAST TUESDAY?

CR YEAH, HE HAD ME IN THE HOUSE AND HE MAD ME THINK EVERYTHING WAS OKAY HE LIKE, YOU KNOW, YOU KNOW WE WERE LIVING OUR LIFE, WE WERE HAPPY, WE WERE DOING GOOD, AND THEN ALL OF A SUDDEN HE WAS LIKE, SO WHAT ABOUT THIS MONEY, WE AIN'T GETTING THE MONEY, RIGHT YOU LIED ABOUT THE MONEY I WAS LIKE, I DIDN'T LIE ABOUT IT, I WAS LIKE, WELL, I LIKE OBVIOUSLY DIDN'T GET IT BECAUSE

WE WOULD HAVE GOTTEN IT BY NOW I WASN'T GOING TO PRESSURE MY DAD, I'M NOT GOING TO ASK HIM ABOUT IT BECAUSE I'M NOT EVEN SUPPOSED TO KNOW ABOUT IT HE WAS LIKE, YEAH, YEAH, YEAH, SEE YOU LIED, YOU LIED, HE WAS LIKE I'VE BEEN PLAYING WITH THIS FOR A LONG TIME SO HE PULLED HIS GUN OUT ON ME AND WAS TALKING ABOUT HE WAS GOING TO SHOOT ME HE WAS LIKE, TURN AROUND, TURN AROUND, I'M GOING TO SHOOT YOU IN YOUR BACK AND THEN HE SAID, NO FUCK THAT, HE SAID GET ON THE COUCH HE WAS LIKE, LAY DOWN SO, I WAS JUST BEGGING AND BEGGING AND BEGGING FOR MY LIFE I SAID, PLEASE, PLEASE LET ME SEE MY SON, LET ME SEE MY SON AND THEN HE WAS LIKE, OH, MAN, FUCK THAT YOU FUCKED WITH MY LIFE TOO MUCH I GAVE UP TOO MUCH FOR YOU SO THAT'S -- AND THEN, FINALLY, I BROKE DOWN SO HARD, YOU KNOW, I SAID, PLEASE, I LOVE YOU. I WAS TRYING TO SAY ANYTHING I COULD TO GET MYSELF OUT OF THERE FINALLY HE LET THE GUN GO AND I MEAN, HE HAD TAPED MY HANDS TOGETHER AND HE LET – HE CUT THE TAPE AND HE WAS LIKE, COME HERE, I'M SORRY, I'M SORRY, YOU KNOW, AND I SAT THERE AND I HUGGED HIM JUST BECAUSE I WANTED, I WANTED THAT SATISFACTION THAT HE WAS OKAY WITH ME THAT I WASN'T GOING TO GET HURT ANYMORE

PC UH-HUH (AFFIRMATIVE) HE TAPED YOUR HANDS TOGETHER?

CR YES

PC WITH WHAT? DUCT TAPE?

CR YES, DUCT TAPE

PC AND THAT WAS WHAT, A WEEK AGO TUESDAY?

CR IT WAS TUESDAY

PC OKAY

CR AND AFTER THAT HE WAS LIKE, YOU KNOW, IN THE MORNING, I WAS LIKE ARE WE OKAY AND HE SAID YES, WE'RE OKAY, I'M SORRY FOR WHAT I DID OKAY, SO I LEFT THE HOUSE AFTER THAT TIME I SAID I'M NOT BRINGING MY SON BACK TO THAT HOUSE ANYMORE I'M NOT GOING TO PUT MY SON IN THAT SITUATION SO AFTER THAT HE GAVE, YOU KNOW, HE WAS CALLING ME ALL DAY YOU KNOW, I WAS LIKE, OKAY, YOU KNOW I WAS LIKE, YEAH, EVERYTHING'S FINE, EVERYTHING'S

FINE THEN I NEVER CAME, YOU KNOW, I NEVER CAME TO SEE HIM THAT NIGHT AND HE SAID, WHY DIDN'T YOU COME HOME? AND I WAS LIKE, KAMELL, I'M SCARED I'M LIKE, I'M SORRY, I'M SCARED I DON'T THINK I CAN DO THAT ANYMORE WHY YOU DIDN'T TELL ME THIS? YOU, YOU, I KNEW IT, I KNEW IT I KNEW YOU WEREN'T GOING TO COME BACK I SAID HOW AM I GOING TO COME BACK AFTER THAT? I SAID, THAT WAS THE LAST TIME I SAID, THIS WAS THE SECOND TIME THAT YOU PULLED – THAT YOU THREATENED MY LIFE I SAID, I'M NOT GOING TO GO BACK CAUSE THE THIRD TIME, I WOULD PROBABLY BE DEAD AND HE SAID, YOU COULD HAVE TOLD ME THAT, YOU COULD HAVE TOLD ME THAT SHIT HE SAID, NOW LOOK, HE WENT NOW YOU'RE GONE, AND HE SAID, YEAH, I'M GOING TO GET YOU, I'M GOING TO GET YOU GIRL, I'M GOING TO GET YOU SO, HE THREATENED ME THE WHOLE WEEK AND I TOLD MY BROTHER ABOUT IT I SAID, JOE HE IS THREATENING MY LIFE YOU NEED TO WATCH THE HOUSE BECAUSE HE SAID, HE EVEN TOLD ME, I KNOW WHAT TIME BEBO GOES TO SCHOOL, I KNOW WHAT TIME THAT YOU PICK HIM UP I KNOW WHAT TIME YOUR MOM AND DAD GET OFF WORK I'LL JUST BE SITTING THERE WAITING, YOU NEVER KNOW I'LL POP SOMEBODY, YOU KNOW, WHEN THEY'RE LEAVING FOR WORK. HE WAS LIKE, I'M GOING TO GET YOUR BROTHER, I'M GOING TO GET SOMEBODY SOMEBODY'S GOING TO PAY FOR THIS SHIT SO I TOLD MY BROTHER ALL THAT I SAID, JOE, WATCH THE HOUSE, BE CAREFUL BECAUSE HE WAS CRAZY AND MY BROTHER KNOWS BECAUSE HE'S THREATENED ME LIKE THAT BEFORE LIKE, HE'S COME, HE WOULD TURN AROUND BECAUSE YOU COULD HEAR HIS TRUCK OR HE WOULD PARK IT HE WOULD PARK IN MY MOM'S DRIVEWAY ONE TIME AND SAT THERE FOR PROBABLY LIKE TWENTY MINUTES AND THEN JUST PULL BACK OUT SO WE NEVER THINK, YOU KNOW HE JUST THREATENED TO SCARE YOU BUT HE WOULD NEVER DO ANYTHING

PC WAS THAT THE SAME WEEK OR –

CR NO THAT WAS JUST –

PC – WAY BACK WHEN?

CR -- WAY BACK WHEN, YEAH

PC OKAY OKAY

CR LIKE WHEN WE HAD PROBLEMS OR WHATEVER YOU KNOW AND I WOULDN'T COME TO SEE HIM OR WHEN WE WOULD GET IN ARGUMENTS SO THIS IS WHAT I TOLD HIM, I SAID, JOE, HE'S GOT GUNS HE'S GOT TWO OF THEM I TOLD HIM EXACTLY, YOU KNOW, I SAID ONE OF THEM IS REGISTERED IN MY NAME

PC UH-HUH (AFFIRMATIVE)

CR. AND, UH, I WAS LIKE IS THERE ANYWAY YOU CAN GET THAT FROM HIM LIKE CALL HIM OVER AND DO SOMETHING AND HE WAS LIKE YOU KNOW HE SAID, I'LL TAKE CARE OF IT I'LL TAKE CARE OF IT HE WAS LIKE, DON'T WORRY ABOUT IT I WAS LIKE, OKAY SO, LIKE EVERY MORNING I WOULD WAKE UP AND I'D TAKE MY SON TO SCHOOL EARLY AND I WOULD PICK HIM UP EARLY AND THEN THE LAST TIME, IT WAS, IT WAS WEDNESDAY MORNING –

PC UH-HUH (AFFIRMATIVE)

PAUSE

PC TODAY IS WEDNESDAY

CR – OKAY IT WAS MONDAY MORNING

PC OKAY

CR THAT I TOOK MY SON TO SCHOOL AND HE GOES TO THE MONTESSORI SCHOOL IN MAULDIN AND I WAS ALWAYS LOOKING OUT JUST TO SEE IF I SAW HIS TRUCK ANYWHERE SO I PULLED INTO HIS SCHOOL, HIS TRUCK WAS PARKED IN THE CAR LOT RIGHT NEXT TO MY SCHOOL SO I SAW IT AND I PULLED IN, BECAUSE THERE IS ONLY ONE WAY IN AND ONE WAY OUT SO I PULLED IN AND I PARKED JUST TO SEE IF HE'D FOLLOW ME IN AND ALL AND I COULD SEE HIS TRUCK COMING SO I PULLED RIGHT BACK OUT LIKE AS SOON AS HE GOT IN I PULLED MY CAR AROUND AND TOOK OFF AND HE FOLLOWED ME AND HE SAID, WHY ARE YOU RUNNING, WHY ARE YOU RUNNING? AND I SAID, I'M SCARED, KAMELL, I SAID, CAN'T YOU JUST LEAVE ME ALONE I SAID, WE CAN TALK ABOUT THIS JUST GIVE ME TIME I SAID, I'M SCARED I SAID, I TOLD MY BROTHER YOU KNOW –

PC THAT HE WAS SAYING THIS TO YOU? RIDING IN THE CAR?

CR UH-HUH (AFFIRMATIVE)

PC OKAY, OKAY SO, ON YOUR CELL PHONE?

CR. YEAH

PC OKAY OKAY, GO AHEAD I'M SORRY

CR AND THEN, YOU KNOW, SO I TOOK OFF AND I WAS WEAVING IN AND OUT OF THE CARS AND I HIT 85 AND I JUST TOOK OFF AND I CALLED MY BROTHER AND I SAID HE WAS SITTING THERE WAITING ON ME AND I WAS LIKE, NO AND HE WAS LIKE WELL THE NEXT TIME THAT HAPPENS YOU NEED TO GO TO THE MAULDIN POLICE DEPARTMENT AND PULL IN THERE BECAUSE I'M AFRAID, I MEAN, I WAS JUST SO SCARED OF HIM, YOU KNOW, HOW HE WAS AND HOW HE WAS THREATENING AND LIKE, YOU KNOW, IF I WOULD HAVE STOPPED ANYWHERE HE WOULD HAVE JUST JUMPED OUT AND JUST, YOU KNOW, SHOT ME

PC RIGHT

CR SO THAT'S WHY I KEPT GOING I DIDN'T WANT TO STOP AND PULL IN ANYWHERE AND THERE NOT BE ANY COPS OUTSIDE TO HELP ME

PC RIGHT

CR SO AFTER THAT, YOU KNOW, THAT WAS LIKE THE DAY BEFORE AND, YOU KNOW, ANYTHING HAPPENED AND THEN EVERY – YOU KNOW, HE KEPT CALLING SAYING, OKAY, YOU KNOW, I JUST WANTED TO TALK TO YOU I JUST WANTED TO TALK TO YOU ALL YOU GOT TO DO IS TALK TO ME AND I WAS JUST SO SCARED I DIDN'T WANT TO HEAR HIS VOICE I JUST WANTED TO SHUT HIM OUT COMPLETELY I DIDN'T WANT TO HEAR HIS VOICE I JUST WANTED TO LEAVE I DIDN'T WANT ANYTHING TO DO WITH HIM ANYMORE SO, YOU KNOW, I THOUGHT EVERYTHING WAS GOING TO BE – HE WAS LIKE, YOU'RE RIGHT, HE KEPT LEAVING ME MESSAGES ON MY – HE WOULD SAY, I KNOW, HE SAID, I KNOW WE CAN'T BE TOGETHER BECAUSE OF WHAT I DID TO YOU HE WAS LIKE, I UNDERSTAND WE CAN BE FRIENDS WE CAN BE FRIENDS I'LL TAKE IT LIKE THAT HE WAS LIKE, I'M SORRY I'M SORRY FOR WHAT I DID HE LEFT MESSAGES LIKE THAT OVER AND OVER AGAIN SO I WAS LIKE, OKAY, MAYBE HE'S CALMED DOWN A LITTLE BIT I'LL CALL HIM LIKE THE NEXT DAY AND TALK TO HIM ABOUT IT SO THE NEXT DAY COMES AND HE KEEPS CALLING MY PHONE, YOU KNOW, I WASN'T READY TO TALK TO HIM YET THEN

IT HAPPENED TO BE THAT, LIKE WHEN I WENT OUT TO EAT WITH ONE OF MY FRIENDS AND HE WOULD CALL THE HOUSE I DON'T KNOW HOW HE GOT, WHATEVER HE DID, YOU KNOW, LAST NIGHT, I MEAN, THAT'S WHAT HAPPENED

PC OKAY NOW WERE YOU STAYING AT THE HOUSE OR WERE YOU STAYING SOMEWHERE ELSE?

CR NO, I WAS, ACTUALLY, I WAS JUST GOING OUT TO TRY TO STAY AWAY FROM THE HOUSE I TOLD MY BROTHER THAT, YOU KNOW, I WAS LIKE, I DON'T WANT TO BE THERE I DON'T WANT HIM TO SEE MY CAR THERE CAUSE THAT'S JUST GOING TO BRING MORE ANIMOSITY TO THE HOUSE IF HE SEES ME THERE AND HE KNOWS I'M THERE AND I DON 'T WANT TO TALK TO HIM, I'M AFRAID HE IS GOING TO GO OVER THERE AND JUST DO SOMETHING SO I TRIED TO KEEP MY CAR AWAY FROM THE HOUSE

PC OKAY

CR SO HE WOULD LEAVE MY PARENTS ALONE

PC WERE YOU SPENDING THE NIGHT AT THE HOUSE?

CR YEAH.

PC OKAY ALL RIGHT

CR BUT I WOULD COME HOME AT DIFFERENT TIMES JUST, YOU KNOW, I WOULD CRUISE AROUND LIKE IN MY LITTLE SUBDIVISION JUST TO SEE IF I SEEN HIS TRUCK AND I'D TRY TO SPEED IT INTO MY HOUSE AND THEN GO, YOU KNOW, RUN UP THE STAIRS YOU KNOW I WAS ALWAYS WATCHING MY BACK LIKE THAT I WAS ALWAYS AFRAID TO GO HOME BECAUSE I DIDN'T WANT HIM TO SEE MY CAR THERE

PC OKAY AND SO YOU HAPPENED TO BE OUT TO DINNER WHEN –

CR YEAH, RIGHT

PC – WHENEVER HE –

CR RIGHT

PC WERE YOU PLANNING ON GOING HOME SOON?

CR YEAH I WAS GOING TO GO HOME RIGHT AFTER THAT AND THEN

THAT'S WHEN MY BROTHER CALLED ACTUALLY, OKAY, MY BROTHER CALLED ME AND HE WAS – EVERYTHING WAS OKAY HE CALLED ME FROM HIS CELL PHONE AND HE WAS LIKE, YOU KNOW, COULD YOU DO ME A FAVOR, AND YOU KNOW, BECAUSE I NEED A, BECAUSE HE DIDN'T HAVE HIS CAR I THINK HE PICKED UP HIS CAR TODAY, I NEED YOU TO BRING ME TO WORK TOMORROW AND I WAS LIKE, HE LEFT ME THAT MESSAGE AND I WAS LIKE, OKAY, YOU KNOW, I NEED TO BRING MY BROTHER TO WORK AND THEN ANOTHER CALL LIKE THIRTY MINUTES LATER MY BROTHER WAS LIKE, YOU NEED TO CALL THE HOUSE, IT'S REALLY IMPORTANT AND I WAS LIKE, OKAY, YOU KNOW AND I PICKED UP THE PHONE BUT THEN I GOT ANOTHER MESSAGE WHILE I WAS LISTENING TO THAT ONE AND IT WAS HIM CALLING FROM MY HOUSE AND I SAID, OKAY SOMETHING IS WRONG HE'S AT MY HOUSE

PC WHAT DID HE SAY?

CR. THAT'S WHAT HE SAID, HE SAID, CHRISTINA, IT'S REALLY IMPORTANT YOU NEED TO CALL THE HOUSE NOW

PC OH, NOT YOUR BROTHER?

CR MY BROTHER CALLED FIRST

PC RIGHT

CR AND THEN HE CALLED

PC AND HE ALSO SAID CALL THE HOUSE?

CR RIGHT

PC OKAY

CR SO THAT'S WHEN I WENT, YOU KNOW, I CALLED THE HOUSE AND HE WAS LIKE, YOU KNOW, HE ANSWERED THE PHONE AND I SAID WHY ARE YOU ANSWERING MY PHONE AND HE SAID, YEAH, I'M SITTING HERE TALKING TO YOUR BROTHER AND YOUR DAD HE SAID, I GOT THEM I'VE GOT YOUR BROTHER AND YOUR DAD AND I WAS LIKE, WHAT DO YOU MEAN YOU'VE GOT THEM AND HE SAID, YOU NEED TO COME HOME AND TALK TO ME HE WAS LIKE, I GOT THEM I GOT THEM AND I WAS LIKE, LET ME TALK TO MY BROTHER AND I, YOU KNOW, HE PUT MY BROTHER ON AND I SAID, WHAT'S GOING ON? AND HE WAS LIKE, WELL, LIKE JAMELL SAID, YOU NEED TO COME HOME HE'S GOT

A GUN AND THAT'S WHEN I WAS LIKE, OKAY, THAT'S WHEN I YOU KNOW, TRIED TO COLLECT MYSELF AND FIGURE OUT WHAT TO DO BECAUSE HE WAS LIKE – AND THEN HE CALLED ME BACK LIKE TEN MINUTES LATER ARE YOU ON YOUR WAY? HE WAS LIKE YOU NEED TO COME HOME NOW HE SAID –

END OF SIDE ONE

SIDE TWO

CR -- AND HE WAS LIKE, YOU KNOW WHAT WILL HAPPEN IF YOU BRING THE COPS I WAS LIKE, NO, OKAY, OKAY, I SAID, DON'T DO ANYTHING STUPID I WAS LIKE, I'M ON MY WAY I'M ON MY WAY SO THAT'S WHEN I HAD TO MAKE THE CHOICE BECAUSE I WASN'T – I DIDN'T KNOW WHAT HE WAS GOING TO DO WHEN I GOT THERE LIKE IF I WOULD HAVE JUST WALKED IN THE HOUSE AND DID WHAT HE SAID, HE WOULD HAVE SHOT ALL OF US SO I CALLED 911 AND IT HAPPENED TO BE WHILE I WAS ON MY WAY DOWN THERE MY MOM HAD ALSO CALLED 911 FROM UPSTAIRS FROM MY DAD'S CELL PHONE SO, AS SOON AS I GOT DOWN THERE I SAW A DEPUTY SHERIFF AND THEN, YOU KNOW, THAT'S – I'M THE ONE THAT CALLED OKAY, HE'S GOT MY PARENTS, HE'S GOT MY BROTHER AND MY DAD IN THE HOUSE AND HE'S GOT A GUN SO YOU KNOW, HE TOLD ME TO HOLD ON AND WAIT AND THEN AFTER THAT, YOU KNOW, THEY WOULDN'T LET ME GO DOWN THERE

PC OKAY AND SO HE TOLD YOU TO COME BY YOURSELF –

CR YEAH

PC -- YOU KNOW WHAT WILL HAPPEN IF YOU –

CR BRING THE COPS

PC -- BRING THE COPS OKAY

CR THAT'S WHY I FELT – I WAS CONTEMPLATING – I WAS PARKED RIGHT THERE JUST CONTEMPLATING WHETHER OR NOT TO GO DOWN, YOU KNOW, DOWN ALL THE WAY, YOU KNOW, AND COME UP YOU KNOW, AND GO IN THE HOUSE AND SEE WHAT WAS GOING ON AND I HAD TO CALL 911, I DIDN'T KNOW WHAT ELSE TO DO AND, THE DEPUTY WAS WAITING –

PC ABSOLUTELY

CR -- THERE AND I MEAN, THERE'S SO MANY WAYS I THINK I COULD HAVE PREVENTED IT (CRYING)

PC I MEAN, AND YOUR MOM HAD ALREADY CALLED 911 AS WELL SO, IT'S NOT LIKE YOU BROUGHT THE COPS

CR YEAH

PC OKAY WHEN HE SAID, I HAVE YOUR DAD AND YOUR BROTHER –

CR I ALREADY KNEW WHAT HE WAS GOING TO – WHEN HE TALKED LIKE THAT I ALREADY KNEW, HE WAS LIKE, I HAVE THEM, YOU KNOW, I HAVE THEM I'VE GOT THEM (CRYING)

PC OKAY HAD HE THREATENED TO HURT YOUR PARENTS BEFORE?

CR YEAH, THAT'S WHY I CALLED – THAT'S WHY I CALLED MY BROTHER, BECAUSE WHEN HE LET ME GO THAT TUESDAY, HE WAS LIKE, HE SAID, IT'S ALL RIGHT, GO AHEAD, I'LL GET YOU I'LL CATCH UP WITH YOU I'LL CATCH UP WITH YOU AND HE WAS LIKE, HE ALWAYS TOLD ME HOW HE WAS GOING TO DO IT I'LL BE WAITING BY THE BUSHES AND I KNOW WHAT TIME YOUR PARENTS GET HOME I KNOW WHAT TIME BEBO GOES TO SCHOOL SO EVERYTIME I LEFT MY HOUSE I ALWAYS LEFT WITH SOMEBODY LIKE MY BROTHER WOULD FOLLOW ME OUT OF THE SUBDIVISION LIKE, EVERYDAY SINCE THAT DAY

PC DID HE SPECIFICALLY SAY, I'LL GET YOUR MOTHER OR I'LL GET YOUR FATHER?

CR YES, HE SAID, HE PICKED EVERYBODY HE SAID HOW HE WAS GOING TO DO IT AND WHAT HE WAS GOING TO DO

PC WHAT DID HE SAY HE WAS GOING TO DO TO YOUR PARENTS?

CR THAT'S WHEN HE SAID, I'LL SHOOT THEM, YOU KNOW, HE WOULD JUST GET OUT AND SHOOT THEM THEY WOULD GO TO WORK I'LL SHOOT YOUR DAD, YOU KNOW, WHILE HE IS GETTING IN HIS CAR.

PAUSE

PC DID HE – DID HE TARGET YOUR BROTHER AT ALL ABOUT BEING A COP? DID HE TALK TO YOU ABOUT THAT?

CR YEAH, I MEAN, HE ALWAYS SAID I DON'T GIVE A FUCK, I'LL GO

TO JAIL

PC OKAY

CR HE ALWAYS SAID COPS DIDN'T SCARE HIM HE WAS LIKE, HE ALWAYS SAID, FUCK A COP, FUCK A COP AND THAT WAS HIS WHOLE MINDSET SINCE, SINCE WHENEVER, YOU KNOW EVER SINCE HE GOT HIS LITTLE DRUG CHARGES, HE, YOU KNOW, HE WAS ALWAYS LIKE THAT WITH COPS

PC NOW DID HE, DID HE PARTICULARLY NOT LIKE THAT YOUR BROTHER WAS A COP? IS THAT WHAT –

CR NO, IT WAS JUST HE DIDN'T, YOU KNOW, HE WAS JUST BLAMING MY FAMILY, THAT'S WHAT HE WAS DOING IT'S NOT BECAUSE HE WAS A COP

PC RIGHT

CR OBVIOUSLY, HE SAID, I DON'T GIVE FUCK THAT YOUR BROTHER'S A COP, I'LL GO TO JAIL THAT'S WHAT HIS POINT WAS HE SAID, I'LL GO TO JAIL I'LL GO TO JAIL I DON'T GIVE A FUCK

PC OKAY DID HE EVER THREATEN YOUR SON?

CR HE – HE – I DON'T, HE DID THAT, I DON'T KNOW IF HE SAID IT THAT NIGHT HE SAID, YOU KNOW, I DON'T GIVE A FUCK ABOUT ANYBODY HE SAID, I'LL KILL EVERYBODY I'LL KILL YOU, I'LL KILL YOUR MOM OR YOUR DAD, YOUR BROTHER. AND THEN, BUT THEN HE NEVER, YOU KNOW, HE SAID, BEBO, BUT THEN HE WAS LIKE NO, NO HE SAID, I WON'T KILL BEBO, HE WAS LIKE YOU KNOW WHAT I'M GOING TO DO? HE WAS LIKE, I'M GOING TO LET SOMEBODY LIVE TO TAKE CARE OF BEBO HE WAS LIKE, WHO DO YOU WANT IT TO BE? DO YOU WANT IT TO BE YOUR MOM, YOUR DAD OR YOUR BROTHER? SO, OBVIOUSLY, HE WAS SAYING HE WAS GOING TO KILL ME, AND THEN EVERYBODY ELSE AND THEN KEEP ONE PERSON ALIVE TO RAISE MY SON

PC OKAY AND THAT WAS THAT NIGHT HE HAD YOU TIED UP --

CR YEAH

PC -- AND HIT YOU?

CR UH-HUH (AFFIRMATIVE)

PAUSE

PC THE WORST NIGHT, BEFORE OBVIOUSLY THIS HAPPENED, WAS WHEN HE –

CR UH-HUH (AFFIRMATIVE)

PC HAD HE EVER DONE ANYTHNG LIKE THAT TO YOU BEFORE?

CR UH-UH (NEGATIVE) I NEVER THOUGHT, I NEVER HAD TO BEG FOR MY LIFE LIKE THAT

PC OKAY

CR I MEAN, BEFORE HE WAS – AND THEN THE DIFFERENT THING ABOUT THIS IS BECAUSE HE WAS SOBER HE DID IT WHEN HE WAS SOBER. HE WASN'T DRUNK.

PC WHEN HE TIED YOU UP?

CR YEAH

PC OKAY COULD YOU TELL HE WAS SOBER THE NIGHT –

CR YEAH, I CAN TELL WHEN HE'S SOBER OR WHEN HE'S DRUNK

PC WAS HE SOBER WHEN HE HAD YOUR BROTHER AND YOUR FATHER?

CR I DON'T KNOW

PC OKAY

CR. I ASSUME HE WAS I MEAN, I DON'T THINK, I DON'T KNOW IF HE WENT TO WORK THAT DAY

PC RIGHT YEAH

CR I DIDN'T TALK TO HIM

PC OKAY BUT HE WAS SOBER THE NIGHT THAT HE –

CR YEAH, HE WAS SOBER THE NIGHT HE DID THAT TO ME

PC HAS HE EVER SEXUALLY ASSAULTED YOU?

CR NO

PC THAT WAS NEVER AN ISSUE?

CR NO

PC SO HE WASN'T PARTICULARLY AGGRESSIVE? HE WASN'T LIKE SADISTIC TO HURT YOU OR ANYTHING LIKE THAT?

CR. NO

PC OKAY

CR HE WOULD GO ON HIS LITTLE SPURTS, YOU KNOW, HERE AND THERE BUT HE WAS SORRY THE DAY AFTER

PC OKAY BUT IT WASN'T SEXUAL?

CR NO

PC IT WAS BASICALLY –

CR. YEAH

PC -- JUST THREATENING –

CR YEAH, TO HURT ME

PC -- TO HURT YOU?

CR YEAH

PC OKAY WHAT DO YOU KNOW ABOUT HIS EARLIER LIFE?

CR I DON'T – I KNOW THAT IT WAS, IT WAS MESSED UP BECAUSE AND THAT'S WHY I FEEL – I DON'T UNDERSTAND WHY HE IS LIKE HE IS BECAUSE HE USED TO SEE HIS DAD BEAT ON HIS MOTHER LIKE THAT

PC UH-HUH (AFFIRMATIVE)

CR. AND HE ALWAYS SAID THAT, THERE ARE SO MANY TIMES I JUST WANTED TO KILL MY DAD I WATCHED HIM BEAT ON MOM AND I COULDN'T DO ANYTHING – BECAUSE HE WAS SO LITTLE AND THEN, I MEAN, BUT AFTER THAT, I MEAN, HE OBVIOUSLY MOVED HERE TO BE WITH HIS DAD HIS DAD

YOU KNOW, HELPED HIM THROUGH COLLEGE A LITTLE BIT

PC OKAY

CR AND WHEN HE WENT TO COLLEGE HERE IN SOUTH CAROLINA BUT I DON'T KNOW WHAT HAPPENED WHEN THEY, LIKE ALL OF A SUDDEN THEY FELL OUT BECAUSE THEY ARE JUST THE SAME PERSON, THEY ARE BOTH LIKE ALCOHOLICS AND HIS DAD,YOU KNOW, HIS DAD DRINKS A LOT

PC OKAY BUT DRUGS WEREN'T A BIG PART OF HIS LIFE IN TERMS OF USING –

CR USING, NO, THAT'S WHY, I MEAN, WELL I NEVER SAW HIM AND THEN NEVER, WELL,YOU CAN PRETTY MUCH TELL WHEN SOMEBODY USED DRUGS

PC RIGHT

CR BUT HE, YOU KNOW, HE DIDN'T EVEN SMOKE THE WEED HE JUST, YOU KNOW, HE JUST SOLD IT

PC OKAY DID HE EVER HAVE TIMES WHEN HE SEEMED DEPRESSED?

CR NO, BECAUSE, I MEAN, YOU KNOW, HE WAS ALWAYS JUST, I MEAN, HE HAD SO MANY FRIENDS, HE WAS JUST, YOU KNOW, THAT TYPE OF GUY HE WAS ALWAYS OUT THERE AND JUST BEING EVERYBODY'S FRIEND LIKE, EVERYBODY WANTED TO HANG OUT WITH KAMELL, YOU KNOW HE WAS ALWAYS HAVING FUN WHEREVER HE, YOU KNOW, WHATEVER HE DID

PC DID HE GO THROUGH PERIODS WHERE HE WOULDN'T SLEEP FOR DAYS AT A TIME?

CR NO

PC DID YOU EVER HAVE A SENSE, LIKE WERE THERE TIMES WHEN HE TALKED REAL FAST AND NOT MAKE SENSE OR THINGS LIKE THAT?

CR ONLY WHEN HE HAD AN ALL DAY DRINKING, YOU KNOW, GET DRUNK.

PC DO YOU KNOW IF HE'S EVER SEEN A PSYCHIATRIST FOR ANYTHING?

CR. NO, NEVER, I DON'T THINK SO

PC AND HE'S NEVER BEEN IN DRUG TREATMENT OR ANYTHING OR ALCOHOL TREATMENT?

CR NO

PC EVER GET THE SENSE HE WAS HEARING VOICES?

CR NO

PC SO PRETTY NORMAL?

CR YEAH YEAH YEAH · HE – THE THING THAT – I THINK THE MAIN THING WRONG WITH HIM IS HE WANTS TO BE ONE LIFESTYLE AND HE DOESN'T HAVE IT HE WAS ALWAYS COMPARING HIMSELF TO THE RAPPERS ON THE VIDEOS AND I WAS LIKE, THEY'RE RAPPERS, YOU KNOW, YOU'RE NOT A RAPPER.

PC UH-HUH (AFFIRMATIVE) WHAT'S WITH ALL THE GANG SYMBOLS?

CR HE'S FROM CLEVELAND

LOUD NOISE

CR. HE SAYS THAT HE'S A CRYPT FROM CLEVELAND I, YOU KNOW, I'M NOT GOING TO DOWN HIM OR IF ANYBODY'S, YOU KNOW, WHATEVER THEY HAVE TO DO WITH THEIR GANGS, BECAUSE I WAS LIKE THAT TOO WHEN I WAS IN CHICAGO BUT, YOU KNOW, I JUST SAID OKAY, YOU KNOW, YOU CAN GO AHEAD AND BE LIKE THAT BECAUSE THERE'S NOTHING DOWN HERE YOU KNOW, I MEAN, AND HE WAS LIKE, THAT'S WHEN HE STARTED, HE JUST ALL OF A SUDDEN CAME OUT WITH, BECAUSE I USED TO ASK HIS FRIEND, YOU KNEW HIM BEFORE I MET HIM AND WAS HE LIKE THAT OR WAS HE ALL ABOUT DO THIS AND DO THAT AND I WAS, LIKE, NO HE DIDN'T EVEN MENTION IT BUT I DON'T REMEMBER WHAT BROUGHT IT OUT OR WHATEVER, SO HE STARTED GETTING TATTOO'S LIKE CRYPT BLOOD AND ALL THAT

PC WHEN DID HE START GETTING THOSE?

CR IT WAS LIKE IN '99, 2000

PC '99

CR LIKE THE BEGINNING OF 2000

PC AND WOULD HE JUST SAY HE WAS DOING IT BECAUSE –

CR NO, HE WAS, I MEAN, ALL OF A SUDDEN HE JUST STARTED REPRESENTING THAT HE WAS A CRYPT LIKE ALL OF A SUDDEN I DON'T KNOW – I DIDN'T SAY ANYTHING ABOUT IT I DIDN'T WANT TO, YOU KNOW, HURT HIS, YOU KNOW, FEELINGS OR WHATEVER HE WAS REPRESENTING SO I WOULD ALWAYS GIVE HIM THE BENEFIT OF THE DOUBT YOU KNOW OKAY, WELL, THAT'S FINE, THAT'S WHAT YOU DO, YOU KNOW THAT'S YOU SO I LEFT, YOU KNOW, I LEFT THAT ALONE

PC BUT YOUR –

CR BECAUSE I WAS BEING – BECAUSE HE CAME HERE WHEN HE WAS YOUNG, I MEAN, HE MOVED HERE WHEN HE WAS LIKE, I THINK ELEVEN AND I WAS LIKE, I DON'T KNOW HOW FAR INTO THE CRYPT LIFESTYLE HE COULD HAVE BEEN AND HE WAS ONLY THERE, I MEAN, LIKE UNLESS HE WAS GANGBANGED REALLY YOUNG BUT I THINK, YOU KNOW, HE MOVED HERE WHEN HE WAS YOUNG

PC SO YOUR SENSE, AND SOME OF HIS FRIENDS AS WELL, THAT HE WAS KIND OF PUTTING IT ON?

CR RIGHT, LIKE HE WAS PUTTING ON LIKE A FRONT AND TO THIS DAY, IF YOU ASK ALL HIS FRIENDS THAT'S A BIG PROBLEM WITH KAMELL, IS LIKE HE ALWAYS TRIES TO BE A PERSON – HE WANTS PEOPLE TO SEE HIM AS SOMETHING ELSE THAT HE'S NOT, JUST SO THEY'LL LIKE HIM MORE NOT KNOWING THAT HIS FRIENDS ARE THERE FOR HIM NO MATTER WHAT HE DOES, YOU KNOW, I MEAN, I – I – I USED TO SAY, I BET YOU YOUR FRIENDS WOULD REPSECT YOU MORE IF THEY KNEW YOU HAD A JOB YOU KNOW, INSTEAD OF PLAYING LIKE YOU ARE JUST A BIG DRUG DEALER AND THAT'S HOW YOU MAKE YOUR MONEY BECAUSE PEOPLE, YOU KNOW, PEOPLE, LIKE ALL HIS FRIENDS WERE LIKE, OH, I HAVE TO GET UP FOR WORK IN THE MORNING AND THEY USED TO CRACK ON HIM LIKE OH, YOU GOT TO GET UP, TOO DON'T YOU? OH, YOU DON'T HAVE NO JOB YOU KNOW, THEY ALWAYS CRACK ON HIM AND THEN HE WOULD BE LIKE YEAH, YEAH, YOU KNOW HE WOULD JUST SHRUG IT OFF LIKE –

PD DO YOU THINK HE REALLY WAS DEALING DRUGS?

CR YEAH BUT NOT TO THE SENSE THAT HE SAYS HE WAS THERE WAS A LITTLE BIT ON THE SIDE HE USED TO MAKE A LITTLE BIT OF MONEY BUT I NEVER SAW ANYTHING HUGE I DIDN'T SEE LIKE POUNDS OF WEED ANYWHERE

PC ALL RIGHT SO THAT WAS PART OF HIS BEING A BIG GUY?

CR RIGHT RIGHT

PC AND WHAT WERE SOME OF THE STUFF WE SAW FROM HIS HOUSE LIKE HIS POSTERS OF HIM WITH –

CR YEAH, HE WAS REPRESENTING THE LIFESTYLE OF THE CRYPT

PC WHEN YOU SAY REPRESENT, WHAT DO YOU MEAN?

CR WELL, WHEN YOU'RE IN A GANG YOU ALWAYS WANT TO REPRESENT YOUR CAUSE IT'S LIKE, YOU'RE, YOU KNOW, REPRESENTING YOU'RE A CRYPT SO THAT'S WHAT HE WAS DOING, YOU KNOW HE LIKED THAT HE LIKED THE GODFATHER MOVIES, HE LIKED SCARFACE MOVIES HE LIKED GOODFELLOWS HE LIKED ALL THE MAFIA MOVIES LIKE, HE WANTED HIS LIFESTYLE TO BE LIKE THAT

PC OKAY, AND SO HE HAD SOMEBODY TAKE THOSE PICTURES OF HIM?

CR YEAH ACTUALLY, WELL, I TOOK THE PICTURES AND HE HAD, WE HAD FOUND OUT THAT YOU COULD BLOW THEM UP, LIKE AT KINKO'S AND THAT'S HOW HE MADE THOSE

PC AND WHAT DID YOU THINK ABOUT THAT?

CR I MEAN, I JUST, YOU KNOW, LET HIM BE WHAT HE WANTS TO BE IF HE'S LIKE THAT –

PC SO HE ASKED YOU TO TAKE THOSE PICTURES?

CR YEAH YEAH

PC ALL RIGHT AND DID HE TAKE IT PRETTY SERIOUSLY?

CR YEAH, YOU KNOW, I MEAN, THAT'S WHY I NEVER SAID

ANYTHING ABOUT IT, YOU KNOW, YOU AIN'T A CRYPT I NEVER SAID ANYTHING LIKE THAT BECAUSE I DIDN'T WANT TO, YOU KNOW, DISRESPECT HIM LIKE THAT

PC OKAY BUT HE WASN'T OUT GETTING IN LOTS OF FIGHTS?

CR UH-HUH (AFFIRMATIVE) ALL THE TIME

PC HE WOULD?

CR OH, YOU CAN'T GO ANYWHERE WITH KAMELL AND NOT GET IN A FIGHT HE WAS ALWAYS IN FIGHTS NO MATTER WHERE HE WENT, GAMETIME OR (INAUDIBLE) HE WOULD ALWAYS TRY TO PROVE A POINT LIKE HE WAS, CAN'T NOBODY TOUCH HIM, THAT WAS HIS WHOLE MIND -- CAN'T NOBODY TOUCH ME CAN'T NOBODY TOUCH ME

PC WOULD HE START FIGHTS?

CR HE WOULD START FIGHTS HE WOULD START FIGHTS IT WAS JUST BEAUSE HE WAS DRUNK. HE WOULD START FIGHTS WITH GIRLS HE WOULD START – YOU KNOW AND THEIR GUYS WOULD HAVE TO STEP IN AND THAT'S WHEN, YOU KNOW, THE FIGHTS WOULD START

PC WAS THERE EVER –

CR SOMEBODY WOULD LOOK AT HIM WRONG WHAT YOU LOOKING AT? AND THEN THEY WOULD COME BACK TO HIM AND HE HAD TO PROVE A POINT

PC OKAY

CR SO HE WAS TRYING TO BE LIKE THE MAN OF THE CLUB THAT EVERYBODY RESPECTED THAT'S WHAT HIS – SO IF SOMEBODY DISRESPECTED HIM IN THE CLUB THEN IT WAS ON FOR HIM

PC DID ANYBODY EVER GET HURT IN THE FIGHTS?

CR I'M TRYING TO THINK. NO

PC DID HE EVER –

CR BECAUSE THEY BROKE IT UP

PC -- DID HE EVER CLAIM THAT HE KILLED PEOPLE?

CR WELL, HE TOLD ME ABOUT AN INCIDENT WHERE SOMEBODY TRIED TO ROB HIM AND HE SHOT – HE SHOT THEM IN – WHEREVER, BUT HE LIVED THE GUY LIVED

PC IS THAT TRUE?

CR YEAH, I THINK, YEAH BECAUSE (INAUDIBLE) YEAH, BECAUSE HE HAS A SHOTGUN AND –

PC AND WHERE DID THAT HAPPEN?

CR I THINK SOMEWHERE IN GREER.

PC OKAY DID HE GO TO COURT OVER THAT?

CR I DON'T KNOW I DON'T – I DON'T THINK SO

PC SOMEBODY TRIED TO –

CR I DON'T THINK – I THINK IT WAS SELF-DEFENSE I DON'T KNOW SOMEBODY TRIED TO ROB HIM FOR SOME WEED I DON'T KNOW WHAT HAPPENED WITH THAT BECAUSE THAT WAS BEFORE I MET HIM

PC OKAY AND HE SAID HE KILLED THEM?

CR NO, I, NO, HE LIVED THE GUY LIVED

PC OKAY SO SOMEBODY TRIED TO TAKE HIS WEED AND THEN HE –

CR YEAH, AND HE TRIED TO SHOOT THEM I THINK HE SHOT THEM THREE TIMES THE THIRD TIME HE SAID HE GOT HIMSELF IN THE HAND BECAUSE HE WAS TRYING TO PUSH THE GUY OFF

PC OKAY DID YOU KNOW WHEN THAT WAS ABOUT?

CR IT MIGHT HAVE BEEN A YEAR BEFORE I MET HIM

PC OKAY EVER SAY ANYTHING ABOUT KILLING ANYBODY ELSE?

CR HE ALWAYS TALKED ABOUT IT

PC WHAT –

CR YOU KNOW, I MEAN, HE WOULD ALWAYS TALK ABOUT GETTING

PEOPLE, LIKE, WE HAD BOUGHT THIS DOG FROM SOMEBODY IN GREENVILLE AND HE KEPT MESSING WITH KAMELL ABOUT THE PAPERS, CAUSE KAMELL, HE WAS LIKE, I PAID YOU THREE HUNDRED DOLLARS I WANT MY PAPERS SO HE WANTED A PUREBRED YOU KNOW SO HE KEPT COMING AT THE GUY AND HE WAS LIKE, OKAY, YOU KNOW, THIS TIME I'VE BEEN BEING NICE ABOUT THOSE PAPERS, BUT NEXT TIME, YOU KNOW, YOU DON'T COME WITH THE PAPERS OR EITHER I'M GOING TO HAVE TO COME AT YOU SO, ONE TIME HE WENT UP THERE AND HE WAS LIKE, HAVE YOU GOT MY PAPERS AND THE GUY WAS LIKE, NO MAN, I AIN'T GOT THEM AND THEN KAMELL DECIDED TO,YOU KNOW, FIGHT HIM

PC WHAT DID HE DO?

CR THEY WERE FIGHTING IN THE PARKING LOT AND THE GUY HAD ACTUALLY PUNCHED KAMELL IN THE EYE WHICH MADE HIM MAD SO HE HAD TRIED TO WRESTLE HIM TO THE GROUND BUT THERE WAS OTHER PEOPLE THERE TRYING TO BREAK IT UP AND THEN EVERYBODY WAS LIKE THE COPS ARE COMING, THE COPS ARE COMING SO, EVERYBODY TOOK OFF AFTER THAT DAY HE WAS LIKE, I'M GOING TO GET HIM I'M GOING TO KILL THAT MOTHER FUCKER I'M GOING TO KILL HIM

PC OKAY

CR SO HE USED TO LIKE – HE KNEW WHERE HE LIVED AND HE USED TO LIKE DRIVE HIS TRUCK – HIS EXPLORER AT THE TIME HE USED TO DRIVE IT OVER THERE AND PARK AND KIND OF JUST WAIT AND SEE IF HE SEES ANYBODY COMING

PC AND WHAT STOPPED THAT DO YOU THINK?

CR HE COULD NEVER FIND HIM

PC OKAY

CR CAUSE THE GUY MOVED

PC AND WHEN WAS THAT?

CR THAT WAS – IT WAS LIKE 2000

PC OKAY DID HE STEAL THINGS?

CR NO

PC DID HE BREAK INTO HOUSES?

CR NO

PC INTO CARS?

CR NO

PC DO YOU KNOW IF HE DID AS A KID?

CR NO

LOUD NOISES

PC HE DIDN'T TALK TO YOU TOO MUCH ABOUT IT?

CR HE DIDN'T TALK ABOUT IT I MEAN, HE TALKED ABOUT HIS LITTLE CRYPT LIFESTYLE BUT I COULDN'T BELIEVE HIM BECAUSE HE WAS HERE

PC RIGHT GOTCHA. GOTCHA ANY OTHER ILLEGAL STUFF HE GOT INTO?

CR JUST LIKE THE DRUGS

PC OKAY UH, DO YOU KNOW IF HE HAS BEATEN UP ANY OTHER WOMEN OR GIRLS THAT HE KNEW?

CR YES

PC WHO DID – WHO DO YOU KNOW ABOUT THAT?

CR UH, I MEAN, THAT'S WHAT HE USED TO TELL ME HIS EX-GIRLFRIEND'S THAT HE USED TO BEAT ON HER AND THERE WAS ANOTHER GIRL THAT HE TOLD ME ABOUT THAT THEY USED TO HAVE LIKE BOXING MATCHES ALL THE TIME AND THEY, YOU KNOW, HE WOULD BEAT HER UP AND SHE WAS LIKE THE FIGHTER TYPE

PC UH-HUH (AFFIRMATIVE)

CR. BUT AT THE TIME, YOU KNOW, I WOULD NEVER FIGHT HIM BECAUSE I KNEW HE HAD GUNS I CAN'T FIGHT A GUN SO I NEVER PUSHED IT TO THAT LEVEL OR I LET HIM CONTROL ME BECAUSE I, YOU KNOW, I DIDN'T KNOW WHAT HE WOULD

DO I GUESS THAT HE WOULD DEPEND ON HIS GIRLFRIEND AND SHE WOULD FIGHT HIM BACK AND, YOU KNOW, THROW ASHTRAYS AT HIM AND STUFF LIKE THAT

PC WHO IS HIS EX-GIRLFRIEND?

CR THE ONE I KNOW OF, I MEAN, THAT WAS A WHILE AGO THAT ONE RIGHT THERE, THE CRAZY ONE THEY ALWAYS TALK ABOUT (INAUDIBLE) AND THEN AFTER THAT THEY SAID THAT THERE WAS THIS GIRL THAT THEY KNEW, HER NAME WAS NIESHA. THAT THEY LIVED TOGETHER AND THAT HE USED TO BEAT ON HER.

PC OKAY IS SHE AROUND STILL?

CR YEAH I DON 'T EVER – THINK SHE'S STILL IN GREENVILLE

PC YOU DON'T KNOW HER LAST NAME?

CR NO, I DON'T KNOW, I MEAN HIS – I THINK HIS FRIENDS DO

PC OKAY NOW DID HE HANG AROUND WITH DRUGGIES?

CR UH-UH (NEGATIVE) HE HUNG AROUND – HE TRIED TO HANG AROUND WITH DRUG DEALERS, YOU KNOW, LIKE, UH, I DON'T KNOW, I MEAN –

PC WHAT NOW?

CR HE WOULD BE LIKE, YOU KNOW, UP AND DOWN, YOU KNOW, LIKE REAL QUIET TYPE

PC OKAY

CR LIKE, HE SAID, YOU KNOW, HE ADMIRED THEM, SO, IF HE WOULD SEE THEM OUT THEN HE WOULD BE LIKE, HE WOULD MEET THAT DRUG DEALER. YOU KNOW, HE WOULD SAY, I'M GOING TO START GETTING IN GOOD WITH HIM SO, I MEAN, THEY USED TO TALK AND CALL EACH OTHER AND THEY WOULD HANG OUT A COUPLE OF NIGHTS, YOU KNOW, LIKE BOYFRIENDS OR WHATEVER BUT, HE DIDN'T HANG AROUND WITH THEM, LIKE, YOU'RE TALKING ABOUT LIKE DRUG USERS?

PC YEAH, I MEAN, ANY, ANY OF THE DRUG DEALERS THAT HE MIGHT HAVE HUNG AROUND A LOT

CR NO NOT REALLY

PC BUT HE WANTED TO?

CR RIGHT I MEAN HE WANTED TO BE THEM

PC THAT'S WHAT HE WANTED TO BE?

CR RIGHT

PC AND HAS HE EVER THREATENED TO KILL HIMSELF?

CR HE HAS

PC WHEN WAS THAT?

CR UH, WELL, THAT WAS JUST RECENTLY IF, I MEAN, IF HE ASKED HIS FRIENDS, I WASN'T THERE, THEY TOLD ME AND LET ME KNOW ABOUT THAT NIGHT THERE IT WAS THREE WEEKS AGO

PC UH-HUH (AFFIRMATIVE)

CR AND THAT'S WHY, YOU KNOW, I LEFT AGAIN I DIDN'T COME HOME BECAUSE HE WOULD ACT ALL CRAZY UH, THEY SAID THAT HE WAS AT A PARTY AND THAT HE GOT REALLY MESSED UP AND THEN, I GUESS, HE WAS JUST SO DRUNK THAT HE PULLED OUT HIS GUNS AND WANTED TO SHOOT THEM IN THE AIR. AND HE WAS TALKING ABOUT I AIN'T GOT NOTHING, I AIN'T GOT SHIT NOBODY LOVES ME, I MIGHT AS WELL KILL MYSELF AND EVERYBODY WAS LIKE, NO, MAN, DON'T DO THAT YOU KNOW, YOU'VE GOT A LOT TO LIVE FOR. YOU KNOW, AND THAT GUY, NICK –

PC YEAH

CR AND ONE OF THE GUYS THAT WAS THERE WAS TRYING TO STOP IT HE PULLED THE GUN HE HAD ACTUALLY TURNED IT OUT AND JUST, YOU KNOW, TURNED THE GUN ON THEM AND SAID MAN, LEAVE ME THE FUCK ALONE AND THEN HE SAID OR I WILL SHOOT YOU OR, I DON'T KNOW, I DON 'T KNOW

PC OKAY

CR. BUT, THAT'S WHAT THEY WERE TELLING ME THAT THEY WERE SCARED OF HIM THEN BUT AFTER THAT THEY KNEW HE WAS DRUNK AND THAT THEY DIDN'T KNOW, THAT HE PROBABLY

DIDN'T KNOW WHAT HE WAS DOING SO THE NEXT MORNING THEY SAID THAT, YOU KNOW, KAMELL HASN'T CALLED AND THEY WERE WORRIED ABOUT HIM BECAUSE WHEN THEY DROPPED HIM OFF AT THE HOUSE HE WAS SAYING, HEY, MAN YOU DON'T GOT TO WORRY ABOUT ME NO MORE, MAN, HE WAS LIKE JUST LIVE YOUR LIFE FOR YOURSELF AND HE WAS LIKE, I'M GOING TO LET YOU LIVE YOU KNOW, AND THEY WOULD KIND OF WORRY ABOUT HIM BECAUSE THEY DIDN'T WANT TO LEAVE HIM IN THE HOUSE WITH GUNS ALONE BUT THE NEXT DAY, YOU KNOW, HE WAS JUST, HE FELL ASLEEP AND THEN HE WOKE UP AND HE WOULDN'T EVEN CALL THEM AND HE SAID THAT THEY TRIED TO CALL HIM BUT WHEN HE DOES STUFF LIKE THAT AND HE REALIZES IT, HE GETS EMBARRASSED SO HE DIDN'T WANT TO CALL HIS FRIENDS BACK BUT DAYS WENT BY AND THEN FINALLY HE WAS LIKE, HEY MAN, WHAT'S UP AND HE WOULD SAY I'M SORRY, I'M SORRY I DID THAT YOU KNOW, TO HIS FRIENDS AND THEY WOULD SAY, YOU KNOW, THAT'S COOL

PC OKAY ALL RIGHT, YOU KNOW WHEN ALL THIS STUFF GOES TO COURT THEY ARE PROBABLY GOING TO TRY TO BRING UP SOMETHING ABOUT YOU WHAT ARE YOU WORRIED ABOUT, ABOUT THAT? IS THERE ANYTHING –

CR I'M WORRIED ABOUT, WELL, I DON 'T KNOW I MEAN, I DON'T REALLY KNOW WHAT TO BE WORRIED ABOUT BECAUSE HE THREATENED ME HE THREATENED MY LIFE I DON 'T KNOW, YOU KNOW, WHATEVER HE'S GOING TO SAY, YOU KNOW, BECAUSE I LEFT HIM THAT HE, I DON'T KNOW WHAT HE'S GOING TO SAY I DON'T KNOW HOW TO HANDLE IT AND I – THE BIG THING IS THAT I FEEL BAD BECAUSE I STAYED WITH HIM THIS LONG

PC RIGHT

CR EVEN WITH THE WAY HE WAS AND THAT I DIDN'T HAVE ANYBODY AND I DIDN'T WANT TO BE ALONE I STILL STAYED WITH HIM I COULD HAVE LEFT HIM A LONG TIME AGO BUT I DIDN'T AND LIKE, I, YOU KNOW, I BROUGHT HIM –

PC WELL, LISTEN, I REALLY APPRECIATE YOU TALKING WITH ME IS THERE A WAY I CAN REACH YOU IF I NEED TO GET YOU AGAIN?

CR YEAH, I HAVE, I HAVE A CELL PHONE

PC WHAT'S YOU NUMBER?

CR 864

PC UH-HUH

CR [redacted]

PC OKAY AND BECAUSE, I FEEL, AGAIN I APPRECIATE YOU STAYING UP ALL NIGHT BUT IT'S VERY HELPFUL TO HELP PUT IT TOGETHER.

CR WELL, WHAT DO YOU MEAN, YOU SAID WHEN THEY BRING UP STUFF LIKE THAT?

PC WELL, WHAT I WAS WONDERING IS, LIKE, YOU KNOW, IF THEY SAY, WELL, SHE WAS INTO DRUGS OR SHE WAS INTO THAT I MEAN, ARE THERE ANY THINGS LIKE THAT, THAT YOU ARE WORRIED ABOUT?

CR OH, NO

PC OKAY, THAT'S WHAT I'M SAYING

CR I MEAN, I DIDN'T REALLY GET DOWN, LET ME TELL YOU, A LOT OF THE PART THAT HE'S MAD AT ME IS BECAUSE I PAID EVERY SINGLE BILL IN THAT HOUSE

PC THAT'S WHAT – I WANTED TO ASK YOU ABOUT THAT

CR. AND WHEN I LEAVE, THAT'S WHY HE'S SAYING HE AIN'T GOT NOTHING BECAUSE I PAID EVERYTHING

PC YOU DID? BECAUSE HE CLAIMS THAT HE PAID OFF ALL YOUR CREDIT CARD BILLS AND HE – YOU WERE HAVING CREDIT CARD PROBLEMS

CR I – MY PARENTS, THAT'S WHY – (CRYING) I'M MAD BECAUSE MY DAD AND MY BROTHER HELPED ME PAY OFF MY DEBTS AND THEY, MY PARENTS DID, THEY HELPED ME PAY OFF DEBTS THAT I SPENT ON HIM

PC OKAY SO YOU WERE REALLY SUPPORTING HIM?

CR YES THAT'S WHY HE'S SO MAD THAT, LIKE EVERYTIME I TRIED TO LEAVE HE'D BE LIKE, YOU KNOW, AT THE POINT WELL, WHAT IS HE GOING TO DO? HOW IS HE GOING TO PAY IT BECAUSE I ALWAYS PAID THE BILLS YOU KNOW, WHERE IS

HE GOING TO GET THE MONEY FROM?

PC SO HE WASN'T MAKING ENOUGH –

CR WELL, I – I DON'T KNOW, I MEAN, I'M SURE HE WAS BUT THAT'S HOW HE WAS SAVING MONEY THAT'S HOW HE ALWAYS HAD FAT POCKETS BECAUSE HE DIDN'T HAVE ANY BILLS TO PAY

PC YOU PAID HIS RENT?

CR I PAID HALF OF THE RENT I ALWAYS PAID MY HALF OF THE RENT

PC OKAY

CR AND I ALWAYS PAID ALL THE BILLS

PC OKAY DO YOU HAVE RECORDS OF THOSE?

CR I DON'T HAVE – WELL, CREDIT CARDS, I MEAN, THEY WENT, YOU KNOW, CREDIT CARDS –

PC I'D KEEP THOSE AS A – BECAUSE WHAT HE IS GOING TO SAY IS HE WAS PAYING FOR EVERYTHING SO, I'M GLAD THAT YOU –

CR. I MEAN, IT'S ALL ON MY CREDIT I MEAN, IF THEY LOOK AND SEE – IT WAS ALWAYS ON MY CREDIT CARD

PC EXACTLY ALL RIGHT AND SO THAT WAS ONE MORE REASON THAT HE DIDN'T WANT YOU TO LEAVE?

CR RIGHT AND THAT'S WHY I FEEL BAD BECAUSE MY, MY PARENTS SACRIFICED, I RUINED THEIR CREDIT [redacted]

PC SOMEBODY TALKED ABOUT THAT

CR YEAH SO, THAT'S WHY, YOU KNOW, I HAVE A LOT OF QUESTIONS TO ASK SOMEBODY BECAUSE –

PC RIGHT

CR MY MOM IS TRYING TO LEAVE HERE [redacted]

PC OKAY

CR SO

PC YOUR MOM'S TRYING TO LEAVE?

CR GREENVILLE

PC OKAY

CR SHE DOESN'T WANT TO BE HERE ANYMORE (CRYING)

PC OKAY

END OF TAPED CONVERSATION

Christina Rodriguez

Inv. Michael McNamara

Antonio Bailey, Notary Public
My Commission Expires
February 27, 2013

IN THE COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
CUYAHOGA COUNTY, OHIO

PENEE EVANS	)	CASE NO 86166821
	)	
Plaintiff,	)	JUDGE LESLEY BROOKS WELLS
	)	
vs	)	
	)	JUDGMENT ENTRY
BARRY EVANS, et al ,	)	
	)	
Defendants	)	

(F)

This cause came on to be heard on July 15, 1986, before Trial Referee Beverly Moffet, to whom this cause was referred by the Honorable Lesley Brooks Wells to try the issues of law and fact arising herein under the provisions of Rule 53 and 75 (a) and (c) of the Rules of Civil Procedure, upon the Complaint of the plaintiff and the evidence, the defendant having withdrawn his Answer and Counterclaim, both parties having been duly served with process personally according to law

Upon the evidence and due consideration thereof the Court finds that the plaintiff was a resident of the State of Ohio for more than six (6) months and a bona fide resident of Cuyahoga County for more than ninety (90) days immediately

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PLAINTIFF'S EXHIBIT F-37

preceding the filing of the Complaint that the parties were married on October 6, 1978, and that two children were born as issue of the marriage, to wit: Shatima Layshaun Evans, born [redacted], age 14 and Kamell Delshaun Evans, born [redacted], age 9

The Court further finds that the defendant has been guilty of gross neglect of duty and extreme cruelty and that by reason thereof the plaintiff is entitled to a divorce as prayed for

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff be and she is hereby granted a divorce from the defendant and that the marriage contract heretofore existing between the parties be and is hereby dissolved and set aside

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the care, custody and control of the minor children be and is hereby awarded to the plaintiff, subject to the defendant's right of reasonable visitation as hereinafter set forth, said order being subject to the further order of the Court

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant shall have reasonable visitation as follows

1 Every other weekend commencing July 25, 1986, from 7 00 p m Friday, to 7 00 p m Sunday

2 On the following holidays, the plaintiff and defendant shall have alternating visitation privileges, the holidays being Labor Day, Thanksgiving, Christmas Eve, Christmas Day, New Year's Day, Easter, the children's birthdays, Memorial Day and the Fourth of July, beginning with

ATTORNEYS AT LAW

Labor Day, 1986, so that the defendant shall have visitation on Labor Day, the plaintiff on Thanksgiving, the defendant on Christmas Eve, the plaintiff on Christmas Day, the defendant on New Year's Day, 1987, the plaintiff on Easter, 1987, the defendant on both children's upcoming birthdays, the plaintiff on Memorial Day, 1987, and the defendant on the Fourth of July, 1987

It being the further order that the following year the plaintiff shall have visitation with the minor children on Labor Day 1987 and the remaining holidays will be alternated between the parties

3 The defendant shall have visitation with both minor children for a two-week period during the summer vacation period and the defendant shall give the plaintiff at least 60 days notice of the two week period selected

The Court finds that the plaintiff earns approximately $23,000 annually and the defendant earns approximately $27,000 annually

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that subject to further order of Court, the defendant shall pay to the plaintiff as and for support of each minor child, the sum of Two Hundred Fifty Dollars ($250 00) per child per month for a total of Five Hundred Dollars ($500 00) per month plus 2% poundage for the two children

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said Two Hundred Fifty Dollars ($250 00) per month child support payment for each child shall continue until each said

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child reaches the age of eighteen (18) years and graduates from high school, pursuant to Ohio Revised Code §3103.03, is emancipated or otherwise self-supporting whichever event shall occur first in time to terminate said payments. Said payments be made twice a month through the office of the Bureau of Support of Cuyahoga County.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that by way of further support for said minor children, the defendant shall pay the necessary medical, dental, orthodontia, optical and prescription expenses for said minor children until such time as each said child reaches the age of 18 years and graduates from high school or becomes otherwise emancipated.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be entitled to take one child as an exemption on their federal, state and local income tax returns and both parties shall execute any and all documents necessary to give effect to this provision including signing and delivery to the other party Internal Revenue Service Form 8332.

The Court further finds that the parties have divided the personal property and their automobiles to their mutual satisfaction, and that each party shall retain all furniture, chattels and automobiles in their possession on July 15, 1986.

IT IS FUPTHER ORDERED, ADJUDGED AND DECREED that the defendant shall quit-claim all his right, title and interest in and to the real estate located at [redacted], to the plaintiff, which transfer shall be in full payment of any and all support and

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alimony arrearage owed by either party and shall be considered part of the equitable distributions and division of marital assets and the plaintiff shall pay to the defendant on or before October 20, 1986, the sum of Ten Thousand Dollars ($10,000 00) in full payment of defendant's interest in said property and in further consideration of the equitable division of marital assets

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the property to be conveyed to the plaintiff by the defendant shall be free of all encumbrances except the presently existing mortgage, or increased mortgage to obtain plaintiff's refinancing, and taxes and assessments for the last half of 1985 and thereafter

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff shall indemnify and save the defendant harmless with respect to the balance due or to become due as the result of further financing with respect to the mortgage on the Thorne property

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the quit-claim deed transferring the property from the defendant to the plaintiff shall be held in escrow until the Ten Thousand Dollar ($10,000 00) payment to the defendant is made, at which time the quit-claim deed shall be filed for record

The Ten Thousand Dollar ($10,000 00) indebtedness to the defendant shall bear no interest until October 20, 1986 and if not paid by said date, said indebtedness shall bear 12% interest until paid

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff shall pay and be responsible for and hold defendant harmless from the following bills General Motors Acceptance Corporation Sears Account #[redacted]0935 Federated Credit World Book Rogers Jewelry Dr Jefferson Jones and one-half the American Dental bill to the date of July 15, 1986

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant shall pay as additional alimony and be responsible for and hold plaintiff harmless from the following bills Sears (except for the account which plaintiff is ordered to pay), Best Rosenblum's, Safeway Tire, Forest City, Troy Ohio Bank one-half of the American Dental bill to the date of July 15, 1986, and all marital premises utilities and utility bills to the date of July 6, 1986

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall have as and for their own all assets, pension plans, stock option plans and employee benefit plans presently in their possession as part of the division of marital assets

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall pay their own attorneys fees incurred by them

IT IS FUPTHER ORDERED, ADJUDGED AND DECREED that all transfers and exchanges of property between the parties shall be treated as non-taxable events in accordance with the Tax Reform Act of 1984

Dworken & Bernstein Co P.A.
ATTO W
OOM
3 E E 5
NES EDN O 77

IT IS FUPTHER ORDERED, ADJUDGED AND DECREED that neither party on or after July 15, 1986, shall incur any debts or obligations affecting the credit of the other and each shall indemnify and save the other absolutely harmless from any such debts or obligations so charged or otherwise incurred

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all restraining orders are hereby dissolved, set aside and held for naught

The Court further finds that both parties hereto have been advised by their respective counsel of their right to receive a copy of the Report and Recommendation of the Referee and to have 14 days in which to object thereto as provided by Ohio Rules of Civil Procedure 53, and that both parties have waived that right

By separate Journal Entry of this Court, a provisional order to withhold employee's earnings shall issue on Midland Ross Corporation

The following information is provided for the use of the Court in accordance with Sections 2301 34 to 2301 41 and 3113 21 of the Ohio Revised Code

PAYEE	NAME	Renee L Evans
	ADDRESS	[redacted]
	SS#	[redacted]
	DOB	[redacted]
PAYOR	NAME	Barry Evans
	ADDRESS	[redacted]
	SS#	[redacted]
	DOB	[redacted]

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant shall pay the costs of this proceeding for which judgment is rendered and execution may issue

LESLEY BROOKS WELLS, JUDGE

BEVERLY HOFFET, TRIAL REFEREE
8/5/86

APPROVED BY

RENEE L EVANS, Plaintiff

Howard W Bernstein
DWORKEN & BERNSTEIN CO , L P A
Attorney for Plaintiff

BARRY EVANS, Defendant

Richard B Steuer
Attorney for Defendant

Received for filing this 7th day of August, 1986

GERALD E FUERST
CLERK OF COURTS

DEPUTY CLERK

Dworken & Bernstein Co., L.P.A.
LAW
ROOM 30
TEETZEL
ELYRIA, OHIO 44035

THE STATE OF OHIO
Cuyahoga County } ss

I GERALD E FUERST CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL NOW ON FILE IN MY OFFICE.
Fee $00 - Dated Aug 7, 1986
WITNESS MY HAND AND SEAL OF SAID COURT THIS 22 DAY OF Aug A.D. 1986

GERALD E FUERST Clerk

By _____ Deputy

PLAINTIFF'S EXHIBIT
A 36
CH 6-3

PLAINTIFF'S EXHIBIT
A-37
CLT 6/5/09

PLAINTIFF'S
EXHIBIT
3558

3559
PLAINTIFF'S EXHIBIT
H-39
CH 6 2

AGENCY I D	MAULDIN POLICE DEPT	CASE NUMBER
SC0230400	Investigative Supplemental	M 03-3575

☐ Original Report ☒ Supplemental Report ☐ Additional Victim ☐ Additional Stolen Property Page 1 of 2

☒ Modifies Original ☐ Case Status Change ☐ Additional Offenders ☐ Additional Recovered Property

Kidnapping
Pointing a Firearm
Murder x 2

On April 2, 2003 at approximately 12:21 A.M. I was contacted by Mauldin dispatch and advised to go to [redacted] in reference to a hostage situation. I arrived shortly before 1:00 AM and learned from Captain Roger Tripp that a subject named Evans was holding a family hostage at that residence. I remained over a block away in a staging area and did not approach the residence. During this briefing from Captain Tripp, I learned that Antonio "Joe" Sapinoso and his mother, father and a small child were in the residence as the hostages. Captain Tripp also gave me a courtesy briefing, as the the evacuation status and perimeter security situation as they then stood. I knew Joe Sapinoso professionally as a deputy sheriff. I spoke with Captain Saltmarsh of the Sheriff's Office. The Sheriff's Office had numerous deputies on the scene, had already established a tactical perimeter to complement that set up by the Mauldin Police Department. Captain Tripp informed me that my services as a hostage negotiator were not needed and I was to serve in my capacity as ancillary Public Information Officer for the Mauldin Police Department as Chief Davidson and Captain Moore were out of town on other business. Acting in this capacity I took no law enforcement action and merely waited for any developments. Shortly before 3:00 A.M., Captain Tripp told me that I could go home and rest for a few hours as they appeared not to need me until later. I left, went to Mauldin P.D. headquarters, inquired of Sgt. Sam Harrell of the current patrol status of the department, checked in with dispatch and started home. I monitored a radio transmission of a subject who had been stopped by MPO Ed Miller who had attempted to enter the cordoned off area at the intersection of Knollwood and U.S. 276 and then go to Ravenwood Apartments in a possible attempt to enter the scene area there. As I was leaving, Sgt. Harrell stopped the vehicle and subject of the person Miller had reported about. I went to him on Butler Rd. at East Butler Plaza. Officer Grice and MPO Allen were out with Harrell as back up as this driver's status and relationship with the hostage situation were unknown at that time. I questioned the driver with Sgt. Harrell and learned that his name was Antonio Kenyatta Garrett. His personal identification information is listed in report M03-3576. Garrett was asked why he desired to go to the scene of the hostage crisis. He stated that he owned a club and knew Rodrigues and Evans (p. 2)

Subject Identified	Subject Located	☐ Active	☐ Administratively Closed	☐ Arrested Under 18	☐ Ex-Clear Under 18
☒ YES ☐ NO	☒ YES ☐ NO	☐ Unfounded		☒ Arrested Over 18	☐ Ex-Clear Over 18

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Extradition Denied ☐ Victim Declines Cooperation ☐ Juvenile No-Cust.

Reporting Officer(s)	Date	Unit	Approving Officer	Date	Unit
Inv. S. Kines	04-03-03	93	Cmdr. C.E. Gibson	04-03-03	904

AGENCY I D	MAULDIN POLICE DEPT	CASE NUMBER
SC0230400	Investigative Supplemental	M 03-35"5

☐ Original Report ☒ Supplemental Report ☐ Additional Victims ☐ Additional Stolen Property Page 2 of 2

☒ Modifies Original ☐ Case Status Change ☐ Additional Offenders ☐ Additional Recovered Property

from his club Sgt Harrell gave Garrett his Dunaway warnings which included informing him that he was not under arrest and did not have to talk to us Sgt Harrell asked Garrett if he would come to headquarters and give a written statement Garrett started to tell of his knowledge of the incident and of Evans and Rodrigues. Garrett said that he had gotten a call from someone, he would not elaborate on who, and was told of the hostage crisis He said that he knew Rodrigues pretty well but did not like Evans He said Evans wanted to be a gangster and would try to act like a Crip gang member Garrett also said Evans was just a punk-ass nigger" He said that Evans would act tough like he was in Los Angeles Garrett said he told Evans that he was in South Carolina, not California and to quit acting like a gangster I wrote down Evans information in my pocket notebook and subsequently gave the information to Sgt Harrell Garrett asked that we call him with any information when the situation was over He appeared to have no useful information about this incident I asked him if he could help us with anything that might help talk Evans into giving up He could offer nothing He was allowed to leave by Sgt Harrell I went home showered and subsequently received notification to return to the scene I did so and was informed that two subject had been shot during my absence and Evans was in custody The remainder of the day I spoke with various representatives of the media, took copies of Mauldin reports to the Sheriff's Office and to SLED agents at the scene I did not enter the residence where the shooting occurred while there I represented Mauldin Police Department at the 4 00 P M. press conference at the Sheriff's Office on 04-02-03 Nothing follows

Subject Identified	Subject Located				
☒ YES ☐ NO	☒ YES ☐ NO	☐ Active ☐ Administratively Closed ☐ Unfounded	☐ Arrested Under 18 ☒ Arrested Over 18	☐ Ex-Clear Under 18 ☐ Ex-Clear Over 18	

Reason for Exceptional Clearan ☐ Offender Death ☐ No Prosecution ☐ Extradition Denied ☐ Victim Declines Cooperation ☐ Juvenile No-Custody

Reporting Officer(s)	Date	ID	Approving Officer	Date	Unit
In J S Kines	04-03-03	83	Cmdr C F Rabon	04-0 -03	804

Dale M. Davis

Criminal Mitigation Services

P O Box 50944
Summerville, SC 29485
Phone 843-871 6176
Fax 843-875 6626
e-mail dalemdavis@bellsouth net

August 3, 2004

Tamara Malkoff
Ohio Board of Health
Fax 614-728-7813

RE **Kamell Delshawn Evans**
Date of Birth [redacted]
Social Security Number [redacted]

Dear Ms Malkoff

Steve W Sumner of Greenville, SC represents Mr Evans in a criminal matter including capital murder I have been retained as the mitigation investigator and need to collect any and all records pertaining to his life The nature of the possible penalty in this case makes collection of all records extremely important

Our client tested positive in a lead screening in the early 1980's and received treatment according to his family He lived at [redacted] in Cleveland Heights and attended Caledonia Elementary School

Any help you can provide in helping me locate databases and records of his testing and treatment is greatly appreciated If you need any further information, please call me at the above number or my cell number at [redacted]

With warmest regards,

Dale M Davis
Capital Mitigation Specialist

Enclosure as stated above

cc Steve W Sumner
James L Goldsmith

Dale M. Davis

Criminal Mitigation Services

P O Box 50044
Summerville, SC 29485
Phone 843-871-6176
Fax. 843-875-6626
e-mail dalemdavis@bellsouth net

August 4, 2004

ATTN Medical Records
Kaiser Permanente
750 Huron Road East
Cleveland, OH 44115

RE Kamell Delshawn Evans
Date of Birth [redacted]
SS# [redacted]

Dates [redacted] **(Birth Records) through 1992**

Dear Sir or Madam

Steve Sumner of Greenville, SC is representing Mr Evans in a criminal matter including capital murder I have been retained as the mitigation investigator and as part of the investigation, any and all records pertaining to Mr Evans' life are being gathered The nature of the possible penalty in this case makes collection of these records extremely important

Please provide any and all records for Kamell Delshawn Evans including the records from his birth A HIPPA compliant release from Mr Evans is enclosed If payment of fees is required prior to sending the records, please notify me of the amount immediately in order to expedite this matter

Thank you so very much for your help with this matter I appreciate your time in trying to locate these very old records for me If any further information is needed, please contact me at the above number or on my cell phone at [redacted]

With warmest regards,

Dale M. Davis
Capital Mitigation Specialist

Enclosure as stated above

cc Ray Smith

PENGAD 800 631 6989
PLAINTIFF'S EXHIBIT
A-41

CONFIDENTIAL

ATTORNEY CLIENT AND ATTORNEY WORK PRODUCT PRIVILEGED INFORMATION
– DO NOT DISTRIBUTE –
DO NOT RELEASE WITHOUT EXPRESS PERMISSION OF
STEVE SUMNER, ESQUIRE

MEMORANDUM

State v Kamel Evans

TO File

FROM Dale

RE Lead - Cleveland

DATE August 3 2004

Contacted
Ohio State of Health Department State of Ohio, General Counsel
(614) 466-4882 Rachel Balanca left msg

Tamara Malkoff returned call and advised that the State of Ohio has a Childhood Lead Prevention Program She will check the state database and get me specific information to contact the Cleveland office She required a release in order to perform search
Faxed ltr & release 614-728-7813

8/4/04
Call back from T Malkoff, there was nothing in the state database Cleveland people will likely be familiar with the area where he lived and can give more information.

Cahoga County (Cleveland) Project Director – Ramona Redding
5550 Venture Drive
Parma, OH 44130
216-201-2007

Per Mom - lived in apartment < age 2 when tested + for lead

Address prior to moving to SC [redacted]

PLAINTIFF'S EXHIBIT 442

PENGAD 800-631 6989

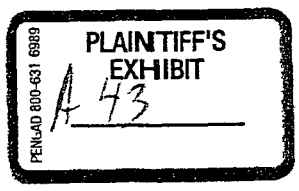
dale

From 'Steve Sumner" <stevesumner@bellsouth net>
To '"Dale Davis"' <dalemdavis@bellsouth net>
Sent. Monday, August 09 2004 5 34 PM
Subject RE One other thing

From Dale Davis [mailto dalemdavis@bellsouth net]
Sent Thursday, August 05, 2004 5 18 AM
To Steve Sumner
Subject. One other thing

Hey again,
The attached is a lenthy motion used by a lawyer I am working for on an Atlanta case His agency, the Multicounty Public Defenders' Office, does death penalty training as well and they have begun distributing it through their training He developed this motion and has used it several times for funding for me and has never failed to get what he asked for even with a reluctant judge He originally developed it because the judge in a case would only allow 20 hours for mitigation. I thought you might want to adapt it for South Carolina when you next approach the judge Just a thought, hope it helps
Dale

Dale M Davis
Capital Mitigation Specialist
Criminal Mitigation Services
Phone (843) 871-6176
Fax (843) 875-6626



3565

DALE MCNARON DAVIS

Post Office Box 41634
North Charleston South Carolina 29423
e mail dalemdavis@bellsouth net

Phone (843) 767 1548
Fax (843) 767 7591
Cell [redacted]

EDUCATION

Master of Criminal Justice	University of South Carolina Columbia SC 1999
Bachelor of Science	Charleston Southern University Charleston SC 1995
Associates in Business Paralegal Certificate	Trident Technical College Charleston SC 1991

EXPERIENCE

July 1998 – Present **CAPITAL MITIGATION SPECIALIST**

- Capital More than twenty five (25) death penalty cases at the trial level and post-conviction level in State Federal and Military Courts
- Non-capital mitigation cases Murders Felonies, Federal sentence reductions and downward departures
- Other investigation experience Multiple misdemeanors and felonies

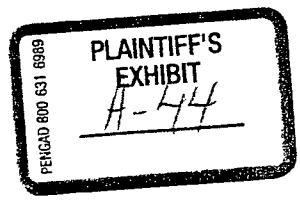
Oct 1994 – Feb 2000 **JAIL-PUBLIC DEFENDER LIAISON**
Charleston County Sheriff's Office
Charleston SC

Jan 1991 – Oct 1994 **INVESTIGATOR / PARALEGAL**
Charleston County Public Defender s Office
Charleston SC

Jan 1979 – Dec 1989 **SOLE PROPRIETOR – SMALL BUSINESS OWNER**

OTHER PROFESSIONAL TRAINING

- National Capital Defender Training 2006
- National Association of Sentencing Advocates Annual Training Conference 2004
- Life in the Balance Capital Case Training for Mitigation Specialist Defense Investigators & Defense Attorneys 1998 1999 2000 2002 2004 2007
- Georgia Annual Capital Defense Training Seminar 2002 2003 2004 2005
- Litigation Training Investigation and Proving Mental Retardation 2003
- Third National Seminar on Mental Health and Criminal Law 2002
- Death Penalty & Mitigation Investigation Workshops – Public Defender Conferences 1995 – 2003
- Advanced Interviewing Skills and Techniques
- MUSC Forensics Seminar
- Resisting the Abolition of Childhood In Defense of Children in the Juvenile Court
- Medical Evidence in Child Sexual Abuse/Assault
- Serving the Best Interest of Children Dealing with child victims of sexual and physical abuse their families and their abusers
- Conflict Resolution
- Alternative Dispute Resolution Mediation and Arbitration
- Juvenile Arbitration Training
- Guardian Ad Litem Volunteer Program
- Friend to Friend Volunteer Program
- How to Deal with Difficult People



ACADEMIC PAPERS

Thesis Dale M Davis Trying Juveniles as Adults Legislation Based on Judicious Need? Dispositions of 16 Year olds Charged as Adults with Presumptive Juvenile Sentences for Comparison College of Criminal Justice University of South Carolina 1999

Dale M Davis Mitigation in Death Penalty Cases College of Criminal Justice University of South Carolina 1998

Dale M Davis Child Abuse and Future Criminal Behavior College of Criminal Justice University of South Carolina, 1998

Dale M Davis Judaism as a Culture Citadel Graduate School 1998

Dale M Davis Explanation of Crime Using Theoretical Foundation College of Criminal Justice University of South Carolina 1997

Dale M Davis TV Violence and Aggression Citadel Graduate School 1997

Dale M Davis Juveniles as Adults College of Criminal Justice University of South Carolina 1996

Dale M Davis Street Violence and Adolescents Charleston Southern University 1995

Dale M Davis Investigating the Fairness of the Death Penalty Charleston Southern University 1994

Dale M Davis Does the Viewing of TV Violence Affect Behavior? Charleston Southern University 1994

PROFESSIONAL AFFILIATIONS

National Legal Aid and Defender Association
National Alliance of Sentencing and Mitigation Specialists
South Carolina Law Enforcement Officers Association
South Carolina Association of Legal Investigators
Licensed Private Investigator

dale

From Steve Sumner" <stevesumner@bellsouth net>
To Dale Davis " <dalemdavis@bellsouth net>
Sent Monday, February 14 2005 7 55 PM
Subject RE [SentencingAdvocates] Watch 'The Exonerated on CourtTV on Jan 27

The judge has not signed any vouchers yet I was told today that he had signed them and sent them to me in today's mail Yours was included with everyone else's (including the attorneys as well) You voucher as included with the original voucher package that was sent to the judge I was not hell bent on the case going to trial in September and did not "deceive" you as to the information I had at the time I am trying to get you paid pursuant to the voucher you submitted and explained to the judge that you moved quickly when I contacted you and worked diligently while you were on the case I am trying to get you paid for the work as I am trying to get everyone else paid (including myself, as I have not been paid yet and neither has Skip) The judge has had the voucher package for some time

-----Original Message-----
From Dale Davis [mailto dalemdavis@bellsouth net]
Sent Sunday, February 13, 2005 11 29 PM
To Steve Sumner
Subject. Re [SentencingAdvocates] Watch 'The Exonerated' on CourtTV on Jan 27

Has the judge signed the other vouchers? Was mine not included with those when everything goes to the judge after the case is completed? If he has not yet signed it, then he does not intend to sign it I hope you presented the situation to him as it happened - that I would not have been in this case at all had you not promised me payment up front I was deceived into getting involved in the Evans case to begin with, I told you the day I spoke to you in Jennifer Shealy's office that I could help you get a continuance but I could not do the case as it was scheduled when you contacted me If you were hell bent on going to trial in September, you should have told me that and I would never have made the trip up there OID has money because I have been paid by other attorneys who've filed with them sicne your case went to court so that is not an issue

— Original Message —
From Steve Sumner
To Dale Davis
Sent Monday January 24 2005 5 26 PM
Subject RE [SentencingAdvocates] Watch 'The Exonerated on CourtTV on Jan 27

Dale, thanks for the e mail I have sent your voucher to the judge (several weeks ago) I also spoke face to face with the judge last week and asked him to PLEASE sign the orders approving payment - Steve

I'm sending this only because it's "hell-bent" the comment

PENGAD 800 631-6989
PLAINTIFF'S EXHIBIT
A-45

STATE OF SOUTH CAROLINA)
v)
Kamell D Evans)

AFFIDAVIT
OF DALE M DAVIS

State of South Carolina
County of Dorchester

Comes now the undersigned who makes the following statement, under oath and before the undersigned Notary Public who is authorized by law to hear and accept oaths and based upon her own personal knowledge of the facts averred herein states as follows

1 My name is Dale M Davis My office address is P O Box 41634 Charleston, SC 29423 I have been working as a Capital Mitigation Specialist/Investigator since 1998 I have been involved in criminal investigation since 1991 I have a Bachelor of Science degree in criminal justice and sociology from Charleston Southern University and a Masters in Criminal Justice from the University of South Carolina, Columbia, SC I hold a private investigator s license from the State of South Carolina.

2 Since 1998, I have worked on capital cases and have conducted extensive social history investigations prepared social history reports and assisted attorneys in preparing for the penalty phase of capital cases I have worked on more than twenty (25) death penalty cases at both the trial level and post-conviction level in State courts as well as Federal and Military courts Additionally, between 1991 and 1998 I worked on more than a hundred non-capital cases

3 Very briefly the role of the mitigation specialist/investigator in a capital murder case is to assist the attorneys in many areas related to the preparation of mitigation evidence A few of the critical aspects of preparation involve the following
   a. Conducting a thorough social history investigation,
   b Identify possible mitigating factors from interviews and documents then further explore and investigate those factors,
   c Working with the attorneys to identify factors that may require expert evaluations,
   d Providing background materials information and documentation to experts to enable them to perform competent and reliable evaluations
   e Identify and interview all potential penalty phase witnesses i e family, friends, neighbors, teachers employers, etc and
   f Working with the client and his family while the case is pending

7 Proper preparation of the mitigation in a death penalty case requires a thorough social investigation of the defendant s background All records of any type, i e birth, school medical, jail mental health etc related to his past must be collected, reviewed and summarized Interviews of multiple family members, friends, teachers employers, and others relevant to the defendant's background must be conducted

8 On July 21 2004, I spoke with Steve Sumner regarding State v Kamell D Evans It was my understanding that Mr Sumner had recently been appointed to the case and was seeking the services of a mitigation investigator to assist defense counsel with investigating and preparing mitigation for use in the sentencing phase of a capital trial The trial was scheduled in the month of September 2004

9 I advised Mr Sumner that the very brief time until the scheduled trial did not allow time for proper preparation of the case and, additionally that I was not available at that time due to a trial date in Georgia in October 2004

PLAINTIFF'S EXHIBIT 4 2113

10 I stated that I could come to Greenville and interview Mr Evans and available family members in order to establish possible mitigating factors that may exist Based on the information obtained I could prepare an affidavit to use in obtaining a continuance to properly prepare for the penalty phase Mr Sumner advised that he had available money and we made arrangements for me to come up the next day

11 I traveled to Greenville the following day, July 22 2004 and met with Kamell Evans for more than four (4) hours at the Greenville County Detention Center On July 23 2004 I met with Mr Sumner and others in his office I reviewed some of the file and returned to the Detention Center and met with Kamell for several more hours Mr Evans signed releases so that I could obtain all records related to his background

12 I later interviewed Mr Evans sister and his mother

13 Based on information gained in my brief time on this case I was able to identify a number of potential mitigating factors to further investigate and document The following factors were identified

a. Lead poisoning prior to age two (2)
b Abusive and chaotic family situation,
c Abusive father and neglectful mother
d Domestic violence in home
e Family history of substance abuse,
f Poverty
g Early school failures and educational placement that may indicate low IQ
h Indication of potential mental health problems
i Prior psychiatric treatment
j Possible head injury due to fall on concrete,
k Good work history
l Minor history of criminal behavior,
m Participated in many sports and was accomplished athlete in school
n Sport scholarship to college
o Had a loving relationship with his sister niece and nephew
p Had a loving, close relationship with this younger sister

17 Mr Evans exposure to lead poisoning prior to age two (2) was confirmed by both his mother and his sister Lead poisoning prior to age six (6) can have devastating effects Among other things, lead exposure can cause Damage to the brain and nervous system behavior and learning problems slowed growth, headaches and hearing problems Diagnostic testing and an expert/specialist opinion are of extreme importance when lead poisoning is identified

18 On July 28 2004 I e-mailed Mr Sumner regarding my concerns about this case going to trial on the scheduled date due to the likely outcome of an improperly prepared mitigation case for sentencing

13 On August 11 2004, I was advised by Mr Sumner that someone else had been hired to replace me

_____
Dale M Davis Affiant

Sworn to and subscribed before
me this the _____day of _____ 2007

_____
Notary Public
My commission expires _____

Sunday 9/12/04 Asheville Citizen Times

Is Lead Poisoning Your Child?

RALEIGH—Could your child be suffering from lead poisoning? Children under six years old are at the greatest risk of being poisoned by lead, a heavy metal used in making hundreds of common products. Young children are most at risk of lead poisoning because they are growing and developing so rapidly and because they tend to put their hands or other objects—which may have been in contact with lead dust—into their mouths. Lead can affect nearly every system in the body. It can cause learning disabilities, behavioral problems, and at very high levels, seizures, coma or even death. Exposures to even small amounts of lead can cause adverse health effects. Most children who are poisoned by lead may have no apparent symptoms and can go undiagnosed and untreated for years, resulting in long-term problems. While lead poisoning can cause severe health effects in children, it is entirely preventable. The Centers for Disease Control and Prevention (CDC) recommends that all at-risk children between the ages of six months and six years get tested for lead poisoning, first at the age of one year and again at two. All children enrolled in Medicaid are required to have a blood lead test at 12 months and again at 24 months of age. Only a few drops of blood from a child's finger are needed to test for lead. Treatment is available to help children who have high levels of lead in their blood.

More than half a million children under the age of six live in North Carolina, and fewer than half of them have had their blood tested for evidence of lead exposure. Between 1995 and 2003, over 30,000 children between the ages of six months and six years living in North Carolina were found to have high blood lead levels (10 or more micrograms per deciliter).

Many children are at risk for lead poisoning. Years ago, when gasoline in America contained lead, vehicle exhaust released lead into the environment. Lead was also widely used in house paint before 1978. In North Carolina, more than one and a half million homes built before 1978 may contain lead paint, which can flake, peel, or release lead-contaminated dust. Lead is also commonly found in the soil along the drip line of homes due to the weathering of exterior paint. Children can get the lead-contaminated dust, paint chips or soil into their bodies through normal hand-to-mouth activity. Other common sources of accessible lead include plastic mini blinds, imported toys, crystal, fishing and hunting supplies, batteries, food stored in low-fired pottery or ceramic ware, and hobbies like the making of stained glass items. Children are also exposed to lead by taking traditional medicines such as azarcon, greta, pay-loo-ah and litargirio. Children adopted from other countries have a greater risk of having an elevated blood-lead level because of the availability of lead-containing gasoline and industrial emissions in some parts of the world.

To ensure that your children are safe from lead poisoning, keep your home lead safe by routinely damp-mopping the floors and damp-wiping other surfaces, including toys, to remove lead dust. Always wash your child's hands before snacks and meals. Make sure your child's diet contains the recommended levels of calcium and iron. Have your child tested by your physician or the local health department if you have not already done so. For information about having your child tested for lead, contact the N.C. Children's Environmental Health Branch toll free at 1-888-774-0071. Before disturbing the paint in older homes, have the paint tested to determine if lead is present. To find out if your home contains lead, contact the North Carolina Health Hazards Control Unit at 919 733-0820 for a listing of North Carolina Lead Certified Inspectors or Risk Assessors.

For additional information about lead, see the N.C. Department of Health and Human Services lead poisoning web page at www.epi.state.nc.us/epi/lead.html or call the National Lead Information Center at 1-800-424-LEAD (5323).

12697-301

PENGAD 800-631-6989

PLAINTIFF'S EXHIBIT A-47

3571

KAISER PERMANENTE

PEDIATRIC OFFICE DATA SHEET

2 / 0 0

CHILD'S (LAST NAME)	(FIRST)	(INITIAL)	(BIRTH DATE)	SEX
Evans	Kamell	D.		MALE X FEMALE

SOCIAL SECURITY NUMBER | MEDICARE/MEDICAID NUMBER

ADDRESS (STREET NUMBER AND NAME) [redacted] (CITY AND STATE) [redacted] (ZIP CODE)

PARENTS OR GUARDIAN [redacted]

[illegible] Evans

ADDRESS [redacted] WORK PHONE NUMBI [redacted]

FUTURE CHANGE OF ADDRESS [redacted] PHONE CHANGE [redacted]

PERSON TO BE CONTACTED IN CASE OF EMERGENCY
IF PARENT CANNOT BE PEACHED
Tekaia Y Cargile (grandmother) Hattie L Smith (grandmother)

ADDRESS [redacted] HOME PHONE NUMBER

EMPLOYER [illegible] WORK PHONE NUMBER [illegible]

SUBSCRIBER'S NAME [illegible] HOME PHONE NUMBER [redacted]

SUBSCRIBER S EMPLOYER [illegible] WORK PHONE NUMBER 732 6522

PAPENT OR GUAPDIAN'S SIGNATURE [illegible] DATE 8-26-[illegible]

KFHP USE ONLY	GPOUP			INFORMATION UPDATED						

PLAINTIFF'S EXHIBIT 4-48 16-4-09

FEMCAD 800 631 6989

3572

KAISER
PERMANENTE
MEDICAL CARE PROGRAM
IMMUNIZATION RECORD

PERTINENT DISEASES _____ _____ _____
_____ _____ _____

(*) USE THIS SYMBOL TO INDICATE IMMUNIZATIONS GIVEN ELSEWHERE (NOT AT KCHF)

DPT	3/23/77	2/18/77	6/2/77			
D-T	Child 11/19/81	9-16-83 *				
Tetanus						
Sabin Polio [ ] prior Salk	2/18/77	6/2/77	11/1/31	7.6.21		

MEASLES date 11/9/78 prod nine [ ] prior killed _____ _____ _____ _____

RUBELLA date 11/9/78 prod nine _____ _____ _____ _____

RUBELLA TITER date _____ result _____

MUMPS date 11/9/78 prod nine _____ _____ _____ _____

SMALL POX date _____ mfr/lot # _____ result _____

INFLUENZA _____

SKIN TESTS										
type	tine	Heaf	mil	MV	MV					
location	L	(L)		LH	LFA					
date appl	11/9/78	11 FEB	7/6 83	8126/82	9 19 82					
read										
result										

SKIN TESTS										
type										
location										
date appl										
read										
result										

OTHER _____

3573

[redacted]

EVANS MALE

CO 199868

1910 M [redacted]

207968

NO-659346

NEWBORN NAME	MRN MBER	HOSPITAL ZED	PATIEN U UAL PH C AN
RENEE	207968		

BSC RE N ME	DE SE V	M C
DAIRY FOOD PROD RENEE	NB	DR REID

T ME RE AT H P DD ESS (ONLY)	IM DIA	OCAT ON
BARRY RENEE EVANS- PAPENTS - SAME	☐	140 EAST

MITTING D O NC UDE SURGERY F PPLY

NEWBORN

ADMISSION

TIME	D TE DMITTED MO DA Y	JU L AN LA	TY E DM
1536	12/15/76	350	

DISCHARGE

T ME	DATE DISCHARGED MO D Y	JULIAN DAY	OTAL HC P DA
1605	12-20-76		5

AT WHAT LOCATION DO OU RECE VE YOUR OUTPAT ENT C RE? EAST

T NAME F R T	NIT AL	SE	ROOM NO	WORK RE ATED	ADMITTING CLERK
EVANS MALE		M	NURS.	☐YES ☐NO	BEATRICE MASSEY

FINAL DIAGNO IS ☐ VALUABLES ON DEPOSIT

X
CODE

Term Baby, living Male

V.L.P. C. Section

Y20.3

PAR-80-659346

SECONDARY DIAC NOSIS OR COMPLICATIONS

OPERATION OR PRO CEDURE

Circ

01.2

DICTATED
Date
BY

☐ ☐ ☐ ☐ ☐ ☐

3574

) Admitted to Hospital _____

HISTORY OF PREGNANCY Obstetrician _____

Mother's Name [redacted] Age 23 Gravida II Parity I EDC 12-7-78
S T S _____ Blood Group A Rh + Antibodies neg Father's Rh & Group _____ Health _____
Abnormalities of preceding pregnancies _____
Health Prior to pregnancy _____
Prenatal Course First Trimester _____ Second Trimester _____
Third Trimester _____ Diagnoses _____

TO BE COMPLETED BY OBSTETRICIAN
LABOR AND DELIVERY
Mother's General Condition (Good) (Fair) (Critical) (Moribund) (Febrile) (Afebrile)
Fetal Age (wks.) 40 Fetal Condition During Labor good
Rupture of Membranes M [redacted] Amniotic Fluid clear
[redacted]
Duration of Labor _____ Type of Delivery _____
Duration Presentation and Position LOA

Medication	Amount	Route	Time	Medication	Amount	Route	Time
2/15 Demerol	50 mg	IM	1:30				
Phenergan	50 mg	IM	1:30				

) Anesthetic (Kind, Amount, Length of administration Before Birth)
Gas 2 Attending MD

TO BE COMPLETED BY DELIVERY ROOM NURSE
CHILD Sex Male
Resuscitation Suction Aspiration Oropharynx — Cath — Cord —
Minutes to First Breath Birth To First Cry Imm Time Before Normal Respirations Color and Cry Pink
Elevation _____ Vitamin K _____ Vessels in Cord 3 Cord Blood Sent _____
Feeding Breast ( ) bottle (X)

APGAR	One minute	Five Minute	Remark
Heart Rate	2	2	
Respiratory Effort	1	2	
Reflex Irritability		2	
Muscle Tone	1		
Color	1	2	
TOTAL	5	9	

TO BE COMPLETED BY PEDIATRICIAN
INITIAL PHYSICAL EXAM Date 12/15/78 Time 6 hrs Weight _____ gms 8 lbs 2 oz Length _____ in
Measurements Head 34 cm Chest _____
Congenital anomalies None Skin Pink Nails Pink Hair Brown Eyes Blue
Ears Patent Palate Intact Neck Normal Clavicles Intact Chest Normal
Heart Regular Rate & Rhythm, no murmurs Lungs Clear Abdomen Soft, no masses
Liver 2 cm Spleen Not palpable Kidneys Not palpable Genitalia Normal male, testes down
Anus Patent Hips Stable Spine Intact Reflexes Normal
Other _____

3575

199865

PROGRESS NOTES BLOOD GROUP _____ RH _____ COOMBS _____

12/15/76 C-section for CPD Slow to start oxygen
Apgars 6/7
to Labor alcuid at twenty-six

12/20/76 Term - 2nd Twin, Boy [illegible]

CIRCUMCISION
Date 12 17 76
Method Gomco

[signature] M D

DISCHARGE INFORMATION
Neonatal Course _____

Feeding History _____

DISCHARGE PHYSICAL EXAM * Date 12/20/76

General Appearance ✓	Activity —	Pallor —	Icterus —	Skin ✓	Head —	
Eyes ✓	Mouth —	Neck —	Clavicles —	Chest —	Lungs —	
Heart —	Abdomen —	Umbilical Stump —	Genitals —	Neurological —		

Abnormal Findings _____

Discharge Diagnosis _____

[signature] C-Sect Del.

[signature] M D

Discharged at 4 DS Date 12-20-76 Weight 8-4½

Signature of nurse discharging baby [signature] RN

One [illegible] seen by [illegible] 12/20/76 Pediatrician ✓ Eas _____

Re [illegible]

3576

KAISER
COMMUNITY HEALTH
FOUNDATION

TO PERMANENTE MEDICAL GROUP

MR NO

Name

Address 11-95-65

Gr No Res Sex Mar Status D St

PEDIATRIC INITIAL VISIT RECORD

Name _____ Date of Visit 7-

Hospital _____ Obstetrician _____

Previous Physician _____ _____
Name Address

1) REASON FOR VISIT (Chief complaint)

Mother

2) PRESENT ILLNESS

cc

3) PAST HISTORY

(A) Prenatal Birth Weight _____

(B) Natal

(C) Growth & Development Juice done

(D) Nutritional Similac 5 oz about 1 can Baby cereal 2 tbs mixed [illegible]

(E) Previous Illnesses

Rubeola (natural) _____ Rubella _____ Varicella _____ Mumps _____
(immunization) _____

Operations

Hospitalizations

Serious Accidents or Injuries

Allergies

Other

3577

KAISER FOUNDATION

SHOP R/A ENTE M E J CAL (ROUP

PEDIATRIC HISTORY

ID 174568

NAME Evans, Bri

ADDRESS

GR NO RES SEX MAR STATUS

TO THE PARENTS OF Kamil D'Shaun Evans DOB 12-16-7

Completed by Renee L Evans Relation to Child Mother

This questionnaire was devised so that we might obtain enough information about your child to make a thorough evaluation It will allow us to concentrate our time on your child's most significant problems If you are uncertain about any answers you may leave them blank Please complete the form at home and bring it with you

Pages numbered 3 6 must be completed for EACH complete physical If you have completed this form before omit pages numbered 1 & 2

BRING IN IMMUNIZATION RECORDS – PLEASE!

Please use the space on page 6 to indicate any other questions or problems you wish to discuss

DO NOT WRITE BELO For Physicians Use

I PRENATAL

While carrying this child did you have	YES	NO
German (3 day) measles	___	✓
Any other infections?	✓	___
What? bladder ?		
When ___		
Vaginal bleeding	___	✓
When? ___		
High blood pressure	___	✓
X-ray examination	___	✓
Other illness	___	✓
What? ___		
Smoke cigarettes	✓	___

While carrying this child did you take	YES	NO
Vitamins	✓	___
Iron	✓	___
Hormones	___	✓
Other (please circle)	___	✓

Diuretic pills Tranquillizers
Water pills Thyroid
Sulfa drugs ___

How early did you start seeing the doctor? 3 months

II NATAL

Was this child born early NO late NO ?
Was the baby born head first ___ breech ___
Cesarean ✓
Birthweight 8 lbs 5½ oz Length 21 inches
Was the baby sick while in the hospital
Yes ___ No ✓ ___

FER

Genitalia

Rectum

Extremities

Skin

Lymph Nodes

Neuromuscular

DIAGNOSTIC IMPRESSIONS WC

TREATMENT AND PLAN

3579

KAISER PERMANENTE
MEDICAL CARE PROGRAM

Evans, Kimell
12-28-68

PROGRESS SHEET

FEB 13 77 PEDIATRICS 2 mos Wt 13#
Ht 24"
Hd 37/4
T 99.0 R

Well baby check
Dry skin faces
Similac ~ iron 1 can + solids
Smiles coos
PE - 2 dry round skin dry patches arms
seborrhea, face and scalp.
Otherwise neg
Imp WC
Rx DPT 1, Orthe
OPV 1 Postal
Kwalog 0.1% to prn

M Clough

MAR 17 '77 PEDIATRICS

3 mos Wt 6.35 kg 13# 15 oz
Ht 25 1/4"
Hd 40.5 cm
T 99.4 R

Well baby check
Runny nose
Eating well + 1 can Similac ~ iron
Reaches some PE ① Nose congested ② Lt post tibial cre
Imp ① WC ② URI Rx DPT/OPV M MD

3580

KAISER
PERMANENTE
MEDICAL CARE PROGRAM

Russell Evans
307968 12/74
M

PROGRESS SHEET

SURGERY APR 5 '77

Mother states has L foot turns in

(L) ETT

L DB Cast

Post Op

MD

3581

KAISER
PERMANENTE
MEDICAL CARE PROGRAM

PROGRESS SHEET

JUN 13 '77 ORTHOPEDICS

OCT 1 '77 ORTHOPEDICS

OCT 10 '77 ORTHOPEDICS

3582

KAISER
PERMANENTE
MEDICAL CARE PROGRAM

PROGRESS SHEET

R

JUN 30 '77 PEDIATRICS 6 mos Wt 8 55 kg T 98.6

Popsuckle papulosa

M Clough

3583

PERMANENTE

MEDICAL CARE PROGRAM

PROGRESS SHEET

ULT 24'77 PEDIATRICS 10 mos Wt 9,9 kg 22# 12'3 T 99

439 11'

MEDICAL MESSAGE CHART REQUEST — CHART COPY

Evans, Kenneth	CALLER'S NAME / PHONE NUMBER
19-98-62	Sick 4-5 days
9 mos [redacted]	Nasal congestion
	Felt warm 2-3d ago Appetite down
10/24 9:15 AM PM	Takes milk - restless
Clough Peds	Nasal drainage
CIRCLE ONE: EAST / WEST / NEW	Woken up at night 4 days
Rx REFILL # AND DRUG	MESSAGE RECEIVED BY
PHARMACY	Playful daytime
PHONE	PE Lt TM bright red dull
	MD

APPOINTMENT NEEDED ☐ RETURN CALL ☐ TRAUMA / ILLNESS ☐ DATE TIME AM PM PATIENT'S TEMP °F NEXT APPOINTMENT DATE TIME AM PM CHART ENTRY NECESSARY ☐

FORM 6 5401 19 (REV 11 74)

Nose very congested

Otx neg

Imp Lt otitis media

Rx Ampicillin 250 tid x 10d

Dimetapp

✓ 2 wk

M Clough

APR 7'78 PEDIATRICS

M CLOUGH, M D

N.S.

MC

MR-01 (Rev 11/76)

3584

19 98 68 1910 000

EVANS KEVELL D 12 /
11

2 73F° 4 0 0 0A

KAISER
PERMANENTE
MEDICAL CARE PROGRAM

PROGRESS SHEET

CWH-

PEDS MAY 23'80 Wt 37# Temp 99.4

DR B LIKLY

315 Likly

MEDICAL MESSAGE CHART REQUEST

CHART COE

Evans, Camille	CALLER S NAME	PHONE NUMBER
19 98 68		
3		
[redacted]		
5-28-80 AM 2:45 PM		
Likly peds		
CIRCLE ONE EAST WEST NEW	MESSAGE RECEIVED BY	
Rx REFILL # AND DRUG		
PHARMACY		
PHONE	M D	

URI

APPOINT NEEDI

RETURN

TRAUMA ILLNES

DATE

TIME

PATIENT S TI

NEXT APPOINTI

DATE

TIME

CHART EI NECESS

MR8-3401.111 (REV 8 78)

Gen- nl.
mild URI,
neck sig. lad
Lungs clear

TC
decongestant

Reb

3585

KAISER PERMANENTE

MEDICAL CARE PROGRAM

PHYSICAL EXAMINATION

H P NO

NAME 19 98 68 1389 0000

ADDRESS EVANS KEMELL D 12 76 112

CR N63 207 RACE M SEX 0 0A MAR STATUS

Head _____ Chest _____ Date 11-19-81

Height 46" Weight 46 Lbs Temp _____ Resp _____ B P _____

Normal (✓) Abnormal (X)	Describe Significant Details
General Appearance	exaggerated
Head and Face	✓
Eyes	✓
ENT	✓
Mouth	✓
Neck	✓
Chest (including breasts)	✓
Lungs	clear
Cardiovascular	S1 S2 reg pulses ✓ and =
Abdomen	✓
Back	✓

Titmus Acuity Classes { With / without

R 20/ did not
L 20/ understand

Bal Pass
Lens No mal
Color Pass

directions

Audiocheck
500 1000 2000

R 25
L 25

3586

Evans, Kendall
19-98-68
12/76

KAISER
PERMANENTE
MEDICAL CARE PROGRAM

PROGRESS SHEET

PEDIATRICS DEC 08 '81 NO SHOW

I HANSEN, M D

NO / CI
REQUI

Mother had scheduled appt 8/
to have forms filled out Saw mrs
Marcus for the form PE Never
called to cancell this appt.
Will see Dr Tilley for future ca

Class II Fed - need F/U

12-11-81 Mrs Evans called to return for
repeat CBC, Ord, SI, TIBC - Wbatne
as soon as possible. L Marcus, PNP

16-23 MONTH

DENVER PRESCREENING DEVELOPMENTAL QUESTIONNAIRE

3587

Child's Name

Date

Birthdate

Read each question carefully before you answer. Circle the best answer for each question. YOUR CHILD IS NOT EXPECTED TO BE ABLE TO DO EVERYTHING THE QUESTIONS ASK.

YES - CHILD CAN DO NOW or HAS DONE IN THE LAST
NO - CHILD CANNOT DO NOW, HAS NOT DONE IN THE LAST or YOU ARE NOT SURE THAT YOUR CHILD CAN DO IT
R - CHILD REFUSES TO TRY
NO-OPP - CHILD HAS NOT HAD THE CHANCE TO TRY

© Wm K Frankenburg M D University of Colorado Medical Center 1975

1 year 4 month check - Answer 41 through 50

41 Does your baby walk alone or holding on to furniture? YES NO R NO-O

1 year, 5 and 6 month check - Answer 42 through 51

42 Without help, can your baby play "pat-a-cake" or wave "bye-bye"? Circle NO if you need to help him by holding his hands YES NO R NO-O

1 year, 7 month check - Answer 43 through 52

43 Does your child say "da-da" when he wants or sees his father? Does your child say "ma-ma" when he wants or sees his mother? Circle YES if your child says either YES NO R NO-O

1 year, 8 month check - Answer 44 through 53

44 Does your baby stand alone without having to hold on to something for about five seconds? YES NO R NO-O

45 Does your baby stand alone without having to hold on to something for thirty seconds or more? YES NO R NO-O

1 year, 9 month check - Answer 46 through 55

46 Without holding on to something or touching the floor, can your child bend over to pick up a toy or other object on the floor and stand up again? YES NO R NO-OP

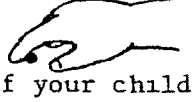
47 Is your child able to indicate what he wants without crying or whining? He may do this by pointing, pulling or making pleasant sounds YES NO R NO-OP

1 year, 10 month check - Answer 48 through 57

48 Is your child able to walk all the way across a large room without falling or wobbling from side to side? YES NO R NO-OP

1 year, 11 month check - Answer 49 through 58

49 When your baby picks up a small object such as a raisin, does he use only his thumb and index finger as in the picture below? YES NO R NO-OP



50 Answer NO if your child only hands the ball to you, or if you have never tried this. If you roll a ball to your child will he roll or throw it back towards you? YES NO P NO-OP

51 Can your child hold a regular cup or glass by himself and drink from it without spilling. The cup should not have a YES NO R NO-OP

3588

KAISER PERMANENTE
MEDICAL CARE PROGRAM

PEDIATRIC HISTORY

MRN
NAME
ADDRESS
CR NO FES EX AR TATUS

TO THE PARENT OF Kemell DelShaun Evans Date 11-19-81

Completed by Renee L Evans Relationship to Child mother

This questionnaire was designed so that we might obtain a concise history about your child to take at the time of evaluation. It will help us to spend our time on your child's most significant problems. If you are uncertain about any answer you may leave them blank. Please complete the form at home and bring it with you.

Any asterisked (*) item must be completed for EACH complete physical. If you have completed this form before omit any asterisked (*) items.

BRING IN IMMUNIZATION RECORDS – PLEASE!

Please use the space on page 6 to indicate any other questions or problems you wish to discuss.

DO NOT WRITE BELOW For Physicians use

1 PRENATAL

While carrying this child did you have

	YES	NO
German (3 day) measles		X
Any other infections?		X
What?		
When?		
Vaginal bleeding		X
When?		
High blood pressure		X
Xray examination		X
Other illness		X
What?		
Smoke cigarettes	✓	

While carrying this child did you take

	YES	NO
Vitamins	✓	
Iron	✓	
Hormones		X
Other (please circle)		X
Nausea pills	Tranquillizers	
Water pills	Thyroid	
Sulfa drugs		

How early did you start seeing the doctor? unknown

2 NATAL

Was this child born early NO late NO ?

Was the baby born head first ____ breech ____

Caesarian ✓

Birth weight 8 lbs 5½ oz Length 21 inches

Was the baby sick while in the hospital?

YES ____ NO X What ____

3589

KAISER PERMANENTE
MEDICAL CARE PROGRAM

PEDIATRIC HISTORY

R I
N I I
A D R I
C R I O RF EX MAP
I I

CROWLEY DEVELOPMENT OF KEMELL EVANS F 11-19-81 CHILD C I 4/
I wish you mid ng whether child ent emplo ment for m I v I OVER ACTIVE AT
TIMES

6 O IT ECTIONS (if any applic)
Bout what ge did the child
it ____ crawl ____ W ____
Cut his First Teeth ____
Which hand does he use ____
First two rd ____
sentences ____
Does he ak clearly ____
Give up bottle ____
Take Tri cd ____
Dr sh r (except for ____
ri ho ____

7 SCHOOL EXPERIENCES (if appropriate)
Does child enjoy school YES
Had Start r u ery (true) YES
Kindergarte (true) NOT yet
Grade placement now ____
Has he ee sted grade ____
Best Subjects ____
Grades (roughly) ____
Reading ____
Mathem tics ____
Are you satisfied w th h progress? yes
Is the school satisfied? unknown

8 BEHAVIOR
How would you describe h temperament? unknown

Does he hav any ner ous hab ts? no
If yes what? ____

How long does he watch TV on the average day? ages 7 hrs.
Do parent supervise types of programs some
How well does he get long w th other children? good
W th adult ? good

Does this child

	YES	NO
Hav trouble sleeping	____	X
Have trouble making fri nds	____	X
Steal or lie	____	X
Have temper tantrums	____	X
Disobey excessively	____	X

I NOT HERE HOW I FEEL

has been in nursery
School Hyperactivity
Troll

discussed

OVER

PEDS 5 (Rev 1/77)

3590

KAISER PERMANENTE
MEDICAL CARE PROGRAM

PEDIATRIC HISTORY

MR
NAME
ADDRESS
CHART NO REF EXAM DATE

REVIEW OF SYMPTOMS (Pediatric/Adolescent) For the following symptoms or diseases Please Mark Each One

DO NOT WRITE BELOW THIS (Physician Use)

	YES	NO		
Dizziness		X		
Head banging or rolling		X	2	
Frequent or severe headache		X	3	
Fainting		X	4	
Trouble seeing ?			5	Mother concerned states Child sits Close to television set
Infections of eyes frequent		X	6	
Rubbing eyes		X	7	
Eyes red frequently		X	8	
Eyes ever crossed		X	9	
Nose congested excessive		X	10	
Nose runs a lot		X	11	
Breathes with mouth open	X		12	
Sneezing excessive		X	13	
Sinus infection		X	14	
Many ear infections		X	15	
Ears ever drain pus		X	16	
Trouble with hearing ?			17	
Frequent sore throats		X	18	
Tooth extractions or infection		X	19	
Excessive nosebleeds		X	20	
Cough excessive		X	21	
Croup or laryngitis		X	22	
Pneumonia		X	23	
Wheezing		X	24	
Breathlessness when playing		X	25	
Heart murmur		X	26	
Vomiting excessive		X	27	
Constipation excessive		X	28	
Diarrhea excessive		X	29	
Pains in stomach excessive		X	30	
Laxatives or enemas needed		X	31	
Kidney or Bladder infection		X	32	
Blood in urine		X	33	
Pain when urinating		X	34	
Bedwetting now		X	35	
Strains to urinate		X	36	
Weak or dribbly urine stream		X	37	
Vaginal discharge		X	38	
Menstrual periods started		X	39	
Any troublesome rashes		X	40	
Easy bruising or bleeding		X	41	
Unusual clumsiness		X	42	
Limping or abnormal walking		X	43	
Take any medications		X	44	

OVER

3591

KAISER PERMANENTE

MEDICAL CARE PROGRAM

SEP 16 '83 PEDIATRICS MAR 1 5 '32 N.S. PEDIATRICS

M R No

NAME

ADDRESS

GR No RES SEX MAR STATUS

PEDIATRIC INTERVAL HISTORY

PRESENTING COMPLAINT DATE _____

INTERVAL HISTORY (Pertinent changes in general condition since last history and physical)

DEVELOPMENT/SCHOOL

BEHAVIOR

FOOD

ALLERGIES & DRUG REACTIONS
PCN Yes ___ No ___ Date ___

MEDICATIONS

LAST DENTAL VISIT

REVIEW OF SYSTEMS

HEENT
GLASSES Yes ___ No ___ How Long ___

NECK

CARDIOVASCULAR

RESPIRATORY

GASTRO-INTESTINAL

GENITO-URINARY

MUSCULO-SKELETAL

NEUROLOGICAL

SKIN

ENDOCRINE

MENARCHE
Yes ___ No ___ Date ___

MR 30 Rev 1-23-79

3592

KAISER PERMANENTE
MEDICAL CARE PROGRAM

14 94 68 1389 0000
EVANS KENELL D 12 71
C3 207763 4 0 0 0A 1 112

PROGRESS SHEET

W WIEDER M D.
CLEVELAND HTS.
SEP 16 '83 PEDIATRICS

Age [redacted] well
wt 53# ht 50½ BP 80/50

No Problems
Appetite good
School - Good Kindergarten

RE: HEENT: no [illegible]
for [illegible]
Neck supple
Chest - CTA
Cor: RRR - no M
Abd. soft /

Well child
? Learning Disability
Suggested more
regular school get
Psychological eval
① DPT
② OPV
③ Tine / Heaf test
U/A

WT Weck

KAISER PERMANENTE

3593

00207968 19 98 68

EVANS KENELL D 12
C O O A 1 13890

PROGRESS SHEET

PEDIATRICS FEB 1 '85

W WIEDEP M D

C EVELAND CLINIC

MEDICAL MESSAGE/
CHART REQUEST

Appt 2-1-85

PATIENT'S NAME

LAST Craig Kenell

SICK HOW LONG? yest TEMP 103

MR NO 199868

GROUP [redacted]

Dizzy - S-T - Headache
Cough - getting worse - wants Rx

PHONE (H)

PHONE (W) [redacted]

DATE 2/21/85 TIME 10 15 AM PM

RESPONSE

DEPT Ped REQUEST FOR Wiedep

NURSE SIGNATURE [illegible] C-ART LOCATION 01

PHARMACY PHONE

8 5401 119 (Rev 7/83)

DO SHOW

PHONE

NO ACTION REQUIRED

2/21/85 No show for SD visit
B Leggon LPN

3594

KAISER PERMANENTE

PEDIATRIC HISTORY

TRN) 4 [illegible] 3. 1259 0030

NAME

E IS [illegible] D 12 [illegible]

ADDRESS

CR NO) REG EX MAR STATU

TO THE PARENTS OF _____ Date _____

Completed by _____ Relation to Child _____

This questionnaire was devised so that we might obtain thorough information about your child to make it thorough which will allow us to correct our time on your child's most significant problems. If you are uncertain about any answers you may leave them blank. Please complete the form this and bring it with you.

Pages numbered 3 6 must be completed for EACH complete physical. If you have completed this form before omit pages numbered 1 & 2

BRING IN IMMUNIZATION RECORDS - PLEASE!

Please use the space on page 6 to indicate any other questions or problems you wish to discuss

DO NOT WRITE BELOW For Physicians use

1 PRENATAL

While carrying this child did you have	YES	NO
German (3 day) measles	___	X
Any other infections?	___	X
What? _____		
When? _____		
Vaginal bleeding	___	X
When? _____		
High blood pressure		X
Xray examination	X	
Other illness	___	X
What? _____		
Smoke cigarettes	X	___

While carrying this child did you take	YES	NO
Vitamins	X	___
Iron	X	___
Hormones	___	X
Other (please circle)	___	X
Nausea pills	Tranquilizers	
Water pills	Thyroid	
Sulfa drugs	_____	

How early did you start seeing the doctor? _____

2 NATAL

Was this child born early NO late NO ?

Was the baby born head first _____ breech _____

Caesarian X

Birth weight _____ lbs _____ oz. Length _____ inches

Was the baby sick while in the hospital?

YES _____ NO X What _____

PEDS 5 (Rev 1/77)

OVER

3595

KAISER PERMANENTE

PEDIATRIC HISTORY

DATE 1 27 CHILD'S AGE 8

How far will other children have to go to physical education?

DO NOT WRITE BELOW FOR Physician Use

6 COMMUNICATIONS (if previously noted)

About what age did he:

Sit _____ Crawl _____ Walk _____

Get his First Tooth _____

Which hand does he use? _____

First use words _____

Sentences _____

Does he speak clearly _____

Give up his bottle _____

Toilet Trained _____

Dress himself except bows _____

Tie shoes _____

7 SCHOOL EXPERIENCES (if appropriate)

Does child enjoy school YES

Head Start or nursery (age) 2ND grade

Kindergarten (age) _____

Grade placement now 2ND

Has he repeated a grade YES 1ST

Best Subjects MATH

Grades (roughly) B-C

Reading Fine

Mathematics Good

Are you satisfied with his progress? YES

Is the school satisfied? YES

8 BEHAVIOR

How would you describe his temperament? Average

Does he have any nervous habits? UNKNOWN

If yes what? _____

How long does he watch TV on the average day? Varies

Do parents supervise types of programs (Some)

How well does he get along with other children? good

With adults? Good

Does this child

	YES	NO
Have trouble sleeping	___	X
Have trouble making friends	___	X
Steal or lie	___	X
Have temper tantrums	___	X
Disobey excessively	___	X

3596

KAISER PERMANENTE

PEDIATRIC HISTORY

MRN 1 1 4 53 1369 0000
NAME E C ELL D 12 7>
MIDDLE
CHRNO RES M EX MAR STATU

REVIEW OF SYMPTOMS Check what you believe has been of the following symptoms or diseases Please Mark Each Item

DO NOT WRITE BELOW For Physicians Use

	YES	NO		INACT
Convulsions		X	1	
Head banging or rolling		X	2	
Frequent or severe headaches		X	3	
Fainting		X	4	
Trouble seeing	X		5	
Infections of eyes frequent		X	6	
Rubbing eyes		X	7	
Eyes red frequently		X	8	
Eyes ever crossed		X	9	
Nose congested excessive		X	10	
Nose runs a lot		X	11	
Breaths with mouth open		X	12	
Sneezing excessive		X	13	
Sinus infection		X	14	
Many ear infections		X	15	
Ears ever drain pus		X	16	
Trouble with hearing		X	17	
Frequent sore throats		X	18	
Tooth extractions or infection	X		19	
Excessive nosebleeds		X	20	
Cough excessive		X	21	
Croup or laryngitis		X	22	
Pneumonia		X	23	
Wheezing		X	24	
Breathlessness when playing		X	25	
Heart murmur		X	26	
Vomiting excessive		X	27	
Constipation excessive		X	28	
Diarrhea excessive		X	29	
Pains in stomach excessive		X	30	
Laxatives or enemas needed		X	31	
Kidney or Bladder infection		X	32	
Blood in urine		X	33	
Pain when urinating		X	34	
Bedwetting now		X	35	
Strains to urinate		X	36	
Weak or dribbly urine stream		X	37	
Vaginal discharge		X	38	
Menstrual periods started		X	39	
Any troublesome rashes		X	40	
Easy bruising or bleeding		X	41	
Unusual clumsiness		X	42	
Limping or abnormal walking		X	43	
Taking any medications		X	4	

3597

KAISER PERMANENTE

M R No

NAME

ADDRESS CELL D

GR No RES SEX MAR STATUS

PEDIATRIC INTERVAL HISTORY

PRESENTING COMPLAINT DATE

INTERVAL HISTORY (Pertinent changes in general condition since last history and physical)

DEVELOPMENT/SCHOOL Here with grandmother

BEHAVIOR Aunt says has work on school

FOOD

ALLERGIES & DRUG REACTIONS
PCN Yes ___ No ___ Date ___

MEDICATIONS

LAST DENTAL VISIT

REVIEW OF SYSTEMS

HEENT
GLASSES Yes ___ No ___ How Long ___

NECK

CARDIOVASCULAR

RESPIRATORY

GASTRO-INTESTINAL

GENITO-URINARY

MUSCULO-SKELETAL

NEUROLOGICAL

SKIN

ENDOCRINE

3598

KAISER PERMANENTE

PROGRESS SHEET

MEDICAL MESSAGE/
CHART REQUEST

Evans, Kamell

MR NO 199868

[redacted]

PHONE (H) [redacted]

PHONE (W)

DATE 4/28/86 2 15 ~~AM~~ PM

DEPT Peds REQUEST FOR Wieder

FROM M. Turoyski CALLED

PHARMACY PHONE
#8-5401 119 (Rev 6/85)

SICK HOW LONG? TEMP

√ to see if chicken pox

RESPONSE Rash c watery blisters Some have formed
scabs Advised given - Calamine lotion
Baking soda bath, Benedryl OTC 1 tsp @ 10
pm itching Cweber RN

PEDIATRICS SEP 19 '86

W WIEDER M.D.
CLEVELAND HTS.

30 minutes late

Age [redacted]

Wt 77#

Ht 57"

BP 90/56

well checkup B'Boards

2nd [illegible] - day pen
en closed

PE: WNL

Imp: Well child

Tyl 9/19/86

JK 330 B'Boards

3599

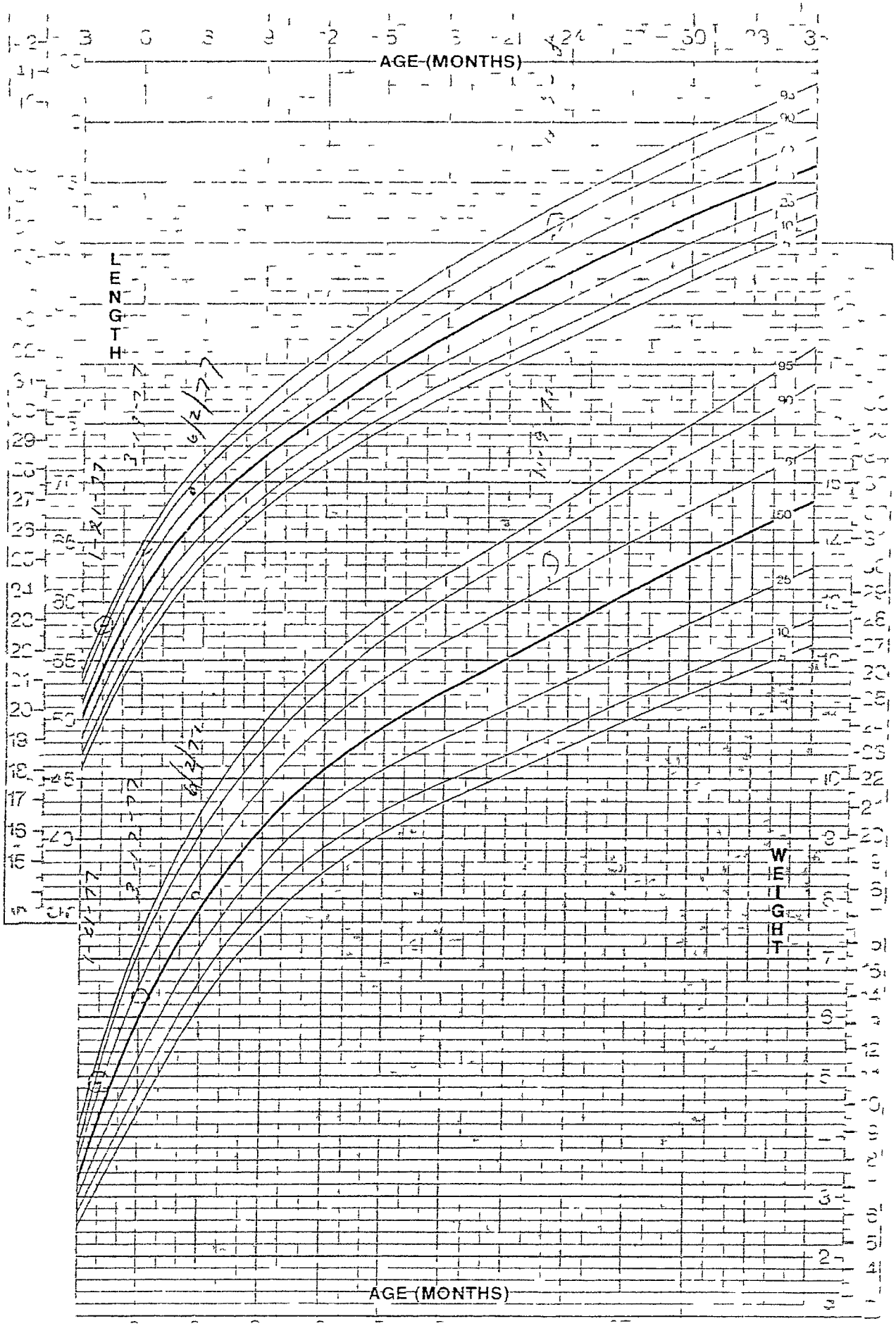
BOYS BIRTH TO 36 MONTHS

PHYSICAL GROWTH

NCHS PERCENTILES

Evans Female

RECORD 12-18-



Developed by the National Center for Health Statistics in collaboration with the National Center for Chronic Disease Prevention and Health Promotion (formerly Center for Chronic Disease Control)

SOURCE: NCHS growth charts, 1976

Published May 1976 by the National Center for Health Statistics, Public Health Service, Hyattsville, Maryland

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

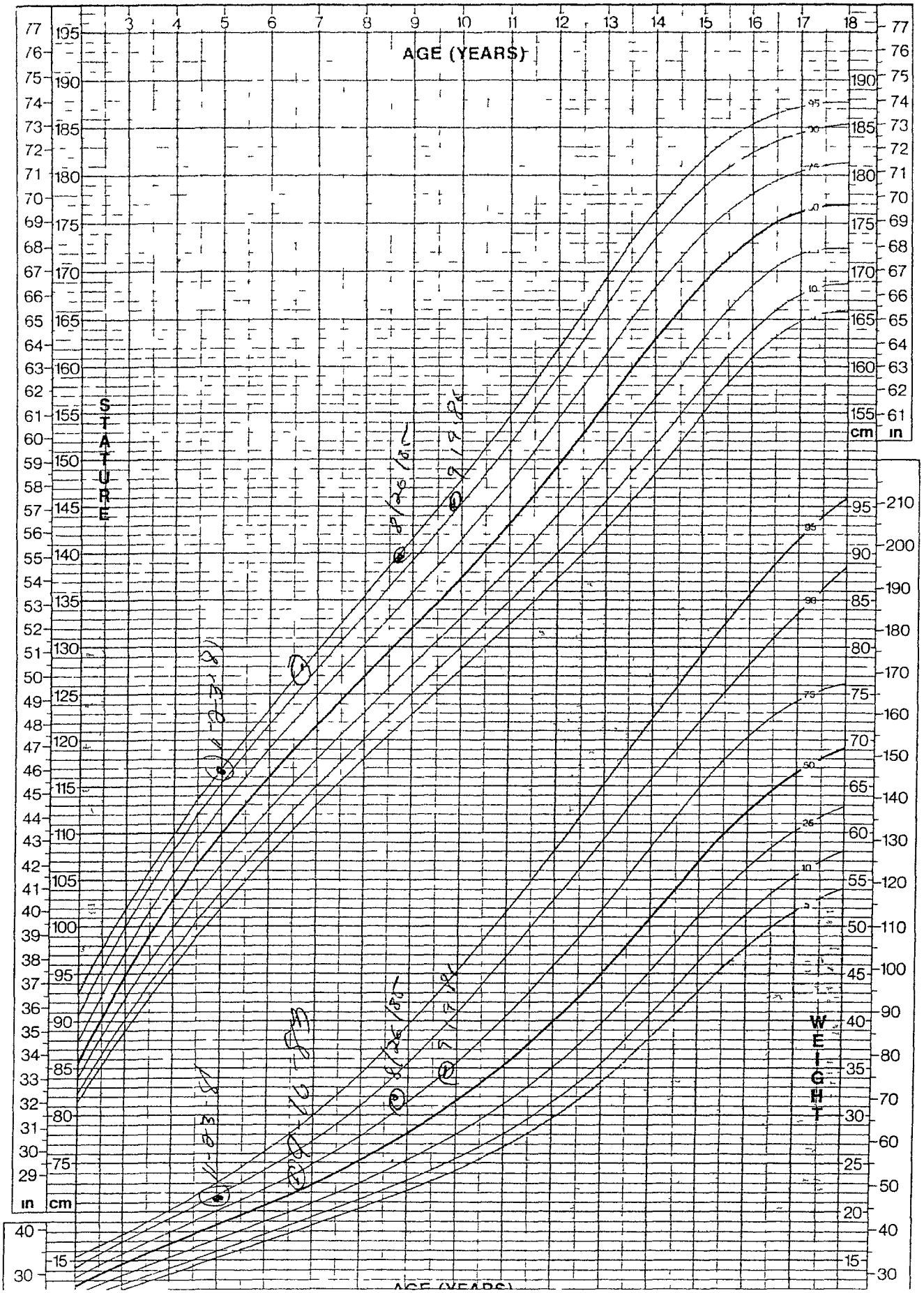
Price $1.75 per set of 10 charts

Stock No. 017-012-00416-1

3600

BOYS 2 TO 18 YEARS
PHYSICAL GROWTH
NCHS PERCENTILES*

NAME _____ RECORD # _____



Provided as a service of Ross Laboratories

*Adapted from Hamill PVV Drizd TA Johnson CL Reed RB Roche AF Moore WM: Physical growth National Center for Health Statistics percentiles AM J CLIN NUTR 32 607 629 1979 Data from the National Center for Health

3601

OPHTHALMOLOGY RECORD

ADDRESS [illegible]
CR No [illegible] PES EX MAR STATUS

D GRACON OD
CLEVELAND HTS

OPTOMETRY OCT 2'86

AGE 9
ALLERGIES None
MEDICINE None

DATE			
V OD OS	C20/30+ CPH 20/40-1	NV OD OS	Routine Exam B-Reschs
W OD OS		TA OD OS	

KAISER
PERMANENTE
MEDICAL CARE PROGRAM

OPHTHALMOLOGY RECORD

3602

R N C3 207968 M 0 SEX 0 MAR STATUS

S LOVELAND OD
CLEVELAND HTS

AHC-0
Med-0
Cage-6

CPH

FU

Ret

VA with Rx 20/30 pictures of DM CS
20/40+2 E's OD + OS

(1) Continue constant use of Rx — Return on March will replace at that time (requires cutting & reading)

KAISER

PERMANENTE

MEDICAL CARE PROGRAM

3603

OPHTHALMOLOGY RECORD

STATUS

DATE

20/40 PH

20/40 pictures

Acc - 0

Med - 0

Age - 6

K 43 @ 45 0 @ 095

OHIO PERMANENTE MEDICAL GROUP

KAISER COMMUNITY HEALTH FOUNDATION

X-RAY REPORTS

ADDRESS

GR No | RES | SEX | MAR. STATUS

KAISER PERMANENTE
MEDICAL CARE PROGRAM

RADIOLOGIC EXAM

POSITIVE FINDINGS

HC

ER

ER

DATE

IMPRINT AREA

NAME

Evans Kimuel
19 F 3 0 5
Left wrist 12/16

Rt hand
- w/ views

[redacted] ROAD HOSPITAL

DEPARTMENT OF RADIOLOGY

EVANS	KEMELL	7	EP	KAISER	1-22-84

[redacted] 26-13-42

LEFT HAND

The examination is negative for evidence of radiopaque foreign body

The visualized bones and joints are radiographically normal

E EISER, M D /sh

RADIOLOGIST 23/23/12

ORDERS

0 1 ⌀

MONITOR

IV

d⁻ 05

FOLEY

NG

DRY DR JING

DILANTIN

CBC

U A

VA

MY E

A

BI IR IBIN

CT SPT

CA D C

A B C CL

RAIB

CG

RESPIRATOR

BLOOD GAS

URINE ☐ CA

CC

RAY

D C CHART

CAL P O

OTHER

DIAGNOSIS

DISPOSITION

☐ ADMIT ROOM

☐ NO

INSTRUCTIONS

☐ AC ID DIET

☐ DIABETIC DIAPHRA

☐ BRP/CONT ON ☐

☐ AD NURSE ☐

☐ TE PUPIL ☐

☐ CAST CARE ☐

☐ OTHER ☐

X

3607

HURON ROAD HOSPITAL

EMERGENCY ROOM

PATIENT LAST NAME	FIRST	MI	DATE OF BIRTH	AGE	SEX	RACE	REL	MS		IPS	MEDICAL REC #
STREET ADDRESS			SOCIAL SECURITY NO	RELIGION				ACCOUNT NO			DATE TIME
CITY	STATE	ZIP	TELEPHONE	SPOUSE NAME						SPOUSE SOCIAL SEC NO	
MAIDEN NAME			PATIENT I D	SPOUSE EMPLOYER							
RESPONSIBLE PARTY NAME			SOCIAL SECURITY NO	SPOUSE EMPLOYER STREET							
STREET ADDRESS			RELATIONSHIP	SPOUSE EMPLOYER CITY						STATE	ZIP
CITY	STATE	ZIP	TELEPHONE	MEDICARE NO						PART B	
EMPLOYER NAME PATIENT			OCCUPATION	BC CONTRACT HOLDER						BC CONTRACT NO	
STREET ADDRESS			BADGE NUMBER	BC GROUP NO		BC SVC CODE		REL	BC CITY STATE		
CITY	STATE	ZIP	TELEPHONE	STATE COUNTY WELFARE CASE NAME						CASE NUMBER	
EMPLOYER NAME RESPONSIBLE PARTY			OCCUPATION	SECURITY CODE						PROGRAM CODE	
STREET ADDRESS			BADGE NUMBER	INDUSTRIAL CLAIM NO				DATE OF INJURY		EMPLOYER	
CITY	STATE	ZIP	TELEPHONE	OTHER INSURANCE NAME				CONTRACT NUMBER			GROUP #
EMERGENCY CONTACT				STREET ADDRESS							FIN CL #
RELATIONSHIP			TELEPHONE	CITY			STATE		ZIP		FIN CL #
HOW BROUGHT IN			ACCOMPANIED BY	E.R. PHYSICIAN							
INFORMANT		POLICE NOTIFIED	CAR NO	PHYSICIAN NAME						PREVIOUS VISIT DATE/TYPE	

NATURE OF COMPLAINT

LAB ☐ X-RAY ☐ ECG ☐ E.E.G. ☐ OTHER HRH PARAMEDIC? ☐ YES ☐ NO

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5

E.R. VISIT _____ A.E.

3608

HURON ROAD HOSPITAL EMERGENCY RECORD CONTINUATION

PATIENT — LAST — FIRST — EMERGENCY RECORD CONTINUATION NO.

11/22/54 7 yo BM (R) HA kindergarten student
hx fall hand rail sharp metal object 1" above eyebrow
2 cm flap ov (L) under MP jt loudly
no neuro vas deficit - full flex/ext - MP jt stable

12 nylon hair
betadine prep.

x inspector parted hx of upper hand -
repaired i 1 5 0 nylon sutures
also repaired 4 5 0 nylon sutures

C Hasselwell

EMERGENCY ROOM SUPPLEMENT

KA[illegible] PERMANENTE MEDICAL C[illegible]

FULL SHEET

3609

LABORATORY SHEET

OUT

NAME 19 98 68 1910 0007

EVANS KERELL D 12 76 112

CJ 207968 H 001 A0

☐ DIFF
☐ ESR
☐ PLATELET CT
☐ RETIC
☐ OTHER LIST BELOW

TEST N UNITS	RESULTS
PLATELET 150 400000 CMM	
ESR UNCORR	
ESR CORR	
RETIC 0 5 15%	

45-2813

☑ ROUTINE ☐ STAT ☐ PRE OP

LOCATION A

PHYSICIAN Clough DR NO 161 DEPT Peds

TEST	NORMAL VALUES							DIFF							
	M 4 8 10 8 F 4 8 10 8	M 4 6 6 2 F 4 2 5 8	M 14 18 F 12 16	M 42 52 F 37 47	M 80 94 F 79 97	M 27 31 F 27 31	M 32 36 F 32 36	BAND	POLY	LYMPH	MONO	EO	BASO		
WBC X 10^3															
RBC X 10^6															
HGB gm															
HCT %															
MCV μ^3															
MCH $\mu\mu$ g															
MCHC /															
CODE															
9,067															
11.0															
35															

D-[illegible] DRAWN 6-2-77 DATE REPORT 6/2/77 TECH Dm CHART

KA... PERMANENTE ... MEDICAL CARE ... GR...

FULL SHEET

3610

LABORATORY SHEET

SALTO | OAK | F | ALLEJO | WC | HMOND | C | F | RC | ANTIOCH | HAYWARD | J | H | MART EZ | OTHE | IN / OUT

ORDERED BY DOCTOR Clough DOCTOR'S NUMBER 161

DEPARTMENT Peds DATE 6/2/77

SPECIAL INSTRUCTIONS

Scheider

PATIENT

[redacted]

CHARGE

SPECIAL PROCEDURES

TO BE DONE AM PM

RESULT

Negative

DATE TO LAB 6-2-77

DATE REPORTED 6/2/77 dp

CHART

SPEC PROC

A B C D E F G H I J K L M

KA... PERMANENTE ... MEDICAL CARE ... GR...

FULL SHEET

3611

LABORATORY SHEET

ORDERED BY DOCTOR Clough DOCTOR'S NUMBER 161

DEPARTMENT Peds DATE 6/2/77

SPECIAL INSTRUCTIONS

Schedule

PATIENT

19 98 68 1910 0007 OUT

EVANS KENELL D 12 76 112

C3 207968 M 0 0 0A

☐ROUTINE ☐AT ☐AMAP ☐PRE OP ☐ER

45-3966

PHYSICIAN Clough DEPT Peds LOCATION Sev

TEST N UNITS	RESULTS
PLATELET 150 400000 CMM	
ESR UNCORR	
ESR CORR	
RETIC 0.5 15	

☐DIFF
☐ESR
☐PLATELET CT
☐RETIC
☐OTHER LIST BELOW

TEST	NORMAL VALUES								DIFF	BAND	POLY	LYMPH	MONO	EO	BASO	
	M4.8 10.8 F4.8 10.8	M4.6 6.2 F4.2 5.4	M14 18 F12 16	M42 52 F37 47	M80 94 F79 97	M27 31 F27 31	M32 36 F32 36									
CODE	WBC x 10³	RBC x 10⁶	HGB gm	HCT	MCV µ3	MCH µµg	MCHC									
	7,019		11.2	32.9												

DATE DRAWN 6/1/77 DATE REPORTED 6/2/77 TECH

HEMATOLOGY CHART

DATE COLLECTED 6-2-77 DATE REPORTED 6/2/77

CHART

SPEC PROC

3612

KA[illegible]
PERMANENTE
MEDICAL C[illegible]

FULL SHEET

LABORATORY SHEET

ORDERED BY DOCTOR Clough
DOCTOR'S NUMBER 161
DEPARTMENT Peds
DATE 11/7/78
SPECIAL INSTRUCTIONS
Lead Level Screening

[redacted]

PAT ENT

[redacted]

CHARGE

SPECIAL PROCEDURES

TO BE DONE
681-3636

RESULT 34 ug/dl (Venous)
ZNP - 84 ug/dl RBC

DATE REPORTED 11-9-78 11/6/78

DATE DRAWN 11/7/78 DATE REPORT 11/9/78 TECH [redacted]

CHART

SPEC PROC

THE PERMANENTE MEDICAL GRO

96309 (REV 8 77)

LABORATORY
DIRECTORS

PERMANENTE
MEDICAL CARE [illegible]

FULL SHEET

3613

LABORATORY SHEET

DR

LILLY

DEPT C63

LOCATION EDITARIES

DATE 5/23/80

ROUTINE STAT ASAP PRE OP ER

GRAMSTAIN ROUTINE ANAEROBIC GC

SOURCE tc

RELEVANT CLINICAL DATA 681-3636

FINDINGS

NORMAL THROAT FLORA

19 98 58 1910 6007

EVANS KERELL D

Patient Telephone

ORGANISM	1	2	3	ORGANISM	1	2	3	ORGANISM	1	2	3	ORGANISM	1	2	3
Ampicillin				Erythromycin				Kanamycin				Neomycin			
Chloramphenicol				Nitrofurantoin				Clindamycin				Methicillin			
Cephalothin				Sulfisoxazole				Carbenicillin				Penicillin			
Colymycin				Gentamicin				Nalidixic Acid				Tetracycline			
Bactrim (Septra)				Bacitracin											

Date Collected

Date Reported 5-24-80 Tech AH

BACTERIOLOGY CHART

PERMANENTE
MEDICAL CARE PROGRAM

TOEL HILL 3614

LABORATORY SLIPPT

$ [illegible] DEPT 609
DATE 11-19-91

19 98 68 1389 0000

PEDIATRICS

ROUTINE STAT FREE

EVANS KENELL D 12 Yr
112

CS 207760 M 0 0 0A

RELEVANT CLINICAL DATA

Time 3.15

VOIDED CATH 1st AM

ROUTINE & MICROSCOPIC

COLOR TRAW YELLOW AMBER OTHER

APPEARANCE (CLEAR HAZY CLOUDY)

SPECIFIC GRAVITY 1.027

PH 5 6 7 8

PROTEIN neg

GLUCOSE

KETONES

BILIRUBIN (BILE)

HGB (BLOOD)

UROBILINOGEN normal

TIME COLLECTED

DATE REPORTED

MICROSCOPIC RESULTS

WBC Rare /hpf

RBC Rare hpf

CASTS /Lpf

CRYSTALS

OTHER Mucous - few
Bacteria - Rare

PREGNANCY 2 MIN POS NEG

2 HOUR POS NEG QUESTION

TECH

11/19/91

URINALYSIS CHART COPY

ORGANISM	1	2	3	ORGANISM	1	2	3	ORGANISM	1	2	3
Ampicillin				Erythromycin				Kanamycin			
Chlo amphenicol				Nitrofurantoin				Clindamycin			
Cephalothin				Sulfisoxazole				Carbenicillin			
Colymycin				Gentamicin				Nalidixic Acid			
Bactrim Septra				Bacitracin				Neomycin			
								Methicillin			
								Penicillin			
								Tetracycline			

Date Collected

Date Reported 5-24-91 Tech

BACTERIOLOGY CHART

EMAIL CHART

LABEL DIRECTIONS

7.0 11.2 32.1

11/19/91 1145 MP

KA[illegible] PERM[illegible]NTE MEDICAL C[illegible]RE [illegible]GR[illegible]

FULL SHEET

3615

LABORATORY SHEET

DR [illegible] S[illegible]arcus 340 DEPT. 607

LOCATION RT2 PEDIATRICS

DX BELOW

- ☐ CBC
- ☐ DIFF
- ☐ ESR
- ☐ PLATELET CT
- ☐ RETIC
- ☐ OTHER LIST BELOW

TEST N UNITS	RESULTS
PLATELET 150 400000 CMM	
ESR	
RETIC 0.5 1.5%	

DEX 45-2757

NAME 19 98 68 1389 0000 CO

EVANS KENELL Q 12 76 E

CJ 207468 K C 3 04 112 2

☐ ROUTINE ☐ STAT ☐ ASAP ☐ PRE OP ☐ ER

PHYSICIAN Marcus LOCATION

NORMAL VALUES	M 3.1C F 1.1C B	WBC	RBC	HGB	HCT	MCV 82 F79 97	MCH 27 F27 31	MCHC 33 36 F32 36	DIFF
TEST									
									BAND
									POLY
									LYMPH
									MONO
									EO
CODE									BASO

MORPHOLOGY

HYPOCHROMIA — ANISOCYTOSIS

MICROCYTOSIS — POIKILOCYTOSIS

MACROCYTOSIS — POLYCHROMASIA

COMMENTS

DATE REPORT 11-19-78 3:19 PM

HEMATOLOGY CHART

DATE REPORTED

TECH

QUESTION

URINALYSIS I CHART COPY

Chloramphenicol	Nitrofurantoin	Clindamycin		Methicillin
Cephalothin	Sulfisoxazole	Carbenicillin		Penicillin
Colymycin	Gentamicin	Nalidixic Acid		Tetracycline
Bactrim (Septra)	Bacitracin			

Date Collected

Date Reported 5-24-78 Tech

DATE DRAWN 11/19/78 11:32

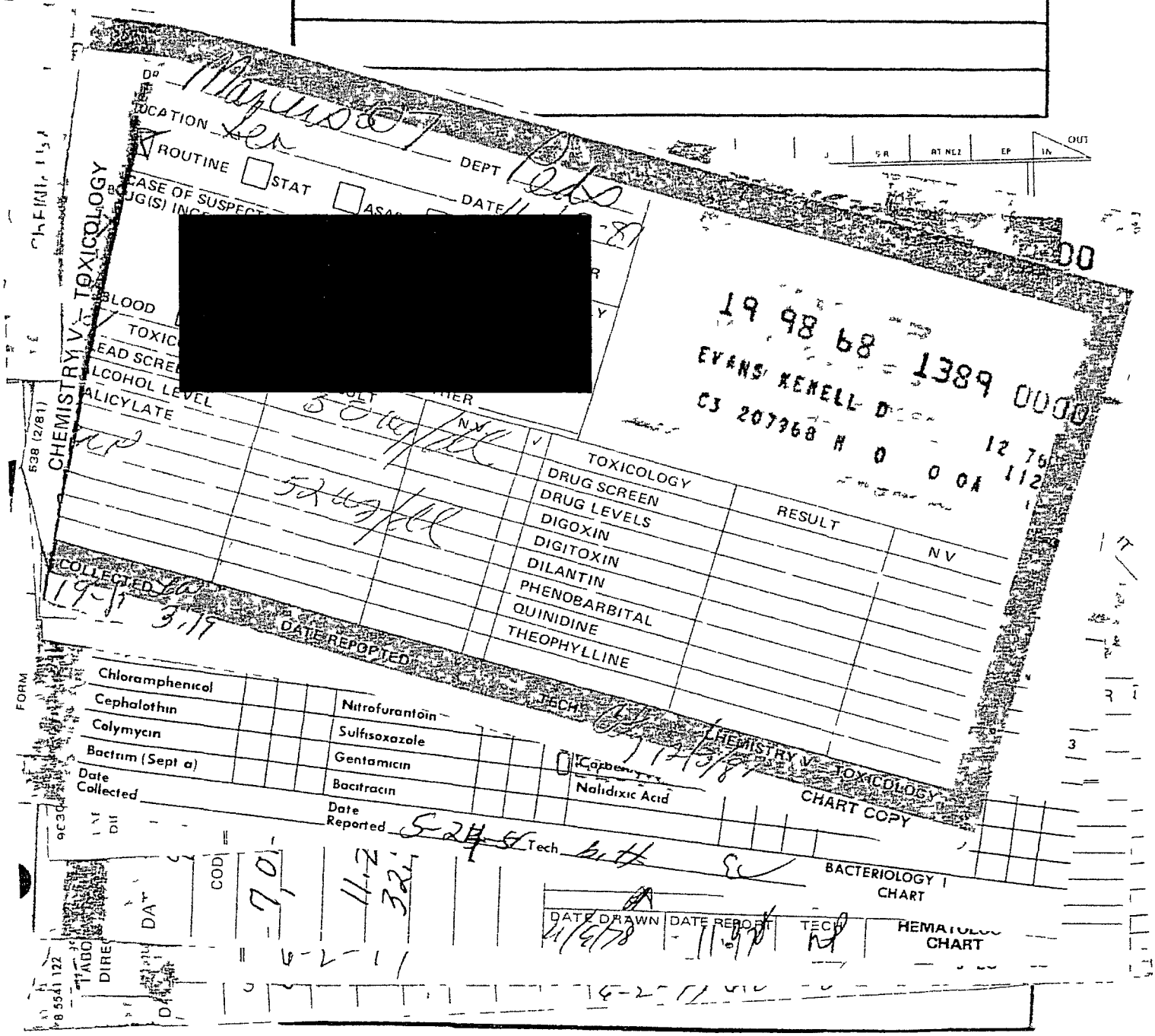
BACTERIOLOGY I CHART

FULL SHEET

PERMANENTE

MEDICAL CARE

LABORATORY SHEET



PERMANENTE

MEDICAL CARE PROGRAM

FULL SHEET

3017

LABORATORY SHEET

CHECK BOX BELOW

WBC

RBC

HB

HCT

WBC

DIFF

PLATELET CT

RETIC

OTHER LIST BELOW

RESULTS

150 400000 CMM

RETIC 0.5 1.5

NAME

Ernestine Ronald

1986-8

Ft. Ord

ROUTINE STAT ASAP PRE OP

PHYSICIAN

Mandeno

LOCATION

DATE

AGE

SEX

CODE

DIFF

BAND

POLY

YMPH

MONO

EO

BASO

MORPHOLOGY

HYPOCHROMIA

MICROCYTOSIS

MACROCYTOSIS

COMMENTS

ANISOCYTOSIS

POIKILOCYTOSIS

POLYCHROMASIA

HEMATOLOGY CHART

DRAWN

DATE

TIME

DATE COLLECTED

11-14-17 3 17

DATE REPORTED

THEOPHYLLINE

TECH

CHEMISTRY V - TOXICOLOGY CHART COPY

URINALYSIS CHART COPY

Chloramphenicol	Nitrofurantoin	Clindamycin		Penicillin
Cephalothin	Sulfisoxazole	Erythromycin		Tetracycline
Colymycin	Gentamicin	Nalidixic Acid		
Bactrim/Septra	Bacitracin			

Date Collected

Date Reported

Tech

BACTERIOLOGY CHART

11/14/78

PERMANENTE MEDICAL GROUP

FULL SHEET

3618

LABORATORY SHEET

DR

LOCATION

DEPT

DATE

ROUTINE STAT ASAP PRE OP ER

IN CASE OF SUSPECTED DRUG POISONING SPECIFY
DRUG(S) INGESTED

BLOOD URINE VOMITUS OTHER

CHEMISTRY V – TOXICOLOGY

TOXICOLOGY
DRUG SCREEN
DRUG LEVELS
DIGOXIN
DICITOXIN
DILANTIN
PHENOBARBITAL
QUINIDINE
THEOPHYLLINE

RESULT

DATE COLLECTED

DATE REPORTED

TECH

CHEMISTRY V – TOXICOLOGY CHART COPY

URINALYSIS CHART COPY

Chloramphenicol	Nitrofurantoin	Clindamycin	Penicillin
Cephalothin	Sulfisoxazole	Carbenicillin	Tetracycline
Colymycin	Gentamicin	Nalidixic Acid	
Bactrim (Septra)	Bacitracin		

Date Collected

Date Reported

BACTERIOLOGY CHART

3619

FULL SHEET

KA[illegible]
PERMANENTE
MEDICAL C[illegible]RE

LABORATORY SHEET

DR Marcus
PEDIATRICS
LOCATION Ser Pt Fdty DEPT Peds
☒ ROUTINE ☐ STAT ☐ ASAP ☐ PRE OP ☐ ER DATE 12-8
RELEVANT CLINICAL DATA

Evans Ronald
197868

CHEMISTRY I

TEST	RESULT	
LITHIUM		MEQ/L
MAGNESIUM		mg/dl
OSMOLALITY (SERUM)		mg/dl
OSMOLALITY (URINE)		mg/dl
CCPD		mg/dl

DATE COLLECTED
DATE REPORTED
TECH

12/76

TEST	RESULT	
SERUM IRON		mcg/dl
TIBC		mcg/dl
SAT N		
LIPID STUDIES		
CHYLOMICRONS		mg/dl
CHOLESTEROL		mg/dl
TRIGLYCERIDES		mg/dl
HDL CHOLESTEROL		mg/dl

CHEMISTRY II
CHART COPY

538 (2/81)

DATE

PHENOBARBITAL	
QUINIDINE	
THEOPHYLLINE	

DATE COLLECTED 11-11-81 3:15
DATE REPORTED
TECH

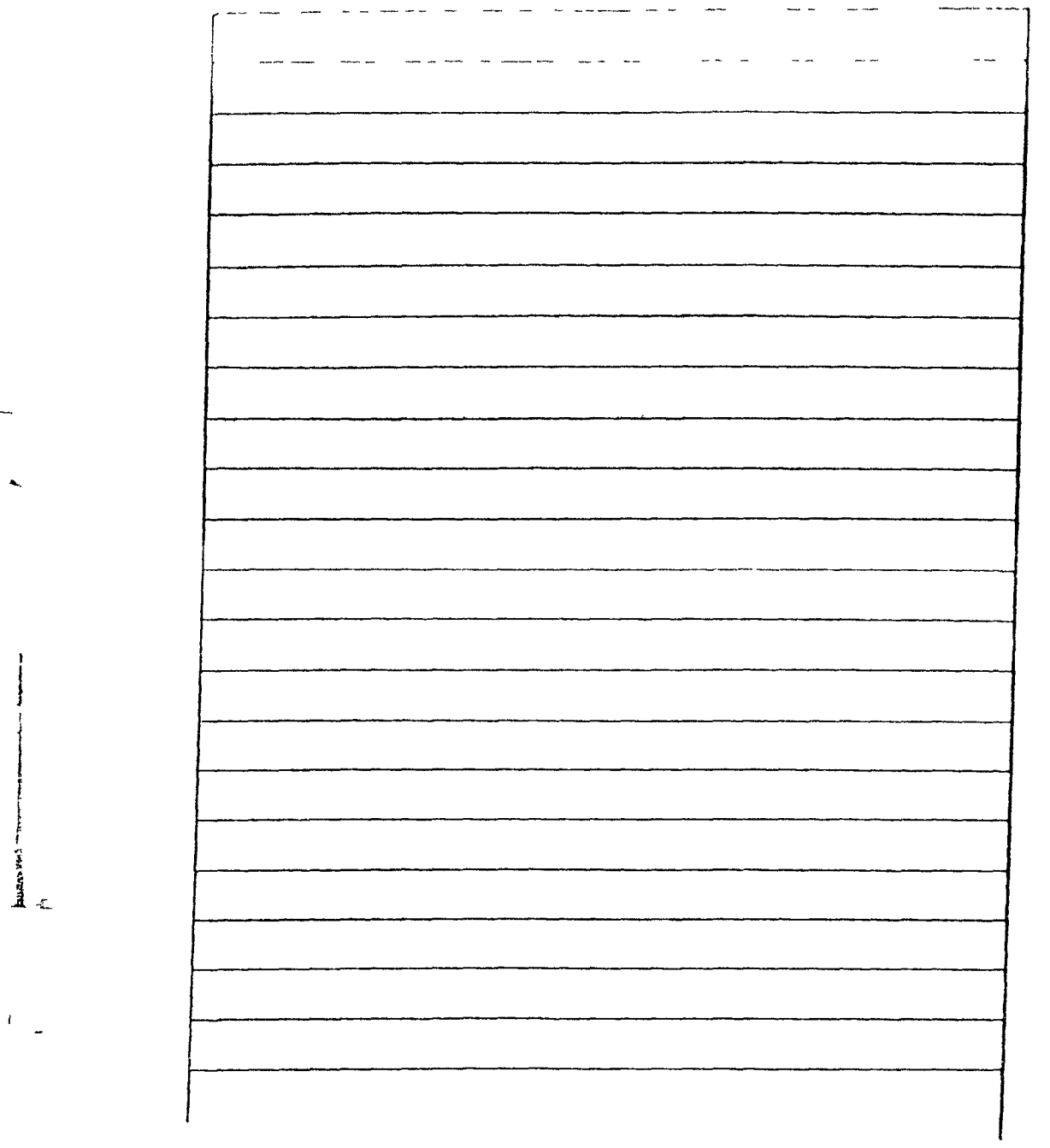
CHART COPY

DATE REPORTED
TECH
CHEMISTRY V – TOXICOLOGY
CHART COPY

Chlo amphenicol		Nitrofurantoin	
Cephalothin		Sulfisoxazole	
Colymycin		Gentamicin	
Bact im (Septra)		Bacitracin	
Date Collected		Date Reported	

Clindamycin
Carbenicillin
Nalidixic Acid
Penicillin
Tetracycline
Tech
BACTERIOLOGY I
CHART

3620



ESR
RFTIC
0515
OTHER

SICKLEDEX

made out 3/3/68

NAME Evans Lemell

199868 12/70

HEMATOLOGY CHART

3621

DR DR LILLY 063 DEPT

LOCATION PEDIATRICS DATE

☐ ROUTINE ☐ STAT ☐ ASAP ☐ PRE OP ☐ ER

RELEVANT CLINICAL DATA

maintenance 5/30/52

Evans Kemely

12/76 19981

12/76

CHEMISTRY II TOXICOLOGY

✓	TEST	RESULT	✓	TEST	RESULT
	LITHIUM	mEq/l	✓	SERUM IRON	mcg/dl
	MAGNESIUM	mg/dl	✓	TIBC	mcg/dl
	OSMOLALITY (SERUM)	mOsm/kg H2O	✓	SAT %	
	OSMOLALITY (URINE)	mOsm/kg H2O		LIPID STUDIES	
	3rD			CHOLESTEROL	mg/dl
				CHOLESTEROL	mg/dl
				TRIGLYCERIDES	mg/dl
				HDL CHOLESTEROL	mg/dl

3622

DR _____ DEPT _____

LOCATION – PEDIATRICS DATE _____

☐ ROUTINE ☐ STAT ☐ ASAP ☐ PRE OP ☐ ER

IN CASE OF SUSPECTED DRUG POISONING SPECIFY MOST LIKELY DRUG(S) INGESTED

Evans Kemell
199868 12/76

☐ BLOOD ☐ URINE ☐ VOMITUS ☐ OTHER

CHEMISTRY V – TOXICOLOGY

TOXICOLOGY	RESULT	N V
LEAD SCREEN		
ALCOHOL LEVEL		
SALICYLATE		

TOXICOLOGY	RESULT	N V
DRUG SCREEN		
DRUG LEVELS		
DIGOXIN		
DICITOYIN		
DILANTIN		
PHENOBARBITAL		
QUINIDINE		
THEOPHYLLINE		

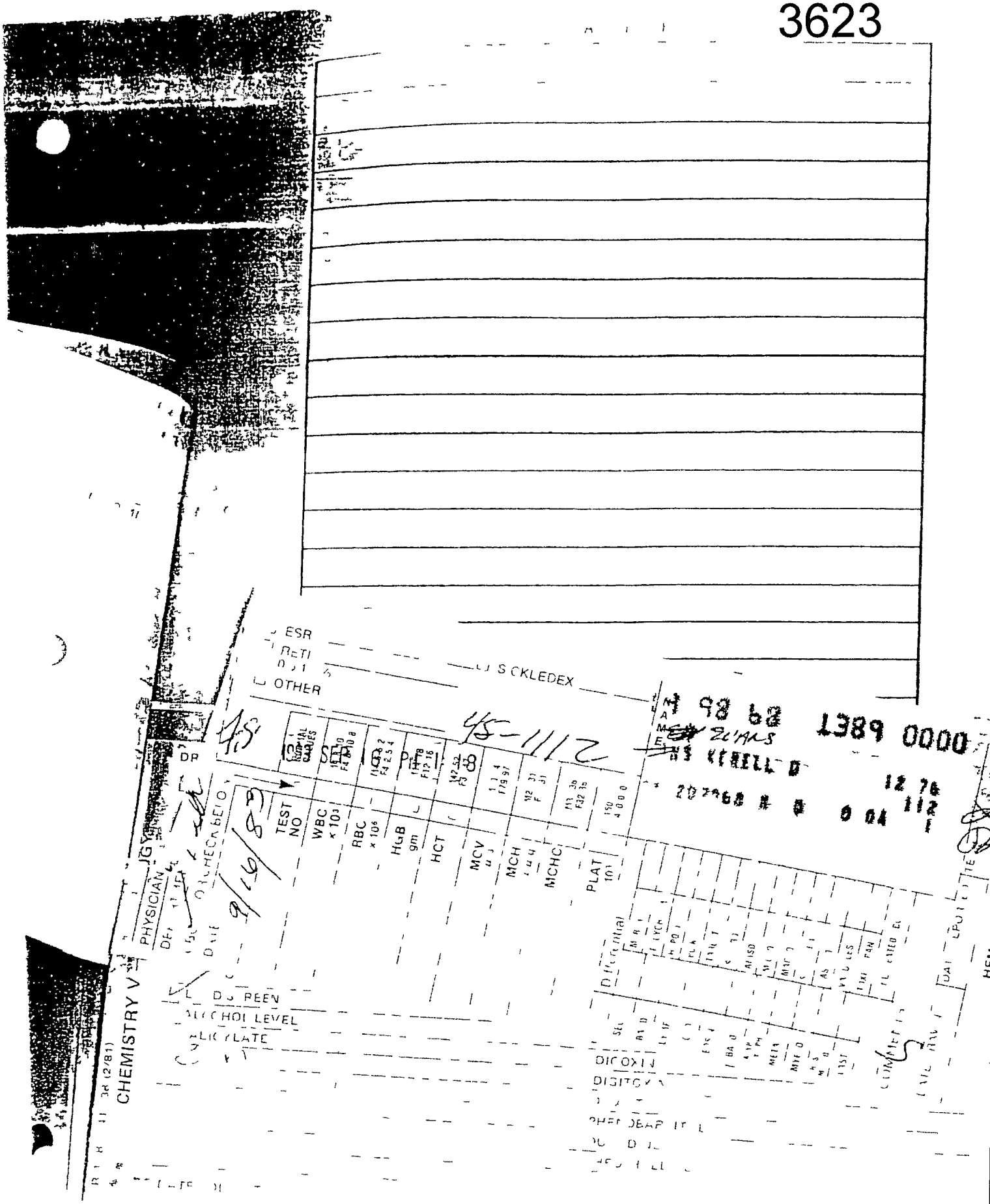
DATE COLLECTED _____ DATE REPORTED _____ TECH _____

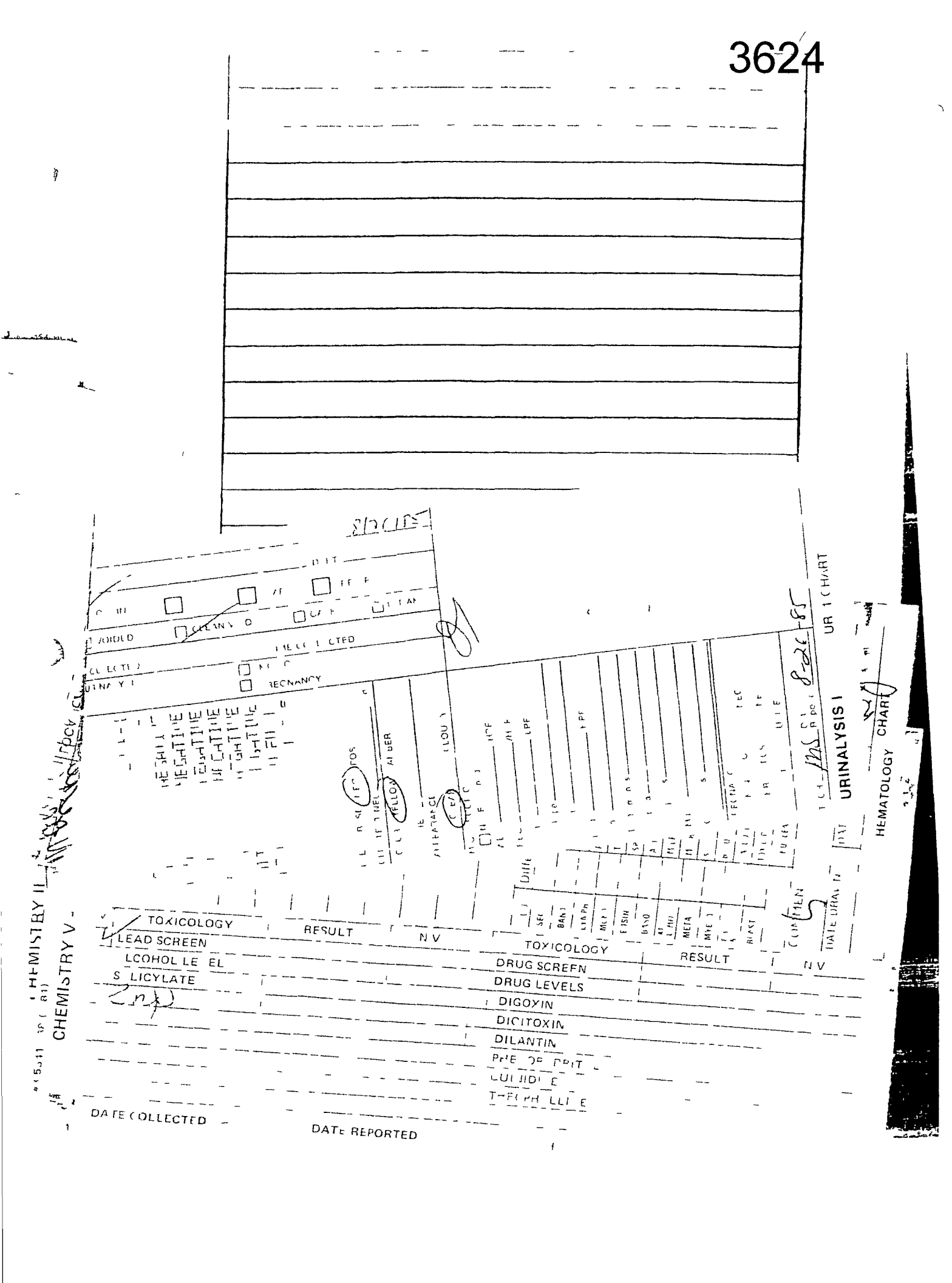
CHEMISTRY V – TOXICOLOGY

CHART COPY

TRIGLYCERIDES _____ mg dl

HDL CHOLESTEROL _____ mg dl


ESR
RETI
OTHER
SICKLEDEX
45-1112
DR
SER
TEST NO
WBC
RBC
HGB
HCT
MCV
MCH
MCHC
PLAT
PHYSICIAN
CHEMISTRY V
DIGOXIN
DIGITOXIN
98 62 1389 0000
12 76
112


URINALYSIS I
HEMATOLOGY CHART
CHEMISTRY V -
TOXICOLOGY
RESULT
N V
LEAD SCREEN
ALCOHOL LEVEL
SALICYLATE
DRUG SCREEN
DRUG LEVELS
DIGOXIN
DIGITOXIN
DILANTIN
PHENOBARBITAL
THEOPHYLLINE
DATE COLLECTED
DATE REPORTED

3625

DEPT

DATE

ROUTINE

VOIDED CLEAN VOID CATH

COLOR	STRAW	YELLOW	AMBER							
APPEARANCE	CLEAR	HAZY	CLOUDY							
SPECIFIC GRAVITY	1020									
PH	0	55	60	65	70	75	80	85	90	
	NEG	TR	1+	2+	3+	4+				
PROTEIN										
GLUCOSE										
KETONE										
BILIRUBIN										
BLOOD										
UROBILINOGEN	NORMAL					EU				
CLINITEST	NEGATIVE	TRACE								
ALBUMIN	mgs/									

MICRO COMP			/hpf
WBC	0-2		/hpf
RBC			/hpf
EPITH			/hpf
MUCUS	SLIGHT	MODERATE	MARKED
BACTERIA	SLIGHT	MODERATE	MARKED
AMORPHOUS	SLIGHT	MODERATE	MARKED
CRYSTALS TYPE		SL	MOD FKD
CASTS			/lpf
OTHER			
PREGNANCY	2 MIN	POS	NEG
	2 HOUR	POS	NEG QUESTIO

DATE & TIME COLLECTED 9/16/83 DATE REPORTED 9-16-83 TECH MP URINALYSIS I

CHEMISTRY II

CHEMISTRY V

TOXICOLOGY
LEAD SCREEN
ALCOHOL LEVEL
SALICYLATE

RESULT

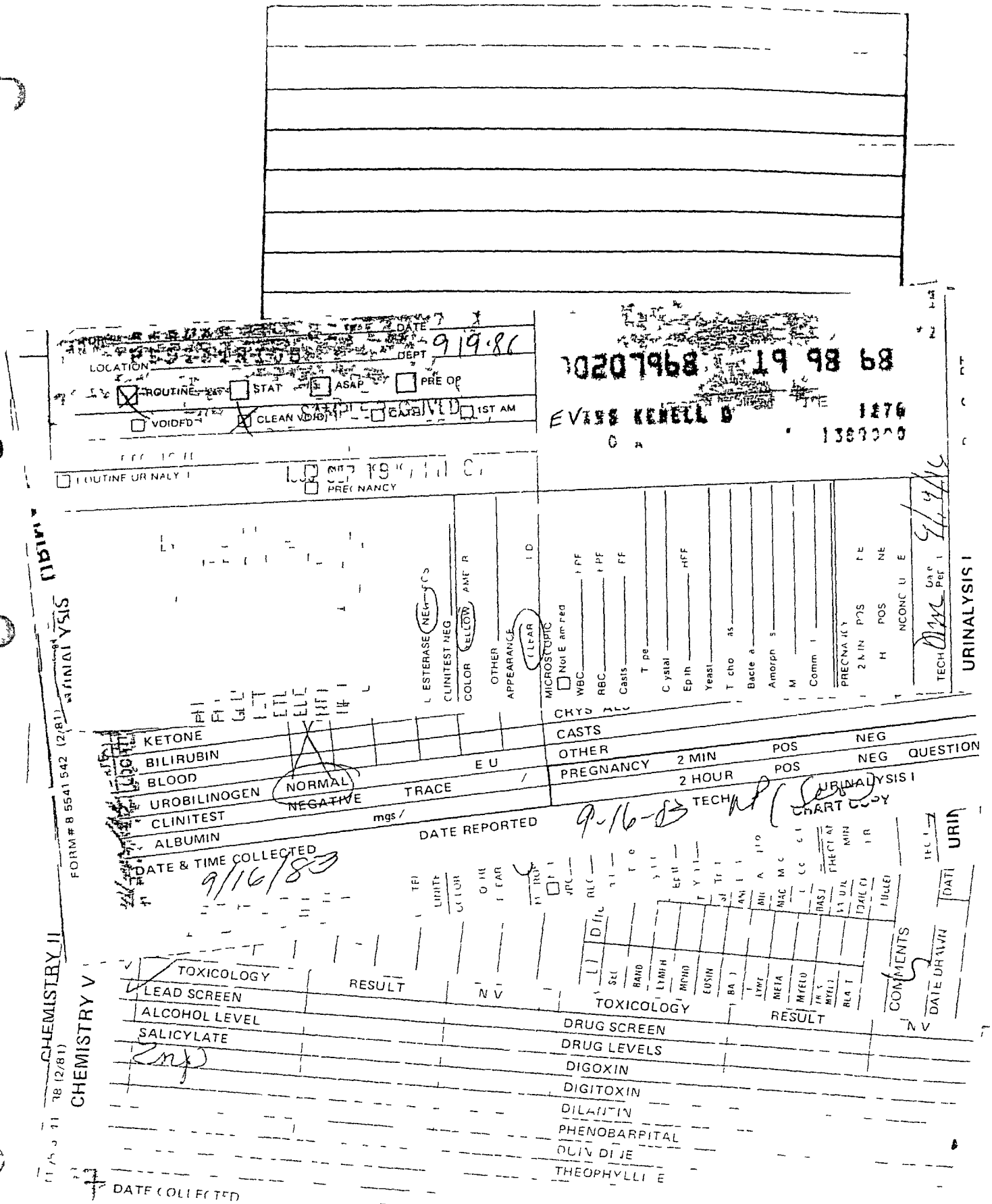
DATE COLLECTED

TOXICOLOGY
DRUG SCREEN
DRUG LEVELS
DIGOXIN
DIGITOXIN
PHENOBARBITAL
QUINIDINE
THEOPHYLLINE

RESULT

URIN

LABORATORY REPORTS



DATE 9-19-86
DEPT
LOCATION
ROUTINE STAT ASAP PRE OP
VOIDED CLEAN VOID CATH 1ST AM
ROUTINE URINALYSIS
PREGNANCY
0207968 19 98 68
EVISS KENELL D 1276
URINALYSIS I
COLOR YELLOW AMBER
CLINITEST NEG
ESTERASE NEG
APPEARANCE CLEAR
MICROSCOPIC
Not Examined
WBC HPF
RBC HPF
Casts FF
Type
Crystal HPF
Epith
Yeast
Tchomas
Bacteria
Amorph
Mucus
Comm
PREGNANCY 2 MIN POS NEG
2 HOUR POS NEG
TECH
KETONE
BILIRUBIN
BLOOD
UROBILINOGEN NORMAL
CLINITEST NEGATIVE TRACE
ALBUMIN mgs/
CRYS
CASTS
OTHER
PREGNANCY 2 MIN POS NEG QUESTION
2 HOUR POS NEG
URINALYSIS I
CHART COPY
DATE REPORTED 9-16-83
TECH
DATE & TIME COLLECTED 9/16/83
FORM # 8 5541 542 (2/81)
CHEMISTRY II
CHEMISTRY V
TOXICOLOGY RESULT N V
LEAD SCREEN
ALCOHOL LEVEL
SALICYLATE (neg)
DRUG SCREEN
DRUG LEVELS
DIGOXIN
DIGITOXIN
DILANTIN
PHENOBARBITAL
QUINIDINE
THEOPHYLLINE
DATE COLLECTED
TOXICOLOGY RESULT N V
COMMENTS
DATE DRAWN

OHIO DEPARTMENT OF HEALTH
DIVISION OF VITAL STATISTICS
CERTIFICATE OF LIVE BIRTH

Reg Dist No _____ Registrar's No _____

Primary Reg Dist No _____ Birth No 134 -

TYPE OR PRINT IN PERMANENT INK

CHILD

1 CHILD—NAME (First Middle Last)		DATE OF BIRTH (Month Day Year)	6
Kamell Del Shaun (Bear) EVANS		[redacted]	

3 SEX	4a THIS BIRTH (Single, twin, triplet, etc.)	4b IF NOT SINGLE BIRTH (Born first, second, third, etc.)	5 COUNTY OF BIRTH
Male	Single	—	Cuyahoga

5b CITY, VILLAGE OR LOCATION OF BIRTH	5c INSIDE CITY LIMITS (Specify yes or no)	5d HOSPITAL—NAME (If not in hospital, give street and number)
Cleveland	yes	Kaiser-Permanente Medical Center

MOTHER

6a MOTHER—MAIDEN NAME (First Middle Last)	6b AGE (At time of this birth)	6c STATE OF BIRTH (If not in U.S.A., name country)
Renee [redacted] Cargile	23	North Carolina

7a RESIDENCE—STATE	7b COUNTY	7 CITY, VILLAGE OR LOCATION	7d INSIDE CITY LIMITS (Specify yes or no)	STREET AND NUMBER
Ohio	Cuyahoga	East Cleveland	yes	[redacted]

FATHER

8a FATHER—NAME (First Middle Last)	8b AGE (At time of this birth)	8c STATE OF BIRTH (If not in U.S.A., name country)
Barry Evans	23	Mississippi

9a INFORMANT'S NAME OR SIGNATURE	9b RELATION TO CHILD
Renee L. Evans	Mother

CERTIFIER

I certify that the above named child was born alive at the place and time and on the date stated above	DATE SIGNED	ATTENDANT—M.D., D.O., midwife (specify)
10 SIGNATURE	10b	10

10d CERTIFIER—NAME (Type or Print)	MAILING ADDRESS (Street or R.F.D. No., City or Village, State, Zip)
Dimiter Michailov, M.D.	[redacted]

11a REGISTRAR—SIGNATURE	11b DATE RECEIVED BY LOCAL REGISTRAR

CONFIDENTIAL INFORMATION FOR MEDICAL AND HEALTH USE ONLY

FATHER

12 RACE—FATHER (White, Negro, American Indian, etc. (Specify))	EDUCATION—SPECIFY HIGHEST GRADE COMPLETED: ELEMENTARY (0, 1, 2, OR 3)	HIGH SCHOOL (1, 2, 3, OR 4)	COLLEGE (1, 2, 3, OR 4+)	PREVIOUS DELIVERIES—HOW MANY OTHER CHILDREN: Are Now Living	Born Alive—No Longer Living	Born Dead (after conception)
Black	13		3	14 1	14b 0	14 0

MOTHER

15 RACE—MOTHER (White, Negro, American Indian, etc. (Specify))	EDUCATION—SPECIFY HIGHEST GRADE COMPLETED: ELEMENTARY (0 OR 8)	HIGH SCHOOL (1, 2, 3, OR 4)	COLLEGE (1, 2, 3, OR 4+)	DATE OF LAST LIVE BIRTH (Month, Day, Year)	DATE OF LAST FETAL DEATH (Month, Day)
Black	16		1	[redacted]	17b —

DATE LAST NORMAL MENSES BEGAN (Month, Day, Year)	MONTH OF PREGNANCY PRENATAL CARE BEGAN (First, second, third, etc. (Specify))	DATE OF APPROVED TEST FOR SYPHILIS (If none, state reason)	DATE APPROVED TEST FOR GONORRHEA (If none, state reason)	BIRTH WEIGHT
18 2 28 76	19 Third	20a 8-10-76	20b 8-10-76	21 8 lb 5½

COMPLICATIONS RELATED TO PREGNANCY (Describe or write none)	NAME OF PROPHYLACTIC USED IN EYE OF CHILD
None	$AgNO_3$

COMPLICATIONS NOT RELATED TO PREGNANCY (Describe or write none)	CONGENITAL MALFORMATIONS OR ANOMALIES OF CHILD (Describe or write none)
None	None

COMPLICATIONS OF LABOR (Describe or write none)	MOTHER'S MAILING ADDRESS (Street, R.F.D. No., City or Town, State)
None	[redacted] E. Cleve., Ohio 4

VS 2
5112 Ob REV 9/73

3628

NURS	M	EVANS Kamell Dolshun (Bear)	MALE	199868	0
CO	1910	[redacted]		[redacted]	
[redacted]				S	B
RENEE		MR NUMBER 207968			
DAIRY FOOD PROD		PENEE	NB	DR PEID	
BARRY & RENEE EVANS- PARENTS - SAME				MLD CA 140	EAST

ADMITTING DIA TO: NEWBORN

ADMISSION

TIME	DATE ADMITTED MO	DA	YR	JULIAN D	TRANSFERRED FROM
1536	12	15	76	350	

DISCHARGE

TIME	DATE DISCHARGED MO	DA	YR	JULIAN DATE	DAYS STAYED
1605	12	20	76		5

AT WHAT LOCATION DO YOU RECEIVE YOUR OUTPATIENT CARE: EAST

NAME	PATIENT	INITIAL	ROOM NO	WORK RELATED	ADMITTING CLERK
EVANS	MALE	M	NURS	☐ YES ☐ NO	BEATRICE MASSEY

☐ VALUABLES ON DEPOSIT

FINAL DIAGNOSIS

CODE

Term Brain, hemorrhage

VCA @ Seizure

SECONDAPY DIAGNOS S OR COMPLICATIONS

OPERATION OR PROCEDURE

Circ

CONSULTANTS

RESULTS

AUTOPSY

CORONER CASE

☐ DISCHARGED ☐ DISCHARGED AGAINST MEDICAL ADVICE ☐ EXPIRED ☐ YES ☐ NO ☐ YES ☐ NO

APPROVED BY

ATTENDING PHYSICIAN

M.D.

04-00-00340

OBSERVATION RECORD I D NO. 7282 NAME Evans Boy MR# 7986.8

DATE →	12/[redacted]/76	12/[redacted]	12/[redacted]	12/[redacted]	12/[redacted]	12/[redacted]
HOSPITAL DAY	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
TPR	Adm 99⁴-172-34	98⁶-140-~~57~~	98-172-42	99⁴ 161-C	99 144-36	98⁶-130 40
WEIGHT	3800 L-21 8-5½	8-8½	8-11½	8-1	8-4½	8-4
EYES		clear	Clear	Clear	clear	clear
CORD		clamped with Rem	dri ✓	clamping	clean	clean
SKIN		Clear	Clear	Clear	clear	clear
NURSE	R Estabrook	L Beach	[illegible]	[illegible]	[illegible]	[illegible]
STATE	Bot-Fe-					
2 A M		30	60	110 cc	90cc	90
6 A M		25	60	75	90	90
10 A M		30 E10		75 cc	90 cc	120
2 P M		30 E10	120	60 cc	75	NG/N 90
6 P M		20	90	120	60	
10 P M 4P 40	1st H2O 30cc	15 Es-	60 ES	120	20	
TOTAL PO INTAKE	H20-30	100	390	580	435	
OUTPUT 10 P M 7 30 A M		wet wet	Bc	1 y ✓	✓ y ✓ y	✓ p ✓ ✓ y d
OUTPUT 7 30 A M 3 30 P M		✓ bc ✓	✓ y ✓	y y ✓	d d ✓ y y	d y y
OUTPUT 3 30 P M 11 30 P M		Trans	✓ y ✓	y y ✓ y y	y	

	12/15/76						
quamephyton mgm IM	3 45 pm ne						
NO_3 gtts II ou	3 45 pm ne						
	Nestaben						

DOCTOR S ORDERS

Isotette for 12hrs

O_2 at less than 30% for 1/2 hrs

KAISER FOUNDATION HOSPITAL

3631

DOCTOR'S ORDER SHEET

DATE	ORDER
12/15/76 3:30 PM	ROUTINE NEWBORN CARE ~~Vitamin~~ K1 ~~mgm~~ IM (Aqua Mephyton) given NL ~~Eye~~ Prophylaxis 1% silver nitrate gtts ou followed by sterile water rinse done NL ~~Rectal~~ temperature on admission to nu ry If less than 96°F place in isolette at neutral thermal temperature Repeat temperature qh until greater than 97 5°F and stable Then Q D ~~Pulse~~ respirations qh x 3 then Q D if stable ~~Bathe~~ only when temperature is stable over 97 5°F Bathe ally using plain water Castile soap may be used P R N ~~Wt~~ [illegible] ~~Weigh~~ Q D ~~Circ~~ [illegible] or p s ne circ by [illegible] ~~Vit~~ until [illegible] 1 000 ic ois [illegible] bleeding continues after l appl ca ion to ifs 1 D (Plastibel circumci ion leave dry lean P R N) ~~Remove~~ cord clamp 2/ 8 [illegible] ~~Modified~~ rooming-in routine unless contraindicated ~~Breast~~ feeding Unless mother desires [illegible] prior to 6-8 hours of age feed in nursery 30cc of sterile water at 6-8 hours Then on breast q 3 hours Once nursing is begun infant should be nursed q3-4 1/2 hours on demand Supplement after nursing with D5W up to 60cc beginning with 3rd feeding for first [illegible] days and if 2nd [illegible] breast or bottle preparations to nursery staff ~~Bottle~~ feeding Npo first 6-8 hours Feed sterile water 30 cc for first feeding Every 4 hours thereafter [illegible] formula (0 all) with iron To 60cc as tolerated ~~Pur~~ nylketonuria test will be [illegible] earlier record [illegible] feedings re [illegible] [illegible] [illegible]

DOCTOR _____

SERVICE _____

DATE	HOUR	APICAL PULSE	RESP	TEMP	COLOR	O_2 CONC	TEMP ISOLE	O_2/ ML	V/BM	REMARKS
12/15/76	1545	172	34	99.4 (R)	pink	30%	32			Gastric lavage by Dr Reid restab k
	1645	144	60	98 (R)	pink	30%↓	32.5			reste
	1725	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	33.1			rstab
	1815	147	Cough	98.2	pink	"	33.2			rst b
	2035			98 (R)			33.3			IN thigh B-th given rstab
12/16/76	0300	158	48	98	P	"				out of isolette & O2 discontinued

3633

PEDIATRIC RECORD

Second Day
1976

Hospital

HISTORY OF PREGNANCY Obstetrician

Mothers Name Anne Elcan Age 25 Gravida II Parity I EDC 12-7-76
Blood Group A Rh + Antibodies neg Fathers Blood Group Death
Abnormalities of preceding pregnancies
Health Prior to pregnancy
Prenatal Course First Trimester Second Trimester
Third Trimester Diagnosis

TO BE COMPLETED BY OBSTETRICIAN
LABOR AND DELIVERY
Mothers General Condition (Good) (Fair) Critical (Moribund) Febrile Afebrile
Fetal Age (wks) 42 Fetal Condition During Labor good
Rupture of Membranes M 12 15 1976 Amniotic Fluid clear & much
CHILD BORN 3 30 P M 12 15 1976 Placental Appearance
Duration of Labor 1 hrs 1st Stage 1976 hrs 2nd Stage hr 3rd Stage hrs
Operation Presentation and Position LOA Type of Delivery LT Cesarean Section

Remarks

Medication	Amount	Route	Time	Medication	Amount	Route	Time
2/5 Ethacil	2 amps	IM	155				
Demerol	50 mg	IM	11				

Anesthesia Kind Amount Length of Administration Before Birth
General MD

TO BE COMPLETED BY DELIVERY ROOM NURSE
CHILD Sex Male
Resuscitation Suction Aspiration Oropharynx — Gastric — cc
Minutes to First Breath Faint To First Cry Imm Time Before Normal Respirations Color and Cry 5 min
Eye Medication Vitamin K #Vessels in Cord 3 Cord Blood Sent
Feeding Breast ( ) Bottle (X)

APGAR	One Minute	Five Minutes	Remarks
Heart Rate	2	2	
Respiratory Effort	1	2	
Reflex Irritability	1	2	
Muscle Tone	1	1	
Color		2	
TOTAL	5	9	

RN

TO BE COMPLETED BY PEDIATRICIAN
INITIAL PHYSICAL EXAM Date 12/15/76 Age 6 Birth weight gms 5 lb 5 1/2 oz Length in
Measurements Head 34 cm Chest cm

General Appearance —	Facies —	Activity —	Respirations —	Skin —	Birth Marks 0	
Cyanosis 0	Pallor —	Cooperative —	Edema 0	Cervix —	Meconium —	
Head —	A Font —	P —	Sutures —	Eyes —	Red Reflex —	
Ears —	Nose —	Mouth —	Throat —	Neck —	Clavicles —	
Chest —	Lungs —	Hearing —	Femorals —	Abdomen —	Cord —	
Liver —	Spleen —	Kidneys —	Genitals —	Spine —	Back —	
Anus —	Muscles —	Tone —	Paralyses 0	Joints —	Extremities —	
S C Tissue —	Glands —	Reflexes —	Moro —	Hips —		

IMPRESSION

MD

Normal ✓ Absent 0 Abnormal X Not Examined –

3634

DESCRIPTION OF ALL ABNORMAL FINDINGS ON PHYSICAL EXAMINATION

Evans Baby Boy
1 9 7 6 w 5

PROGRESS NOTES BLOOD GROUP ____ RH ____ COOMBS ____

12/15/76 C-section for CPD Slow to start crying
Apgars 6/7/9
Mother advised of baby's birth

12/20/76 Uneventful hosp course

CIRCUMCISION
Date 12.19.76
Method Gomco

M D

DISCHARGE INFORMATION
Neonatal Course

Feeding History

DISCHARGE PHYSICAL EXAM * Date 12/20/76

General Appearance ✓	Activity ✓	Pallor ✓	Icterus O	Skin ✓	Head ✓	
Eyes ✓	Mouth ✓	Neck ✓	Clavicles ✓	Chest ✓	Lungs ✓	
Heart ✓	Abdomen ✓	Umbilical Stump ✓	Genitals ✓	Neurological ✓		

Abnormal Findings

Discharge Diagnosis
Term C-Sect Del.

M D

Discharged at 4 PM Date 12-20-76 Weight 8-4
Signature of nurse discharging baby Christ RN

Ongoing care by D. Clough Pediatrician ✓ East ____ West

*Key Normal ' Absent O Abnormal X Not Examined -

FORM SS-5 378

3635

KAISER FOUNDATION HOSPITALS
The PERMANENTE MEDICAL GROUP

NEWBORN AND PEDIATRIC PERMITS CONSENTS AND RELEASES

King
Emma, Baby
19954

NEWBORN TREATMENT PERMIT

Permission is hereby given for any medical or surgical treatment including any x-ray examinations injections blood transfusions anesthesia operations removal of tissue and disposal of tissue as may be deemed advisable or necessary by the attending physician of the staff for my newborn infant( )

Date Dec 15 19 76 mcCORKEN Ronald Lee CK

PERMIT FOR CIRCUMCISION

In the event that my child is a male I hereby request and consent to the performance of a circumcision

Date Dec 15 19 76 mcCORKEN (WITNESS) Ronald Lee (MOTHER) N

NURSERY NURSE DISCHARGE NOTE

Baby dressed in presence of mother ☒ YES ☐ NO Date 12-20 1976

Cord dry Skin normal Eyes clear

Instructions given ☒ Clinic appointment slip given ☐

℞ medicine given

1
2 /
3

Nurse M-Estelle RN

℞ blanks given for

1
2 / O
3

X Ronald Lee Crowe
SIGNATURE OF MOTHER

AUTHORIZATION FOR DISCHARGE OF CHILD TO RELATIVE

I hereby authorize and request the Kaiser Foundation Hospital and/or members of its staff to discharge my child

_____ born _____ 19____ P
NAME

into the temporary care and custody of _____ whose relationship to the child

is _____ and whose address is _____,
STREET

_____ for the purpose of returning the child directly to me
CITY

Date _____ 19____ Signed _____
MOTHER OR FATHER

Witness _____ Address _____
NOT CUSTODIAN

RECEIPT OF CHILD

I hereby acknowledge receipt of the above named child and intend as instructed to deliver the child directly into the care and custody of its natural mother or father

Date _____ 19____ Signed _____ Q
CUSTODIAN

Time _____ M Witness _____

90543 Rev 10 63

3636

KAISER
COMMUNITY HEALTH
FOUNDATION

OHIO PERMANENTE MEDICAL GROUP

LABORATORY SHEET

HOSPITAL

Kaiser

125231

BABY S NAME

Evans 199868

MR#

MALE ☑ FEMALE ☐

PREMATURE ☐ YES ☑ NO

DATE OF BIRTH [redacted]

DATE OF FIRST FEEDING 12/16/76

DATE OF SAMPLE 12/19/76

BABY S DOCTOR

Dr Reid

DOCTOR S ADDRESS

50 Severance Cr Cleve Hts, Oh 44118

RESULTS Receipt of form indicates PKU and additional screening tests were negative

DATE OF TESTING

OHIO DEPARTMENT OF HEALTH — METABOLIC DISEASE TEST

3637 Boy

PHYSICIAN	ROOM NO

DATE	TIME	TREATMENTS AND PROCEDURES			NURSING COMMENTS CONCERNING PATIENT'S CONDITION & PROGRESS
		Temp	AP	Resp	
12/15/76	1535	99 R	172	34	Admitted apparently normal
	1645	98 @	144	60	male newborn uncircumcise
	1745	98.6 R	148	56	into nursery Wt 8 lbs 5½ 3600 G.
	1845	98.2 R	144	Crying	Placed in isolette at 32°C
	2045	98 R			30% O_2 Dr Reid lavaged
					stomach ~ 16cc sterile wtr
					Thick dark yellow fluid retu-
					Active Color pink & Cry
					lusty Marked molding of
					head Crown swelled & mushy
					Eye care given Nsteb RN
	2045	98 R			Initial bath given Nsteb RN
	9⁰⁰ PM				Identified ~ mother. Bands
					checked and were correct
	9⁴⁰ PM				1st H_2O taken well Nsteb RN
12/16	0300				Tolerated formula
					Out of isolette.
					Voided & meconium
					~ Spencer R.N.
12/16/76	7a-3p				Taking formula well
					[illegible]
					[illegible]
12/16/76	5p-11p				[illegible]
12/16/76	11p-7a				[illegible]

	PHYSICIAN	ROOM NO

DATE	TIME	TREATMENTS AND PROCEDURES	NURSING COMMENTS CONCERNING PATIENT'S CONDITION & PROGRESS
12-19-76	11 30 am		Care done by RN Michaelson
12-20-76	4 05 PM		Allogen
			Discharged to mother in no apparent distress in good health & ID bands checked and were correct

Boy Evans Renee 207965
2015 [illegible] [illegible]

7282 - KAISER FOUNDATION HOSPITALS

Boy Evans Renee 207965
12-5 [illegible]

RECEIVED
CLEVELAND HTS
NOV 29 '64

DATE			
	11/30		
	2/11		

ALLERGIES

- Amblyopia OD
- return 4 wks for F-Up
- exp need for Rx, possible amblyopia OD, exp Rx may ↑ VA alone but may need patching therapy
- exp color deficiency → told mother to advise the school
- Rx given R +1.00 -.75 x 005
  L +0.75 -1.75 x 165

Ex HK Tk: myopia OD

3 - 4 MONTH

YES - CHILD CAN DO NOW or HAS DONE IN THE PAST
NO - CHILD CANNOT DO NOW, HAS NOT DONE IN THE PAST or YOU ARE NOT SURE THAT YOUR CHILD CAN DO IT

C3 207363 A 00A A0

R - CHILD REFUSES TO TRY
NO-OPP - CHILD HAS NOT HAD THE CHANCE TO TRY

© Wm K Frankenburg M D University of Colorado Medical Center

3 month check - Answer 1 through 10

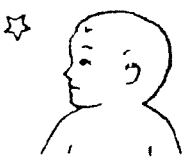
1 When your baby is lying on his back, does he move each of his arms as easily as the other and each of his legs as easily as the other? Circle NO if your child makes jerky or uncoordinated movements with one or both of his arms or legs — YES NO R NO-OPP

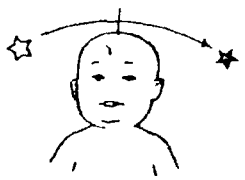
2 When your baby is lying on his back, does he look at you and watch your face? — YES NO R NO-OPP

4 month check - Answer 3 through 12

[illegible] — YES NO R NO-OPP

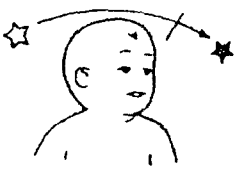
4 When your child is on his back does he follow our movement by turning his head from one side to facing directly forward?





YES NO R NO-OPP

5 When your child is on his back, does he follow your movement by turning his head from one side almost all the way to the other side?



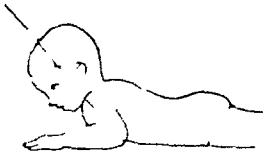
YES NO R NO-OPP

6 When you smile and talk to your baby does he smile back at you? — YES NO R NO-OPP

7 When your baby is on his stomach on a flat surface can he lift his head off the flat surface like the picture below?

YES NO R NO-OPP

8 When your baby is on his stomach on a flat surface can he lift his head 45° like the picture below?



YES NO R NO-OPP

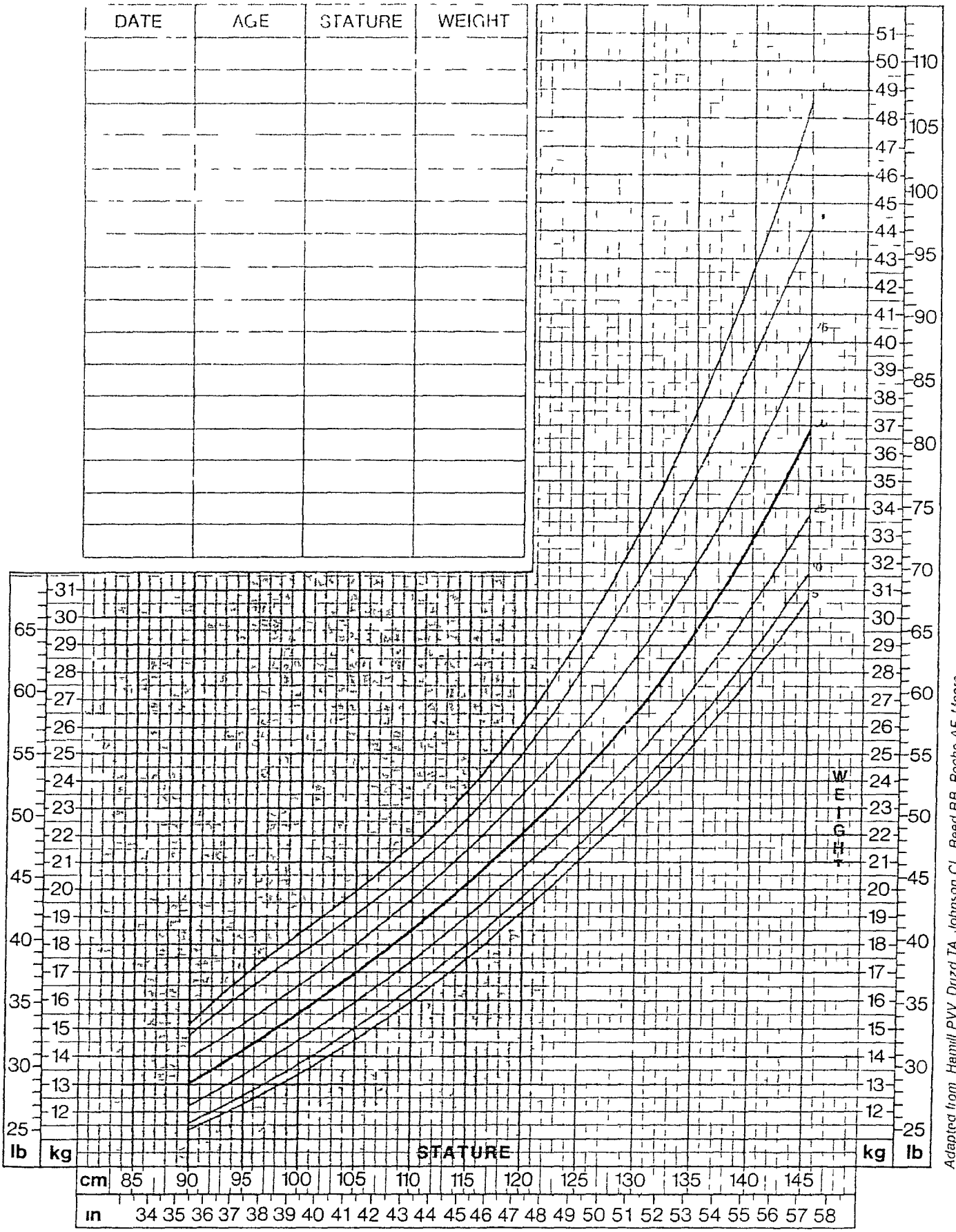
9 [illegible]

BOYS PREPUBESCENT PHYSICAL GROWTH NCHS PERCENTILES*

3642

NAME _____ BLOOD # _____

DATE	AGE	STATURE	WEIGHT



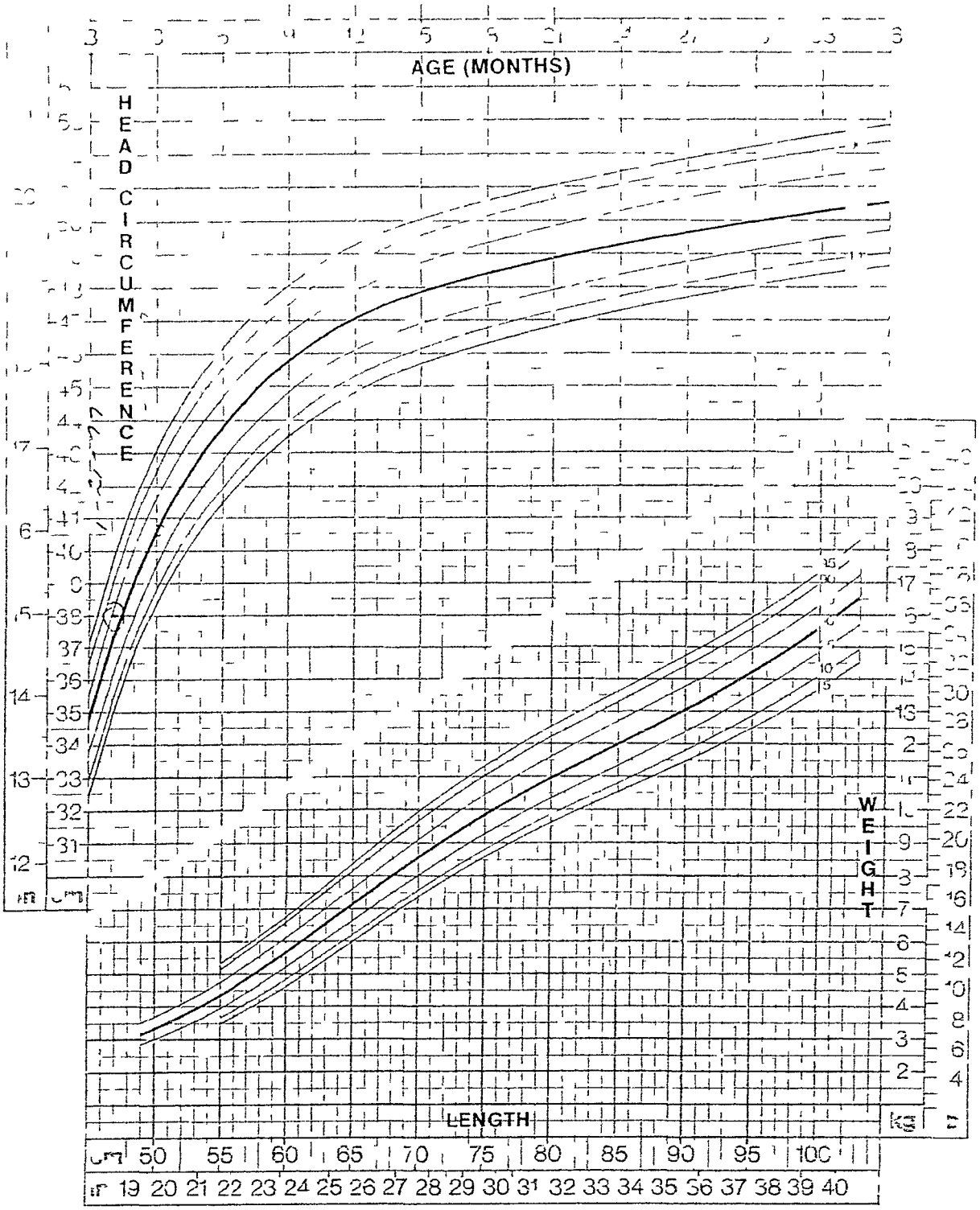
Adapted from Hamill PVV, Drizd TA, Johnson CL, Reed RB, Roche AF, Moore WM. Physical growth: National Center for Health Statistics percentiles. Am J Clin Nutr 32:607-629, 1979. Data from the National Center for Health Statistics (NCHS), Hyattsville, Maryland.

© 1980 ROSS LABORATORIES

Prepare to cow milk during the first year
SIMILAC® WITH IRON ADVANCE®
For milk sensitivity
ISOMIL®
ROSS LABORATORIES
COLUMBUS, OHIO

BOYS BIRTH TO 36 MONTHS

3643



Adapted from National Center for Health Statistics/National Center for Health Statistics growth charts, 1976. Monthly Vital Statistics Report, Vol. 25, No. 3, Suppl. (June 1976). Health Resources Administration, Rockville, Maryland, June 1976. Data from Fels Institute, Yellow Springs, Ohio.

DATE	AGE	LENGTH	WEIGHT	HEAD C

DATE	AGE	LENGTH	WEIGHT	HEAD C

For Birth
SIMILAC WITH IRON
Infant Formula

For Milk Sensitive
ISOMIL

After Formula Before Milk
ADVANCE

ROSS LABORATORIES

OPTOMETRY OCT 2'86 SEE EYE SHEET

MEDICAL MESSAGE/
CHART REQUEST

LAST FIRST

MR NO

SEX [redacted] AGE

PHONE (H) [redacted]

PHONE (W)

DATE TIME AM PM

DEPT REQUEST FOR

NURSE SIGNATURE CHART LOCATION

PHARMACY PHONE

#8-5401 119 (Rev 6/85)

ER STAMP

SICK HOW LONG?

TEMP

[redacted]

RESPONSE

3645

PEDIATRIC PHYSICAL EXAMINATION Date _____

[redacted]

HEIGHT 3_ WEIGHT 1/2 B P 1/60 TEMP _____ PULSE _____ RESP RATE _____

NORMAL ( ) ABNORMAL (X)

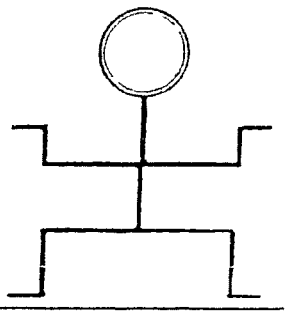
GENERAL APPEARANCE ✓
HEAD AND FACE ✓
EYES ✓
ENT ✓
Tonsils Yes ___ No ___
MOUTH ✓
NECK ✓
CHEST ✓
LUNGS ✓
CARDIOVASCULAR ✓
Femoral Yes ___ No ___
ABDOMEN ✓
BACK ✓
GENITALIA ✓
Circ Yes ___ No ___
RECTUM ✓
EXTREMITIES ✓
SKIN ✓
LYMPH NODES ✓
NEUROMUSCULAR ✓

Litmus Acuity Glasses (with / without)
R 20/40 -1
L 20/40 -1

Bal Pass Fail
Lens (No mal) Abnormal
Color (Pass) Fail

Otocheck

	500	1000	2000	4000
R	25	→	→	
L	25	→	→	



DIAGNOSTIC IMPRESSIONS
Well child Exam

TREATMENT AND PLAN
1) Tine done 3/12/85 400 Burdick
2) UA
3) Suggested Rubella vaccine

1 NUTRITION

How would you describe your child's appetite? poor

How much milk per day? 1 glass
6

How often does he eat

Vegetables? very little

Fruits? very little

Meat? not much

Fish? almost never

Candy or pop? [illegible]

What time he eat for snacks [illegible]

Is getting extra vitamins? no

If so why? [illegible]

Does your water come from the city of Cleveland? [illegible]

If not what is the source? [illegible]

Does your child eat dirt sand paint or plaster or other non food substances? no

Do you have to force your child to eat? [illegible]

14 GENERAL CARE

How do you discipline your child? Answer to 30

Date of last dental exam? 1975

How often does child brush teeth? every day

Use dental floss? no

DO NOT WRITE BELOW For Physicians use

Note any other questions or problems Feel free to make a list and remind yourself

DO NOT WRITE BELOW THIS LINE

Has your child had any of the following

	YES	NO	AGE
Measles (Rubeola)	___	X	___
German measles (Rubella)	___	X	___
Chickenpox	___	X	___
Mumps	___	X	
Has your child ever been hospitalized?	___	X	___

DISEASE and WHERE HOSPITALIZED — AGE

___ ___

___ ___

___ ___

Has your child had any operations?

WHAT? — AGE

Tonsils ___

___ ___

___ ___

10 ACCIDENTS

	YES	NO	AGE
Broken bones	___	X	___
Concussions	___	X	___
Other ___	___	X	___

Has he ever had to be given SYRUP of IPECAC or had his stomach washed out?

YES ___ NO No Why? ___

Is SYRUP of IPECAC available in your home?

YES ___ NO X

When riding in a car does child use seat belt?

USUALLY ___ SOMETIMES X SELDOM ___

IMMUNIZATIONS – PLEASE BRING IN RECORDS!

11 ALLERGIES

Has your child had any of the following	YES	NO	AGE
Eczema	___	X	___
Asthma	___	X	___
Hay fever	___	X	___
Hives	X	___	baby
Allergy to penicillin	___	X	___
to other drugs ___	___	X	___
Allergy to milk	___	X	___
to other foods ___	___	X	___
Allergy to insect bites	___	X	___
Skin tested for allergy?	___	X	___
Getting shots for allergies?	___	X	___

If yes to above any further details

___

___

___

___

DEDS E (Dec 1977)

FAMILY ILLNESS (Relation to child include brothers and sisters (half and step) and maternal or paternal grandparents aunt uncle and cousins) PLEASE MARK EACH ITEM

	YES	NO	If YES give relationship to child and age of relative
Heart trouble		X	
High blood pressure?	X		mother - 40
High cholesterol or heart attack and age?		X	
Does either parent smoke cigarettes regularly?	X		mother - 40
Overweight or obesity?		X	
Epilepsy or convulsions (Fits)		X	
Mental retardation		X	
Serious mental or emotional illness		X	
Headaches or Migraine?	X		2 -
Asthma?		X	
Hay fever		X	
Eczema?		X	
Any other type of allergies?	X		
If yes what? UNKNOWN			
Diabetes? (Sugar)	X		uncle
Thyroid disease? (Including goiter?)		X	
Sickle cell disease or other severe anemias?		X	
Bleeding disorder or hemophilia?		X	
Cancer? (What organ?) or leukemia?		X	
Kidney infections?		X	
Kidney stones nephritis or kidney failure?		X	
Learning problems or reading problems?		X	
Birth deformities such as club foot or cleft palate?		X	
Tuberculosis?		X	
Deafness?		X	
Blindness or amblyopia?	X		grandfather - 1 uncle
Growth failure or dwarfism?		X	
Arthritis?		X	
Other illnesses what?			

4 MEMBERS OF FAMILY List all children from oldest to youngest (including this child)

	NAME	AGE	Occupation	STATE OF HEALTH
Mother	Renee	32		good
Father	BARRY	32		good
Children	Shatima	13	STUDENT	good
	Kamell	8	STUDENT	good
Others in Household				

Total number of pregnancies two miscarriages? none

Are both parents now living in the home? yes

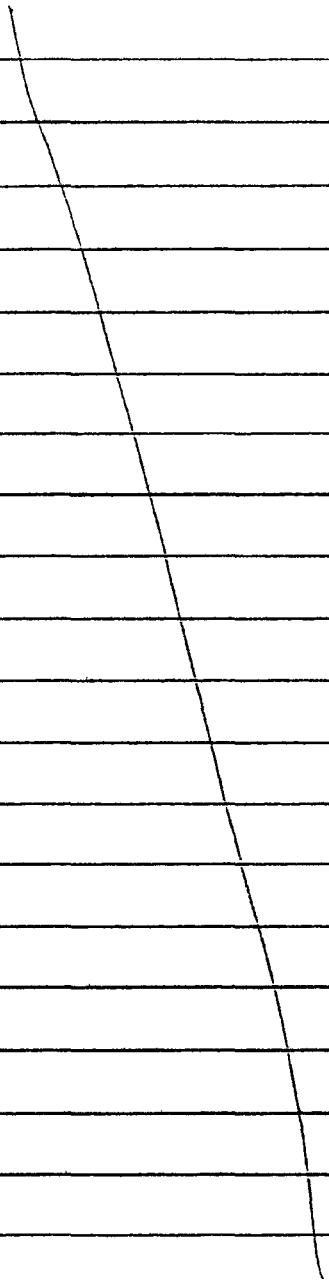
Has either parent been divorced or separated? yes

Who spends most time caring for child? mother

Is child with babysitter or at a Day Care Center regularly? no

PEDIATRICS AUG 26 '85 See White Sheet P.E. B Donachy MD

W WIEDER MD
CLEVELAND HTS.



MAR 15 '83 PEDIATRICS

W. WIEDER M D

3651

PEDIATRIC PHYSICAL EXAMINATION

SEP 16 '83 PEDIATRICS

Date _____

AGE ____ YRS ____ MOS

HEIGHT _____ WEIGHT _____ B P _____ TEMP _____ PULSE _____ RESP RATE _____

NORMAL ( ) ABNORMAL (X)

GENERAL APPEARANCE

HEAD AND FACE

EYES

ENT

Tonsils Yes ___ No ___

MOUTH

NECK

CHEST

LUNGS

CARDIOVASCULAR

Femorals Yes ___ No ___

ABDOMEN

BACK

GENITALIA

Circ Yes ___ No ___

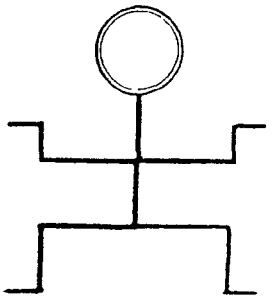
RECTUM

EXTREMITIES

SKIN

LYMPH NODES

NEUROMUSCULAR



DIAGNOSTIC IMPRESSIONS

TREATMENT AND PLAN

_____ M D

13 NUTRITION

How would you describe your child's appetite?_____

How much milk per day?_____

How often does he eat

Vegetables?_____

Starches?_____

Meat?_____

Fruit?_____

Candy or pop?_____

What does he eat for snacks?_____

Is he getting extra vitamins?_____

If so why?_____

Does your water come from the city of Cleveland?_____

If not what is the source?_____

Does your child eat dirt sand paint or plaster or other non food substances?_____

Do you have to force your child to eat?_____

14 GENERAL CARE

How do you discipline your child?_____

Date of last dental exam?_____

How often does child brush teeth?_____

Use dental floss?_____

DO NOT WRITE BELOW For Physicians use

adequate

Note any other questions or problems Feel free to make a list and remind yourself

9 DISEASES

Has your child had any of the following?

	YES	NO	AGE
Measles (Hard or 7 day)			
German measles (Rubella or 3 day)			
Chickenpox			
Mumps			
Has your child ever been hospitalized?			

DISEASE and WHERE HOSPITALIZED	AGE

Has your child had any operations?

WHAT?	AGE

10 ACCIDENTS

	YES	NO	AGE
Broken bones			
Concussions			
Other			

Has he ever had to be given SYRUP of IPECAC or had his stomach washed out?

YES____ NO____ Why?____

Is SYRUP of IPECAC available in your home?

YES____ NO____

When riding in a car does child use seat belt?

USUALLY____ SOMETIMES____ SELDOM____

IMMUNIZATIONS – PLEASE BRING IN RECORDS!

11 ALLERGIES

Has your child had any of the following	YES	NO	AGE
Eczema			
Asthma			
Hay fever			
Hives			
Allergy to penicillin			
to other drugs____			
Allergy to milk			
to other foods____			
Allergy to insect bites			
Skin tested for allergy?			
Getting shots for allergies?			

If yes to above any further details

DO NOT WRITE BELOW For Physicians use

3 FAMILY ILLNESSES — state relationship to child. Include brothers and sisters, parents, and maternal or paternal grandparents, aunts, uncles and cousins. PLEASE MARK EACH ITEM

	YES	NO	If YES, give relationship to child and age at onset
Heart disease?			
High blood pressure?			
High cholesterol or heart attack under age 50?			
Does either parent smoke cigarettes regularly?			
Overweight or obesity?			
Epilepsy or convulsions? (List?)			
Mental retardation?			
Serious mental or emotional illness?			
Headaches or Migraine?			
Asthma?			
Hay fever?			
Eczema?			
Any other type of allergies?			
If yes what?			
Diabetes? (Sugar?)			
Thyroid disease? (Including goiter?)			
Sickle cell disease or other severe anemias?			
Bleeding disorder or hemophilia?			
Cancer? (What organ?) or leukemia?			
Kidney infections?			
Kidney stones, nephritis or kidney failure?			
Learning problems or reading problems?			
Birth deformities such as club foot or cleft palate?			
Tuberculosis?			
Deafness?			
Blindness or amblyopia?			
Growth failure or dwarfism?			
Arthritis?			
Other illnesses, what?			

4 MEMBERS OF FAMILY — List all children from oldest to youngest (including this child)

	NAME	AGE	Occupation,	STATE OF HEALTH
Mother				
Father				
Children				
Others in Household				

Total number of pregnancies _____ miscarriages? _____

Are both parents now living in the home? _____

Has either parent been divorced or separated? _____

Who spends most time caring for child? _____

Is child with babysitter or at a Day Care Center regularly? _____

2 YEAR - 2 YEAR, 9 MONTH

DENVER PRESCREENING DEVELOPMENTAL QUESTIONNAIRE

Please read each question carefully before you answer Circle the best answer for each question YOUR CHILD IS NOT EXPECTED TO BE ABLE TO DO EVERYTHING THE QUESTIONS ASK

YES - CHILD CAN DO NOW or HAS DONE IN THE PAST
NO - CHILD CANNOT DO NOW, HAS NOT DONE IN THE PAST or YOU ARE NOT SURE THAT YOUR CHILD CAN DO IT

Child's Name 3655

Date 4 [illegible] 1910 0037

Birthdate [illegible] 12 76

R-3 2-7-CHILD REFUSES TO TRY
NO-OPP - CHILD HAS NOT HAD THE CHANCE TO TRY

© Wm K Frankenburg M D University of Colorado Medical Center 1975

2 year check - Answer 52 through 61

52 When you are doing housework, does your child copy what you are doing? (YES) NO R NO-

2 year, 1 and 2 month check - Answer 53 through 62

53 Can your child put one block on top of another without the block falling? This applies to small blocks about 1 inch in size and not blocks more than 2 inches in size (YES) NO R NO-

2 year, 3 month check - Answer 54 through 63

54 Can your child say at least three specific words, other than "da-da" and "ma-ma", which mean the same thing each time he uses them? Will repeat any words asked (YES) (NO) R NO-

2 year, 4 and 5 month check - Answer 55 through 64

55 Can your child take five or more steps backwards without losing his balance? You may have seen him do this while pulling a toy YES (NO) R NO-

2 year, 6 month check - Answer 56 through 65

56 Can your child take off clothes such as his pajamas (tops or bottoms) or his pants? Diapers, hats and socks do not count YES (NO) R NO-

Never tried

2 year, 7 and 8 month check - Answer 57 through 66

57 Can your child walk up steps by himself? Circle YES if he walks up in an upright position holding on to the wall or railing for support Circle NO if 1) he has to crawl up the stairs, 2) you do not let him climb stairs, 3) he has to hold on to a person or the next step YES (NO) R NO-

2 year, 9 month check - Answer 58 through 67

58 Without your coaching, pointing or helping, can your child point to at least one part of his body (hair, eyes, nose, mouth or any other part) when asked? Answer YES if he knows this well enough that he will point when asked by a stranger (YES) NO R NO-

11/9/78

59 Does your child feed himself with a spoon or fork without spilling much? YES NO R NO-

60 Does your child help pick up his toys or help carry the dishes when asked? Circle YES only if he completes either of these tasks YES NO R NO-

61 Without holding onto anything, can your child kick a small ball (like a tennis ball) in a forward direction? Pushing doesn't count Circle YES only if you have seen your child do this with a small ball YES NO R NO-

DR B LIKLY letter mailed To have Blood do 3656
PED FEB 3'82 that was not done on 1/7/81

PEDIATRICS OCT 25'82
W WIEDER M.D. MS

SEE EYE SHEET

MAR 17 '83 OPTOMETRY SEE EYE SHEET

Genitalia

Rectum

Extremities — slight toeing in both feet

Skin — clear

Lymph Nodes

Neuromuscular — PDQ 10-yes

DIAGNOSTIC IMPRESSIONS

1) Normal Growth + Dev't
2) toeing in - Hx. of ITT 4-77
3) ? mucous plug

TREATMENT AND PLAN School Forms signed

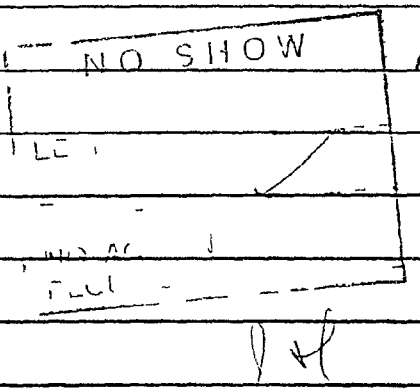
1) Re-assured
Child DT ~~o. Scott~~ Dr. Wright given by Marcia PNP
OPV - 2 gtts
CBC
U/A
lead screen
fine applied by Marcia PNP
2) appt to Pediatrist
2) appt to optometrist

F. Marcia PNP
MD agree - Lilli

PEDIATRICS NOV 12 81

L. HANSEN, M.D.

No Show 1/2 hr P.E.



Re-sch for Dec 8TH BH

NOV 13 83 OPTOMETRY

EYE CHECK

1 hr late

[illegible] almost 23 mos Wt 30½#

Ht 36 standing

Well baby check

PDQ Feet water

Bal diet

PE - Neg

Imp WC

CBC

Heckle

MMR

TB tine

R Howell RN

M Cleary

SEE [illegible] SHEET [illegible]

MAY 19 '77 PEDIATRICS N S Phone NA @ MC

JUN 2 '77 PEDIATRICS

5 1/2 mos Wt 18#
Ht 27 1/8
Hq 43 3
T 99.0 R

Doing well
all foods + Sum = no I can't
Pets
PE-Neg
Imp WC
Rx DPT ✓ ~~Upper~~ Imm ✓ pc
OPV
✓ 2 mon.
CBC, sickle

McClough

3664

KAISER PERMANENTE
MEDICAL CARE PROGRAM

4 85 kg

PHYSICAL EXAMINATION

Age 1 mo

MR NO
NAME 19-98-68
ADDRESS Evans, Kenneth
GR No RES SEX MAR STATUS

Head 38 Chest 37 Date JAN 21 '77 PEDIATRICS

Height 22 3/4 Weight 10# 11 oz Temp _____ Resp _____ B P _____

Birth wgt 8# 5½ oz

Normal (✓) Abnormal (X)	Describe Significant Details
General Appearance	✓
Head and Face	✓
Eyes	✓
ENT	✓
Mouth	✓
Neck	✓
Chest (including breasts)	✓
Lungs	✓
Cardiovascular	✓
Abdomen	✓
Back	✓

PLAINTIFF'S EXHIBIT 11-4-9
PENGAD 800 631 6989

Past adult lead exposure is linked to neurodegeneration measured by brain MRI

W F Stewart, PhD MPH B S Schwartz, MD, MS, C Davatzikos, PhD D Shen PhD, D Liu, MS X Wu MS A C Todd PhD, W Shi MD, MS S Bassett, PhD and D Youssem, MD, MBA

Abstract—*Objective* To determine whether cumulative lead dose in former organolead workers was associated with MRI measures of white matter lesions (WML) and global and structure specific brain volumes *Methods* MRIs tibia lead and other measures were obtained from 532 former organolead workers with a mean age of 56 years and a mean of 18 years since last occupational exposure to lead Cumulative lead dose was measured by tibia lead obtained by X ray fluorescence and expressed as μg lead per gram of bone mineral (μg Pb/g) WML were evaluated using the Cardiovascular Health Study grading scale A total of 21 global and specific brain regions were evaluated *Results* A total of 36% of individuals had WML grade of 1 to 7 (0 to 9 scale) Increasing peak tibia lead was associated with increasing WML grade ($p = 0.004$) The adjusted OR for a 1 μg Pb/g increase in tibia lead was 1.042 (95% CI = 1.021 1.063) for a CHS grade of 5+ (≥5 vs <5) In linear regression the coefficient for tibia lead was negative for associations with all structures Higher tibia lead was significantly related to smaller total brain volume frontal and total gray matter volume and parietal white matter volume Of nine smaller specific regions of interest higher tibia lead was associated with smaller volumes for the cingulate gyrus and insula *Conclusions* These data suggest that cumulative lead dose is associated with persistent brain lesions and may explain previous findings of a progressive decline in cognitive function

NEUROLOGY 2006 66 1476–1184

We previously reported on the relation between past occupational exposure to organic (i e , tetraethyl and tetramethyl lead) and inorganic lead and decline in cognitive function Among those initially enrolled in the study, there was an average of 16 years since last occupational lead exposure [1] Past cumulative absorption of lead, estimated from peak tibia leads was associated with a decline in neurobehavioral test scores with pronounced longitudinal declines in verbal memory and learning, visual memory, and executive function [1,2] Subsequent analysis supported our hypothesis that cumulative lead dose was associated with progressive declines in cognitive function long after lead levels had declined in brain and blood [3] Based on these findings, we hypothesized that the decline in function associated with tibia lead could have been mediated by brain lesions that were at least persistent This hypothesis motivated the current study in which we obtained structural MRIs of the brain Because tibia lead was associated with declines in a broad range of cognitive domains (i e verbal memory and learning, visual memory, manual dexterity and executive abilities) we predicted that it would be associated with decline in volumes in several structures ranging from large (e g total brain frontal lobe, parietal lobe) to small (e g specific structures involved in learning and memory such as limbic and perilimbic volumes)

The hypothesis that lead may cause persistent brain lesions is consistent with animal evidence suggesting that lead can cause cell death or changes to cellular architecture [4,12] including the formation of neurofibrillary tangles [10,12] Moreover glial acidic fibrillary protein a cell specific cytoskeletal intermediate filament protein that is an indicator of cell damage or death, increases in the hippocampus of animals dosed with lead [4,7,11] Herein we describe results of a follow-up study in this same cohort to evaluate whether tibia lead levels were associated with MRI measures of white matter lesions and total and region specific brain volumes

Editorial, see page 1464

From the Center for Health Research and Rural Advocacy (W F S) Geisinger Clinic Danville PA Departments of Environmental Health Sciences (B S S W S) and Epidemiology (W F S B S S) the Johns Hopkins Bloomberg School of Public Health Baltimore MD Department of Radiology (C D D S D L X W) the University of Pennsylvania Philadelphia Department of Community and Preventive Medicine (A C T) Mount Sinai School of Medicine New York NY and Department of Psychiatry (S B) and The Russell H Morgan Department of Radiology and Radiological Sciences (D Y) the Johns Hopkins School of Medicine Baltimore MD

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Table 1 Profile of data collected on former organolead workers during phases I and II

MRI completed in phase II	Tibia lead measured	Recruited during		
		Phase I	Phase II	Total
No	No	118	9	127
No	Yes	223	10	263
Yes	No	3	2	57
Yes	Yes	357	175	532
Total		703	276	979

These subjects are the focus of the analysis presented herein

Methods Data were derived from individuals recruited during two study phases between 1994 and 2003 (table 1) In phase I (1994 to 1997) former employees of a chemical manufacturing plant in the eastern United States were identified and recruited Annual measures of neurobehavioral and peripheral nervous system function were obtained Tibia lead concentration was measured by ^{109}Cd induced X ray fluorescence (XRF) during the third year of phase I In phase II (2001 to 2003) we continued to study the cohort enrolled additional study participants and collected tibia lead and MRI data The detailed methods for phase I are described elsewhere[1,2] and summarized herein in brief along with specific details of the phase II study The study was reviewed and approved by the Johns Hopkins Bloomberg School of Public Health Committee on Human Research and written informed consent was obtained from all participants

Individuals recruited for this study worked in the organolead area of a chemical plant involved in the manufacture of tetraethyl lead from 1923 to 1991 and tetramethyl lead from 1960 to 1983 [13] but were not occupationally exposed to lead at the time of study enrollment All study participants were previously employed in the facility on or after January 1 1950 were men and were between the ages of 40 and 70 years in 1995 In phase I a total of 703 former lead workers were enrolled and completed one to four visits In phase II another 276 former lead workers were enrolled and completed one or two visits In addition during phase II MRIs were completed on 589 of the 979 former lead workers (see table 1) Tibia lead was measured on 532 of the 589 individuals who completed MRI acquisition Analysis was limited to these 532 individuals

Data collection After obtaining consent blood pressure height and weight questionnaire interview and neurobehavioral and psychological testing data were obtained[1] as well as two 10 mL blood specimens by venipuncture The remaining description is confined to measures specifically used for the analysis presented herein

During each interview data were collected on use of cigarettes and cigars including age started smoking average number of cigarettes smoked per day ever quit for a week or more longest duration of time stopped smoking and age stopped smoking Similar data were collected on alcohol consumption and also included types of beverage consumed We examined a variety of approaches to summarizing use of tobacco and alcohol including cumulative use combined with current use status We opted for current use status (i e never current or past use) because it was the simplest approach and explained as much variance in MRI outcomes as alternative approaches

Elevated blood pressure and hypertension are each associated with risk of white matter lesions and total brain volume [14-19] as well as lead exposure and thus were initially considered as potential confounding variables During each visit a question was asked about history of hypertension Affirmative responses were followed by questions about current antihypertensive medications Systolic and diastolic blood pressures were measured during each study visit as previously described [20] For the present analysis we used the available blood pressure measures closest in time to when MRI data were obtained Individuals were defined as hypertensive if their systolic blood pressure was greater than 140 their diastolic blood pressure was greater than 90 or they were using medications to control blood pressure

Current tibia lead was measured at the left mid tibia shaft for 30 minutes by ^{109}Cd induced K shell X ray fluorescence (XRF) Of the 532 former lead workers on whom MRI and tibia lead measurements were completed (see table 1) tibia lead was obtained from 357 subjects in phase I and 175 subjects in phase II A limitation of current tibia lead for estimation of cumulative occupational lead dose in former workers exposed to lead is that it declines in relation to time since last work in lead exposed jobs As such two individuals with the same cumulative occupational dose will differ in their current tibia lead level if they differ in their time since last occupational exposure to lead To account for the large interindividual differences in time since last occupational lead exposure years since last exposure was used to estimate tibia lead levels at the termination of lead exposure termed peak tibia lead (PTL) Current tibia lead levels were extrapolated back using a clearance half time of lead in tibia of 27 years [4] assuming first order (mono exponential) clearance from tibia [1] PTL is expressed in units of μg lead per gram of bone mineral (μg Pb/g) In previous work we showed that PTL was the best predictor of decline in cognitive function in this cohort [1]

Apolipoprotein E genotyping was completed using two different methods in phase I and phase II The method of Hixson and Vernier[24] was used during phase I In phase II genotyping was performed using the Flexigene DNA kit (Qiagen Valencia CA) The method was previously validated in a subset of individuals from another study using published PCR conditions[25] and described elsewhere [6]

MRI measures In this section we describe the methods used to acquire MRIs to obtain white matter lesion severity scores and to quantify volumes of brain structures

All subjects were imaged at the same location and on the same General Electric 1 5 T Signa model A set of 1 5 mm T1 weighted images through the entire brain were acquired using contiguous coronal MR images and a spoiled gradient recalled acquisition in steady state sequence (echo time [TE] = 5 msec and repetition time [TR] = 35 msec) Field of view was 24 cm and the matrix size was 256 × 256 Proton density and T2 weighted axial dual echo images were also acquired parallel to the anterior posterior commissure line using an interleaved technique with no gap to provide maximal data for subsequent segmentation and ratings of white matter disease

White matter lesions were graded based on review of the proton density and T2 weighted scans using the Cardiovascular Health Study 10 point (0 to 9) scale [17 7] Predefined visual standards of nine reference cases were used to grade the periventricular and subcortical white matter signal abnormality (table 2 footnote) on spin density weighted axial images that successively increased from no (grade 0) or barely detectable change (grade 1) to almost all white matter involved (grade 9) Portions of these atlases have been previously published [26] The Cardiovascular Health Study scale has high inter reader and intrareader reliability [9] Volumetric analytic validation of the visual scale corresponded to a rank increase in white matter T2W hyperintensity normalized for cerebral parenchymal volume [10,31]

Cardiovascular Health Study grading was completed in full DICOM format (Merge Efilm Milwaukee WI) All MRIs were read by a board certified experienced neuroradiologist also trained to meet specified reader reproducibility criteria for the Cardiovascular Health Study The reviewer was blinded to PTL level and lead exposures status The sagittal T1 weighted axial proton density and T2 weighted and coronal spoiled gradient echo scans were reviewed in the same setting

MR images were segmented into gray matter (GM) white matter and CSF fluid as described by Goldszal et al [32] Regional volumetric analysis was then performed via computerized template matching techniques previously reported and validated [33] In particular a digital atlas bearing anatomic definitions of several brain regions was used as reference The atlas included all major lobar subdivisions as well as a number of smaller regions (see Results) A computerized image analysis algorithm based on pattern matching was then used to warp this reference atlas to each participant s MRI thereby transferring the anatomic definitions onto the MRI As a result volumetric measurements of the regions of interest (ROI) defined in the atlas were obtained from each participant Gray matter and white matter volumetric measurements were examined individually and in sum

Statistical analysis The primary purpose of the analysis was to determine if PTL was associated with white matter lesions or

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Table 2 Logistic regression estimate of the unadjusted and adjusted OR for peak tibia lead (PTL) and relation to white matter grade using five different cut points, 532 former organolead workers, 2001–2003

White matter (WM) grade cutpoint†	No. cases	Unadjusted OR (95% CI)‡	Adjusted§OR† (95% CI)‡	*p* Value	OR for interquartile ¶ (95% CI)
WM grade ≥ 1 vs < 1	180	1.025 (1.014–1.035)	1.006 (0.994–1.018)	0.35	1.10 (0.89–1.41)
WM grade ≥ 2 vs < 2	120	1.033 (1.021–1.044)	1.017 (1.004–1.031)	0.01	1.38 (1.09–1.79)
WM grade ≥ 3 vs < 3	69	1.037 (1.024–1.050)	1.019 (1.004–1.033)	0.01	1.41 (1.08–1.88)
WM grade ≥ 4 vs < 4	15	1.049 (1.034–1.064)	1.029 (1.012–1.046)	< 0.001	1.74 (1.26–2.39)
WM grade ≥ 5 vs < 5	2.5	1.060 (1.042–1.079)	1.042 (1.021–1.063)	0.001	2.21 (1.49–3.28)

‡ Cardiovascular Health Study grades are defined as follows (grade in parenthesis): no WM abnormalities (0); discontinuous periventricular (PV) rim or minimal dot of subcortical (SC) disease (1); thin continuous PV rim or few patches of SC disease (2); thicker continuous PV rim with scattered patches of SC disease (3); thicker, shaggier PV rim and mild SC disease (4); mild PV confluence surrounding the frontal and occipital horns (5); moderate PV confluence surrounding the frontal and occipital horns (6); PV confluence with moderate involvement of the centrum semiovale (7); PV confluence involving most of the centrum semiovale (8); all supratentorial WM involved (excluding the corpus) (9).

† Defined as the individuals who had a white matter grade at or above the cut point.

‡ The OR for a 1 μg/g increase in PTL.

§ Adjusted for age (linear term was significant), education, ApoE ε4 status (i.e., at least one ε4 allele), and smoking status (previous, current, never smoker).

¶ The OR associated with an increase in PTL from the 25th to the 75th percentile in this case and increase from 12.3 to 31.6 μg/g Pb.

with volume of specific brain regions selected a priori. In these analyses, one individual was excluded from all analysis based on MRI evidence of hydrocephalus.

We tested whether the OR for the association of PTL and white matter grade increased with increasing white matter grade. Logistic regression was used to model the relation between white matter grade and PTL, adjusting for potential confounders, using five separate regression models. For each model, PTL was defined as a continuous variable and white matter grade was defined as a binary variable. In sequence, an increasing white matter grade value was used to define the binary cut point for each of five logistic models (i.e., white matter grade ≥ 1 vs < 1; white matter grade ≥ 2 vs < 2; white matter grade ≥ 3 vs < 3; white matter grade ≥ 4 vs < 4; white matter grade ≥ 5 vs < 5) to examine sensitivity of results to the prevalence and severity of lesions. In addition, we used a polytomous logistic model to test for overall trend of increasing OR in relation to increasing white matter grade by defining white matter grade as an ordinal outcome (i.e., 0, 1, 2, 3, 4, 5+). In developing the final set of models we considered the following as potential confounders: age, systolic and diastolic blood pressure, smoking history, ApoE genotype, education, alcohol consumption, depression status, and race. Independent covariates were retained in the model if they had at least a borderline significant ($p < 0.10$) relation to one or more white matter binary outcomes or the sign for the coefficients was in the same direction more than 75% of the time (i.e., either negative or positive) and supported by prior evidence of an association with white matter grade. The final model included peak tibia lead, age at which the MRI was obtained (linear term was significant, quadratic term was not), education (i.e., less than high school, high school diploma, some college, college degree or more), ApoE ε4 status (i.e., at least one ε4 allele), and tobacco use status (i.e., current or past user vs nonuser).

Eighteen of the MRIs were not suitable for volumetric analysis due to image quality. No significant or meaningful differences were found on any covariates measured between these 18 individuals and the remaining 514 individuals with suitable MRIs. A total of 514 MRIs were segmented into gray matter, white matter, and CSF [12] then regional volumetric analysis was performed via computerized template matching techniques [13]. A total of 91 possible brain regions of interest (ROIs) were generated from a digital brain atlas. For analysis, we focused on total brain volume, total white and gray matter, lobar white and gray matter, and a select set of nine more specific ROIs (table 3, "other structures"). All volumes were expressed as the sum of the same ROI from the right and left sides where relevant.

Multiple linear regression[14] was used to evaluate associations of PTL with each ROI specific volumetric measure. Each ROI specific outcome was modeled separately. Some of the dependent variables are not independent of each other because some are nested within other structures (e.g., total brain volume, total lobar volumes, lobar gray or white matter volumes). This approach was used to determine if there were global and specific effects of lead. In linear regression unadjusted and adjusted coefficients were estimated for the association between PTL and volumetric measures. Models were first evaluated with only PTL and age (i.e., the age on the date the MRI was acquired). Previous studies indicated that age was strongly related to volume. We examined linear and quadratic terms for age but only the linear term was significantly associated with volumetric measures. Other suspected confounders considered in the analysis included systolic and diastolic blood pressure, smoking history, ApoE genotype, education, alcohol consumption, depression status, and race. Finally, we also assumed height would be associated with ROIs as it is directly associated with the size of body structures. In evaluating covariates for each linear regression model we used a backward elimination procedure and the aforementioned criteria for logistic regression. Age, education, ApoE ε4 status, and height were retained in the final model. The coefficients for systolic and diastolic blood pressure and ROI volume were often negative, indicating that lower brain volume is associated with higher blood pressure. However, previous analysis [9] of a direct relation between PTL and blood pressure level indicated that blood pressure was more likely to be in the causal pathway between PTL and neurodegenerative changes than to act as a confounding variable. We therefore did not include systolic or diastolic blood pressure in the final ROI models. Ultimately whether or not blood pressure was included in the regression models did not influence interpretation of the relation between PTL and ROI volume.

All linear regression models were evaluated for violations of the assumptions of linear regression and for influence of outliers in PTL and volume measures.

Results The 532 former workers in this analysis were on average 56.1 years of age and had exposure duration of 8.7 years (table 4). The average time interval between last occupational exposure to lead and when the MRI was obtained was 18 years. Individuals were predominantly white and more than 90% completed high school; approximately 35% had some college. Compared to nonparticipants (i.e., the 447 participants without an MRI), the MRI group did not differ by age, race/ethnicity, tobacco use, or blood pressure, but did have a greater mean exposure duration ($p < 0.02$) and proportionately fewer individuals with less than a high school education ($p < 0.02$) and who reported previous alcohol consumption ($p < 0.03$). The mean current tibia lead for the MRI group was 14.5 μg Pb/g compared to 15.7 μg Pb/g among nonparticipants. The

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Table 3 Global and region specific volumetric measures (mL) for 514 former organolead workers and linear regression coefficients (unadjusted and adjusted) for the relation between peak tibia lead (PTL) and volumes former organolead manufacturing workers 2001–2003

						Peak tibia lead regression coefficients					
						Unadjusted			Adjusted*		
No	Structure	Mean (mL)	SD (mL)	Min (mL)	Max (mL)	β (mL)	SE	*p*	β (mL)	SE	*p*
Total											
1	Total brain volume‡	1 150 49	105 84	733 56	1 487 99	−1 141	0 249	0 001	−0 609	0 273	0 03
White matter											
2	Frontal	203 42	22 75	142 27	277 14	−0 195	0 054	0 0003	−0 076	0 058	0 19
3	Parietal	104 75	12 47	73 29	146 62	−0 102	0 030	0 0006	−0 070	0 032	0 03
4	Temporal	109 83	13 55	68 52	152 75	−0 122	0 032	0 0002	−0 067	0 035	0 06
5	Occipital	46 11	7 16	27 83	70 68	−0 029	0 017	0 09	−0 011	0 019	0 56
6	Total‡	562 00	58 99	389 48	748 22	−0 531	0 140	0 0002	−0 282	0 152	0 06
Gray matter											
7	Frontal‡	149 53	16 21	107 68	201 05	−0 214	0 038	<0 001	−0 094	0 041	0 02
8	Parietal	87 18	9 83	50 58	121 97	−0 099	0 023	<0 001	−0 046	0 025	0 07
9	Temporal	109 39	14 01	48 14	147 03	−0 109	0 033	0 001	−0 059	0 037	0 11
10	Occipital	53 24	6 42	27 74	77 07	−0 047	0 015	0 002	−0 022	0 017	0 19
11	Total‡	588 19	59 97	311 35	762 85	−0 609	0 141	<0 001	−0 326	0 157	0 04
Other structures											
12	Medial§	89 60	10 69	39 84	124 29	−0 087	0 025	0 0007	−0 039	0 028	0 17
13	Cingulate	22 52	3 84	6 48	34 74	−0 055	0 009	<0 001	−0 025	0 010	0 008
14	Insula	13 88	1 90	6 96	21 64	−0 018	0 004	<0 001	−0 012	0 005	0 02
15	Corpus callosum	11 90	1 65	6 58	18 39	−0 006	0 004	NS	−0 008	0 004	0 07
16	Internal capsule	7 66	0 87	4 81	10 84	−0 007	0 002	0 0009	−0 002	0 002	0 40
17	Amygdala	2 42	0 64	0 48	3 96	−0 001	0 002	NS	−0 002	0 002	0 23
18	Hippocampus	6 92	1 55	0 82	10 18	−0 007	0 004	0 07	−0 005	0 004	0 24
19	Entorhinal cortex	3 09	0 71	1 00	5 63	−0 001	0 002	NS	−0 001	0 002	0 56
20	Cerebellum	113 53	21 20	43 82	160 43	−0 036	0 051	NS	−0 068	0 057	0 24

Bilateral volume for all structures

* Adjusted for age (linear term was significant) education ApoE ε4 status (i e at least one ε4 allele) and height

‡ One subject with apparent hydrocephalus was removed from this analysis due to extreme values

§ Medial structures encompasses bilateral amygdala cuneus entorhinal cortex hippocampal formation lingual gyrus medial front orbital gyrus medial frontal gyrus medial occipito temporal gyrus parahippocampal gyrus perirhinal cortex precuneus and uncus These structures mediate the limbic system functions

mean PTL was 23 9 μg Pb/g in the MRI group significantly lower ($p < 0\ 02$) than the 27 1 μg Pb/g among nonparticipants

White matter grade Overall 34% of individuals (see table 2) had a Cardiovascular Health Study white matter grade of 1 or greater of these 77% were less than or equal to 3 In logistic regression the strength of the association between PTL and white matter grade increased as a higher grade was used to define the outcome (see table 2) Significant associations were observed when a white matter grade of 2 or greater was used indicating that PTL was associated with both the prevalence and severity of white matter lesions Specifically the adjusted OR for a 1 μg/g increase in PTL (modeled as a continuous variable) increased as the cut point for the binary outcome increased from greater than or equal to one (OR = 1 006 $p > 0\ 05$) to greater than or equal to five (OR = 1 042 $p < 0\ 001$) For the last model tested (i e white matter grade > 5 vs < 5) the adjusted OR associated with an increase of PTL from 12 3 to 31 6 μg Pb/g (the interquartile range for PTL) was 2 21 (see table 2) In polytomous logistic regression (i e white matter grade defined as an ordinal variable) increasing PTL was associated with increasing severity of white matter lesions ($p = 0\ 004$)

Volumetric analysis The mean (SD) values for the 20 volumetric measures ranged from 2 4 (0 6) mL for bilateral amygdala to 1151 4 (112 6) mL for total brain volume (see table 3) Each of the 20 volumes was normally distributed The maximum/minimum volume ratio for total brain volume was 2 03 For the nine other structures in table 3 the maximum/minimum volume ratio ranged from a high of 12 4 for hippocampus to a low of 2 2 for internal capsule As expected volume was greatest for frontal lobe followed in order by temporal parietal and occipital lobes Of the smaller other structures the combined medial structure was the largest followed by the ventricles and the cingulate gyrus

In linear regression modeling all unadjusted and adjusted coefficients for the associations of PTL with ROI volumes were negative indicating that brain volumes decreased as tibia lead increased (see table 3) For the unadjusted PTL coefficients associations (i e $0\ 0001 < p < 0\ 05$) were observed for all ROIs examined except occipital white matter corpus callosum amygdala hippocampus entorhinal cortex and cerebellum After adjustment for confounders (see table 3 footnote) PTL exhibited a significant ($p < 0\ 05$) or borderline significant ($0\ 05 \leq p < 0\ 10$) association with nine ROIs (see table 3) Figure 1 shows

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Table 1 Profile of all former organolead workers by whether or not both MRI and X ray fluorescence (XRF) tibia lead measures were obtained

Variable	Completed MRI and XRF tibia lead measures: Yes	No	p Value for difference
Number	532	447	
Age y mean (SD)	56 1 (7 7)	56 9 (8 3)	0 12
Exposure duration y mean (SD)	8 7 (9 8)	7 2 (9 2)	0 02
	n = 525	n = 412	
White race/ethnicity %	92 3	91 5	0 65
Educational level %			0 02
Less than high school	6 2	11 0	
High school graduate	58 8	52 5	
Some college	30 5	30 0	
College graduate	4 5	6 5	
Tobacco consumption %			0 64
Never	29 9	27 3	
Current	20 2	20 4	
Previous	49 9	52 4	
Alcohol consumption			0 03
Never	4 0	2 0	
Current	73 5	69 1	
Previous	22 6	28 9	
Systolic blood pressure mean (SD)	130 0 (13 4)	131 3 (15 8)	0 17
Diastolic blood pressure mean (SD)	81 6 (8 5)	81 1 (9 3)	0 36
	n = 530	n = 427	
Hypertension†			0 07
Yes	38 0	43 7	
No	62 0	56 3	
Year enrolled			0 003
1994	20 7	21 7	
1995	39 4	19 0	
1996–97	7 2	6 7	
2001–03	32 8	22 6	
Current tibia lead mean (SD)	14 5 (9 6)	15 7 (9 7)	0 10
Peak tibia lead mean (SD)	23 9 (18 3)	27 1 (19 3)	0 02
Years since last exposure mean (SD)	18 0 (11 0)	19 6 (11 5)	0 05

t Test was used for testing differences in mean values the chi square test was used for categorical measures
† Defined as systolic blood pressure > 140 or diastolic blood pressure > 90 or self reported use of antihypertensive medications

the relations of PTL with the six ROIs for which a significant association was observed

The unadjusted and adjusted PTL coefficients in table 3 differed to some degree These differences were primarily explained by adjustment for age, the strongest and most consistent predictor of volumes Coefficients for other covariates (i e apolipoprotein E genotype and education) were negative (i e inverse relation) for almost all structures and significant for some The association of education with ROI volumes was confined to those with less than a high school education The coefficient for height was positive for most models and borderline or significant for 10 models indicating that brain volume is directly related to height

Discussion This study supports our hypothesis that past exposure to organic and inorganic lead is associated with persistent global and region specific brain lesions Specifically cumulative lead dose in former workers with past exposure to inorganic and organic lead is associated with an increased prevalence and severity of white matter lesions, total brain volume, and with smaller global and region or structure specific volumes This finding is consistent with the previous association of longitudinal decline in neurobehavioral test scores to PTL, more than 15 years since last occupational lead exposure [2] In our previous work using linear systems theory and an evaluation of these theories as applied to previous data (i e data on PTL and longitudinal change in neurobehavioral function), we concluded that the effect of lead in the brain was progressive [3] Such an effect of lead could only be a consequence of a persistent or progressive structural lesion, not short latency changes in brain neurochemistry or effects of lead on brain macromolecules The findings from the current analysis are consistent with our previous hypothesis, with experimental evidence that lead can cause white matter damage cell death, and changes to cellular architecture (i e synaptic density or other cellular connections) [4-12] and with our previous con-

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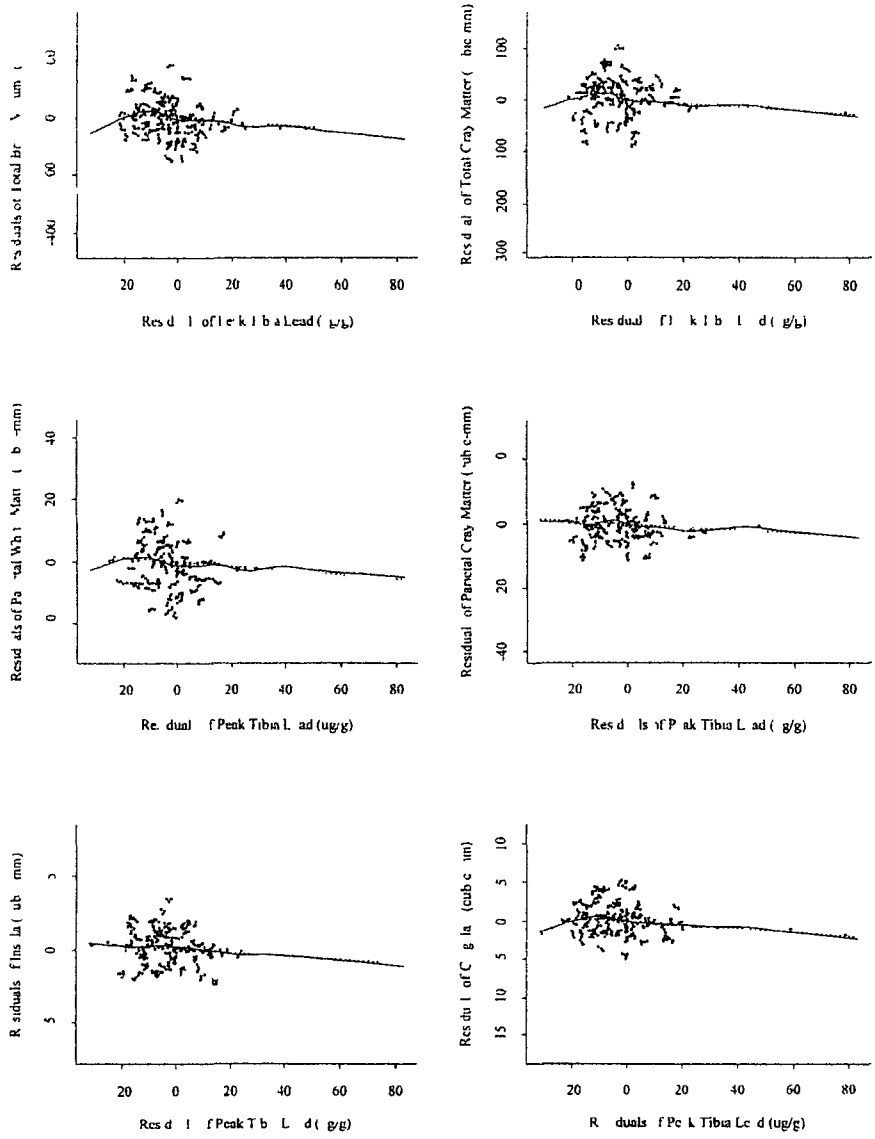

Figure 1 Linear regression (solid line) and Lowess (dashed line) plots for ROI volume residuals regressed on peak tibia lead (PTL as μg/g) residuals Residuals reflect adjustment for covariates (details in table 3 footnote) Plots are presented for ROIs in table 4 for which a significant ($p < 0.05$) association was observed Each plot exhibits a similar inverse relation where the ROI residual decreases in value as the PTL residual increases The Lowess plot indicates assumption of linearity for the regression model is reasonable

clusions that a share of what is thought to be part of the spectrum of age related changes in cognitive function in this cohort is likely to be explained by past exposure to lead

The magnitude of the PTL effect on total brain volume is moderate and consistent with what was previously observed regarding cognitive function In the prior longitudinal analysis of PTL and neurobehavioral decline, we compared the effect of individuals at the upper and lower ends of the interquartile range of PTL [2] The lead effect was equivalent to what would be expected for 5 years of aging given the average age of the cohort at the time data were collected Analysis of the relation between PTL and total brain volume suggests a similar conclusion Specifically, the 12 5 mL (i e , 1 1% of total brain volume) decrease in total brain volume for an increase in PTL from the lower to the upper bound of the interquartile range is approximately equal to an effect we would expect for 5 years of aging assuming that the mean cross sectional association of each year of age with total brain volume predicts what would happen longitudinally, a reasonable expectation [35]

In previous work,[1,2] PTL was associated with an accelerated and progressive decline in a diversity of cognitive domains, but with the strongest effects on verbal memory and learning visual memory, and executive function These specific effects may indicate disruption of widely distributed neural networks involved in the integration of functions and would be consistent with lesions to cortical association areas [26,36] While we observed a PTL effect with total brain volume total white matter volume and total gray matter volume, the dose response association with prevalence and severity of white matter lesions and the more selective paralimbic ROI effects are consistent with several possible hypotheses outlined below none are mutually exclusive

First, adult exposure to lead could accelerate age associated changes in white matter Myelination continues into the fifth and possibly sixth decade of life[37]

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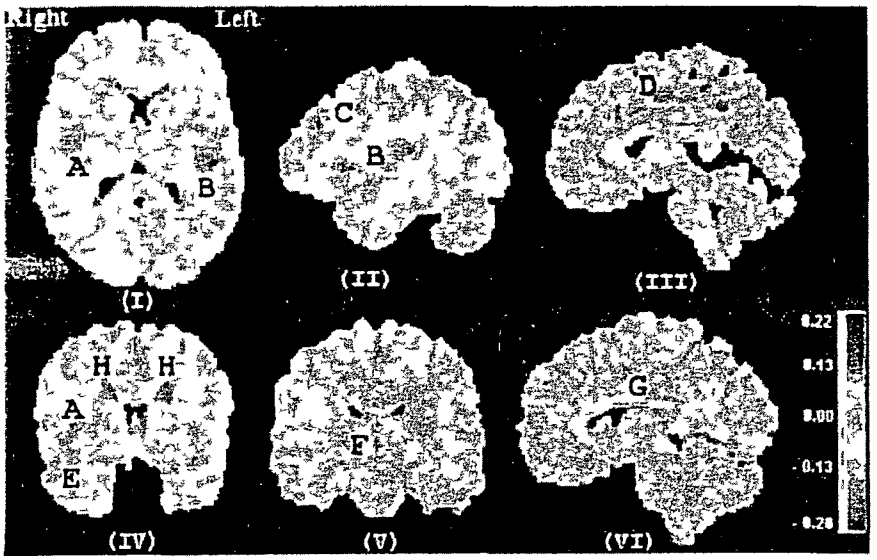

Figure 2 Spatial distribution of correlations between age adjusted PTL and local tissue volume The local tissue volume in the vicinity of the respective image voxel is shown for gray matter (GM) and abnormal white matter (WM) (I–IV) and WM alone (V–VI) superimposed on a reference brain image Images are in radiology convention i e right side of the image shows the left hemisphere Color bar displays the correlation coefficients Yellow and red indicate negative correlations (tissue atrophy) whereas blue indicates a positive correlation For areas A to H above parenthetical values are p values obtained after correction for multiple comparisons the first p value is for cluster level significance and the second is for peak value significance after false discovery rate correction (A) Right insula (0 005 0 068) (B) left insula (0 317 0 068) (C) left middle frontal gyrus (<0 0001 0 068) (D) left cingulate gyrus (0 005 0 068) (E) GM around right superior temporal sulcus (0 005 0 068) (F) periventricular normal WM (left and right) (<0 0001 0 006) (G) posterior corpus callosum (<0 0001 0 006) and (H) abnormal periventricular WM (0 001 0 002)

in selective brain regions (e g , inferior temporal prefrontal and temporoparietal regions) [37 38] White matter produced later in life around cells with long but small caliber projections in cortico-cortical association areas[39] may be sensitive to oxidative stress and exogenous insults and a consequent pathophysiologic neurodegenerative cascade The significant associations of PTL with the parietal white and gray matter temporal white matter, and two relatively small paralimbic system structures (i e , cingulate gyrus, insula) may suggest that lead accelerates an underlying age-associated process in selected brain regions [38 39] It is noteworthy that no significant associations were observed in relatively large ROIs where myelination occurs early in life (e g occipital lobe and cerebellum) and where short axonal projections are relatively common [39] We also did not find significant associations with limbic structures, contrary to our expectations However amygdala entorhinal cortex, and hippocampus were the three smallest ROIs, possibly beyond the resolution of the volumetric method we used

To address this limitation we analyzed MRI data using a method that does not rely on a priori ROI definitions, and examines the entire brain in an unbiased region by region manner In particular, this approach examines the spatial distribution of GM, white matter and CSF throughout the entire brain, and determines regions where atrophy is associated with PTL High dimensional cortical pattern matching and image warping was used to achieve spatial coregistration of all images into a stereotaxic (canonical) coordinate system, enabling evaluation of spatial patterns of decreased tissue density [40] In figure 2 the positive correlations (in blue) of PTL are predominantly with periventricular white matter lesions These positive correlations are the product of an artifact whereby white matter lesions appear darker than normal and fall in the gray matter intensity range for white matter positive correlations indicate an association of PTL with increased white matter lesion severity After correction for multiple comparisons with Statistical Parametric Mapping software the areas most strongly associated with age adjusted PTL included the bilateral insula, left middle frontal gyrus and left cingulate gyrus gray matter around the right superior temporal sulcus the posterior corpus callosum, and periventricular white matter

Second given the overall pattern of findings we hypothesize that the global association of PTL with total brain volume and larger ROIs (e g , total parietal or temporal lobes) is a consequence of progressive changes evolving from lesions in more specific ROIs The associations we have observed with PTL may be a consequence of vascular effects of lead Adult lead exposure is associated with longitudinal elevation of blood pressure [41] a finding in line with the relatively strong associations we observed between PTL and periventricular white matter lesions Vascular risk factors including elevated blood pressure, are consistently associated with neurodegenerative changes[42] including white matter disease

Third lead and in particular organolead may have a direct effect on neuronal cells Neurofibrillary tangles have been observed in experimental studies of rabbits with acute organic lead exposure [10] We do not have sufficient evidence to evaluate the relative importance of these hypotheses to identify the specific locus of initiation of lead s effect on the adult human brain nor to specify what physiologic events initiate the pathophysiologic process Longitudinal

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20 Glenn BS Stewart WF Links JM Todd AC Schwartz BS The longitudinal association of lead with blood pressure Epidemiology 2003 14 30–36
21 Todd AC McNeill FE In vivo measurements of lead in bone using a ^{109}Cd "spot" source In Ellis KJ Eastman JD eds Human body composition studies 1993 New York Plenus Press 1993 299–302
22 Hu H Rabinowitz M Smith D Bone lead as a biological marker in epidemiologic studies of chronic toxicity conceptual paradigms Environ Health Perspect 1998 106 1–8
23 Gerhardsson L Attewell R, Chettle DR et al In vivo measurements of lead in bone in long term exposed lead smelter workers Arch Environ Health 1993 48 147–156
24 Hixson JE Vernier DT Restriction isotyping of human apolipoprotein E by gene amplification and cleavage with HhaI J Lipid Res 1990 31 541–548
25 Nadif R Jedlicka A Mintz M Bertrand JP Kleeberger S Kauffmann F Effect of TNF and LTA polymorphisms on biological markers of response to oxidative stimuli in coal miners a model of gene environment interaction J Med Genet 2003 40 96–103
26 Schafer JH Glass TA Bolla KI Mintz M Jedlicka AE Schwartz BS Homocysteine and cognitive function in a population based study of older adults J Am Geriatr Soc 2006 in press
27 Fried LP Borhani NO Enright P et al The Cardiovascular Health Study design and rationale Ann Epidemiol 1991 1 263–276
28 Manolio TA Kronmal RA Burke GL et al Magnetic resonance abnormalities and cardiovascular disease in older adults The Cardiovascular Health Study Stroke 1994 25 318–327
29 Bryan RN Manolio TA Schertz LD et al A method for using MR to evaluate the effects of cardiovascular disease on the brain the cardiovascular health study AJNR Am J Neuroradiol 1994 15 1625–1633
30 Bryan RN Wells SW Miller TJ et al Infarctlike lesions in the brain prevalence and anatomic characteristics at MR imaging of the elderly–data from the Cardiovascular Health Study Radiology 1997 202 47–54
31 Yue NC Arnold AM Longstreth WT Jr et al Sulcal ventricular and white matter changes at MR imaging in the aging brain data from the Cardiovascular Health Study Radiology 1997 202 33–39
32 Goldszal AF Davatzikos C Pham DL Yan MXH Bryan RN Resnick SM An image processing protocol for the analysis of MR images from an elderly population J Comput Assist Tomogr 1998 22 827–837
33 Shen D Davatzikos C HAMMER Hierarchical attribute matching mechanism for elastic registration IEEE Trans Med Imaging 2002 21 1421–1439
34 McCullough P Nelder JA. Generalized linear models London Chapman & Hall 1983
35 Varela F Lachaux JP Rodriguez E Martinerie J The brainweb phase synchronization and large scale integration Nat Rev Neurosci 2001 2 229–239
36 Benes FM Turtle M Khan Y Farol P Myelination of a key relay zone in the hippocampal formation occurs in the human brain during childhood adolescence and adulthood Arch Gen Psychiatry 1994 51 447–484
37 Bartzokis G Age related myelin breakdown a developmental model of cognitive decline and Alzheimer's disease Neurobiol Aging 2004 25 5–18
38 Braak H Del Tredici K Poor and protracted myelination as a contributory factor to neurodegenerative disorders Neurobiol Aging 2004 25 19–23
39 Scahill RI Frost C Jenkins R Whitwell JL Rossor MN Fox NC A longitudinal study of brain volume changes in normal aging using serial registered magnetic resonance imaging Arch Neurol 2003 60 989–994
40 Davatzikos C Genc A Xu D Resnick SM Voxel based morphometry using the RAVENS maps methods and validation using simulated longitudinal atrophy NeuroImage 2001 14 1361–1369
41 Glenn BS Stewart WF Links JM Todd AC Schwartz BS The longitudinal association of lead with blood pressure Epidemiology 2003 4 30–36
42 de la Torre JC Alzheimer's disease is a vasocognapathy a new term to describe its nature Neurol Res 2004 26 517–524
43 Kuller LH Shemanski L Manolio T et al Relationship between ApoE MRI findings and cognitive function in the Cardiovascular Health Study Stroke 1998 29 3883–3898
44 Longstreth WT Diehr P Manolio TA et al Cluster analysis and patterns of findings on cranial magnetic resonance imaging of the elderly the Cardiovascular Health Study Arch Neurol 2001 58 635–640
45 de Leeuw FE de Groot JC Achten E et al Prevalence of cerebral white matter lesions in elderly people a population based magnetic resonance imaging study J Neurol Neurosurg Psychiatry 2001 70 9–14
46 Dufouil C Alperovitch A Tzourio Influence of education on the relationship between white matter lesions and cognition Neurology 2003 60 831–836
47 Coffey CE Saxton JA, Ratcliff G Bryan RN Lucke JF Relation of education to brain size in normal aging implications for the reserve hypothesis Neurology 1999 53 189–196

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Relations of brain volumes with cognitive function in males 45 years and older with past lead exposure

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We examined relations between brain volumes assessed by MRI and cognitive function in subjects in whom we have previously reported associations of cumulative lead dose with (1) longitudinal declines in cognitive function, (2) smaller volumes of several regions of interest (ROIs) in the brain, and (3) increased prevalence and severity of white matter lesions. We used two complementary methods (ROI [evaluating 20 ROIs] and voxel-wise) to examine associations between brain volumes and cognitive function using multiple linear regression. MRIs and cognitive testing were obtained from 532 former organolead workers with a mean (SD) age of 56.1 (7.7) years and a mean of 18.0 (11.0) years since the last occupational exposure to lead at the time of MRI acquisition. Cognitive testing was grouped into six domains of function (visuo-construction, verbal memory and learning, visual memory, executive functioning, eye–hand coordination, processing speed). Results indicated that larger ROI volumes were associated with better cognitive function in five of six cognitive domains with significant associations observed for visuo-construction (15 of 20, $p \leq 0.05$), processing speed (12, $p \leq 0.05$), visual memory (11, $p \leq 0.05$), executive functioning (11, $p \leq 0.05$), and eye–hand coordination (11, $p \leq 0.05$). Significant structure–function relations were also identified in the voxel-wise analysis with low false discovery rates (all less than 2.2%). Thus, larger volumes were associated with better cognitive function using both ROI- and voxel-based methods. In this cohort, an interesting group in which to examine structure–function relations, this finding provides a necessary condition to support the hypothesis that lead may influence cognitive function by its effect on brain volumes.
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We have previously reported on relations of lead dose with cognitive function and brain structure in a well-characterized cohort of older former workers with past exposure to organic and inorganic lead. Past cumulative lead dose (estimated by measurement of the concentration of lead in tibia bone) was associated with (1) cognitive test scores (Stewart et al., 1999) and progressive declines in cognitive function decades since last occupational lead exposure (Links et al., 2001), (2) smaller volumes of a number of regions of interest (ROIs) in the brain (Stewart et al., 2006), and (3) increased prevalence and severity of white matter lesions (Stewart et al., 2006). Furthermore, the association of tibia lead with decrements in cognitive function was stronger in subjects with the apolipoprotein E ε4 allele (Stewart et al., 2002). In this manuscript we report on relations of brain volumes with cognitive function. Understanding structure–function relations in this cohort is part of a broader goal (summarized in Fig. 1) to evaluate whether cognitive decline in relation to past lead exposure could be related to structural lesions that are at least persistent. One necessary condition for the hypothesis that lead influences cognitive function through its influence on brain volumes is that brain volumes must be associated with cognitive function (Fig. 1). The analysis presented herein addresses this condition and is also of more general interest because few large scale studies have examined structure–function relations in younger (i.e., less then 65 years of age) and disease

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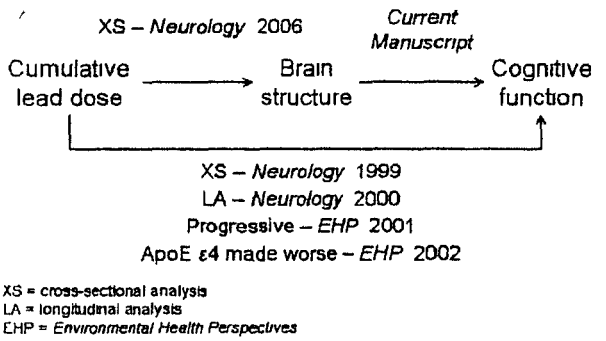

Fig 1 Schematic summary of relations of lead dose brain structural volumes and cognitive function Citations refer to published manuscripts that have reported various parts of these relations The current manuscript reports relations of brain volumes with cognitive function using two separate but complementary methods

free (i e no neurodegenerative or other CNS conditions) populations with extensive measures of cognitive function using two distinct but complementary methods to explore structure–function relations

The former lead workers are an interesting population in which to evaluate structure–function relations in the aging brain because the aforementioned observations suggest that lead may cause accelerated aging in the brain To our knowledge no prior studies have used voxel based morphometry to compare relations of brain structure with a continuous range of cognitive function in a broad set of cognitive domains (although one study evaluated function in three domains in 44 Huntington s disease patients (Kassubek et al 2005)) This approach has the advantage of not requiring that volumes of interest be specified *a priori* allows exploration of structure–function relations not constrained by arbitrary anatomical definitions of structures and does not require arbitrary categorization of normal or abnormal" cognitive function using neurobehavioral tests Herein we compare relations of cognitive function measures with local tissue volumes using two distinct but complementary methods one based on regions of interest (ROIs) and the other using voxel based morphometry in 532 former lead workers in whom we have already described important lead related influences on function and structure

Methods

Study design and overview

Data were derived from individuals recruited during two study phases between 1994 and 2003 as previously described (Stewart et al 2006) In phase I (1994–1997) former employees of a chemical manufacturing plant in the eastern United States were identified and recruited Annual measures of cognitive function were obtained In phase II (2001–2003) we enrolled additional study participants and obtained MRI data. The detailed methods for phase I (Schwartz et al 2000 Stewart et al 1999) and phase II (Stewart et al 2006) are described elsewhere and summarized herein The study was reviewed and approved by the Johns Hopkins Bloomberg School of Public Health Committee on Human Research and written informed consent was obtained from all participants

Selection and recruitment of study subjects

Study subjects were former workers in a facility that manufactured organolead gasoline additives (Schwartz et al 1993) but not occupationally exposed to lead at the time of enrollment and all were male and between the ages of 40 and 70 years in 1995 In phase I a total of 703 former lead workers were enrolled and completed one to four visits In phase II another 276 former lead workers were enrolled and completed one or two visits During phase II MRIs were completed on 589 of the 979 former lead workers All participants in earlier phases of the study were eligible for MRI measurement reasons for not completing the MRI include subject death, illness safety (e g metal objects in head or eye) lack of interest, moved out of state and claustrophobia Tibial lead an estimate of lifetime cumulative lead dose was measured with ^{109}Cd induced K shell X ray fluorescence (in microgram lead per gram bone mineral) on 532 of the 589 individuals who completed MRI acquisition Tibia lead was back extrapolated to peak tibial lead the estimated level at the end of employment in the factory using years since last occupational exposure to lead and assuming first-order (mono exponential) clearance from tibia (Stewart et al 1999) The primary analysis was limited to the 514 former lead workers with MRIs adequate for voxel wise analysis but we compare associations in former lead workers and non exposed controls using cross product models described below We also had MRIs from 116 population based controls without a history of occupational lead exposure (Stewart et al 1999) and compared structure–function relations in non exposed controls to those in former lead workers To evaluate whether possible selection bias among lead workers with MRIs and bone lead measurements could account for study results we determined that average cognitive function did not differ by MRI status and the relations of tibia lead with neurobehavioral test scores did not differ in those with and without MRIs (Stewart et al 2006) We concluded that there was unlikely to be meaningful selection bias among those who completed the MRI that could influence study results (Stewart et al 2006)

Data collection

Detailed data collection methods have been previously described (Stewart et al 2006) After obtaining consent, blood pressure height weight questionnaire interview and cognitive testing data were obtained as well as two 10 ml blood specimens by venipuncture The remaining description is confined to measures specifically used for the analysis presented herein

Neurobehavioral assessment

The neurobehavioral test battery has been previously described (Schwartz et al 2000 Stewart et al 1999 2002) Cognitive test scores were first summarized by six domain specific scores to minimize multiple comparisons and improve the measurement properties of the functional outcomes All cognitive tests were z transformed, standardized for direction and then averaged within domain to derive summary scores for each domain Tests were grouped based on neuropsychological theory (Lezak et al 2004) and supported by examination of correlation matrices (Spearman and Pearson) the results of exploratory factor analysis (data not shown) and the results of confirmatory factor analysis from another study (Shih et al 2006) to group tests in a consistent way across the two studies The domains included visuo-construction

(consisting of Rey complex figure copy task and Block design from the Wechsler Adult Intelligence Scale [WAIS]) verbal memory and learning (Rey auditory verbal learning test immediate recall delayed recall and recognition and serial digit learning) visual memory (Rey complex figure delayed recall and symbol digit) executive functioning (consisting of the mean of three z transformed difference scores Purdue pegboard assembly minus both hands Stroop C form minus A form and trail making test B minus A) eye hand coordination (Purdue pegboard dominant hand non dominant hand and both hands and trail making test A) and processing speed (simple reaction time)

MRI acquisition

All subjects were imaged at the same location on the same General Electric 1 5 T Signa model A set of 1 5 mm T1 weighted images through the entire brain were acquired using contiguous coronal MRI images Only the T1 weighted images were used for volumetric analysis acquired using spoiled gradient recalled acquisition in steady state sequence (echo time [TE]=5 ms repetition time [TR]=35 ms flip angle=45° one excitation voxel size=0 9375 mm by 0 9375 mm by 1 5 mm, field of view 24 cm matrix size 256×256) Proton density and T2 weighted dual echo axial images were also acquired parallel to the anterior–posterior commissure line using an interleaved technique with no gap to provide maximal data for subsequent segmentation and ratings of white matter disease These images were used to exclude unsuspected pathology in the brain that could obscure the analysis Eighteen of the MRIs were not suitable for volumetric analysis due to image quality

Image analysis

Quantitative analysis of MR volumes was completed using previously published methods (Goldszal et al 1998) In particular extracranial tissue the cerebellum and brainstem structures inferior to the mamillary bodies were removed by a single experienced image processing technician using a semi automated procedure (Goldszal et al 1998) The remaining tissue was classified, using an adaptive Bayesian segmentation algorithm (Yan and Karp 1995) into gray matter white matter and cerebrospinal fluid (CSF) All remaining image processing was fully automated and operator independent.

The segmented images provide quantitative volumetric measures of total gray white and brain (gray plus white) matter To obtain the volumes of predefined ROIs regional analysis was performed via computerized template matching techniques previously reported and validated (Stewart et al 2006) A digital atlas bearing anatomical definitions of several brain regions – all major lobar subdivisions and a number of smaller regions – was used as reference (Kabani et al 1998) A computerized image analysis algorithm based on pattern matching was then used to warp this reference atlas to each participant s MRI resulting in volumes of 20 ROIs for further analysis (Stewart et al 2006)

For the voxel wise approach regional analysis of volumes examined in normalized space (RAVENS) was used for quantification of regional volumes and investigation of local brain changes (Goldszal et al 1998) The segmented images were first transformed to the Talairach stereotaxic coordinate space (Talairach and Tournoux 1988) using an elastic deformation algorithm (Davatzikos 1996 Shen and Davatzikos 2003) This approach allows quantification of absolute volumes within the standard reference space and applies a boundary constraint for the ventricles Gray and white matter volumes of frontal parietal temporal and occipital brain regions are determined automatically within the Talairach coordinate space (Andreasen et al 1996 Goldszal et al 1998 Resnick et al 2000) In addition the RAVENS approach yields brain maps for voxel based analysis of local volumetric differences In particular the image warping that registers each individual scan to the atlas is a tissue preserving spatial transformation This means that if a particular brain region is compressed (or expanded) to fit a smaller (or larger) atlas its tissue density increases (decreases) accordingly so that its total amount of tissue is unaffected by the image transformation This procedure yields three tissue density (RAVENS) maps one for gray matter one for white matter and one for cerebrospinal fluid The value of the RAVENS maps in each brain region reflects the amount of brain tissue measured from the respective scan in that brain region Regional volumetric measurements are performed via voxel based analysis of the RAVENS maps Relations among the RAVENS maps and cognitive function variables reflect regional relations between brain volume and the respective functions

Statistical analysis

Multiple linear regression was used to evaluate the cross sectional associations of brain volumes with cognitive domain scores using both ROI based and voxel wise approaches Cognitive data from the visit closest to the time of the MRI acquisition were used in the analysis In both methods regression models were adjusted for age visit number (to adjust for practice effects because of the longitudinal nature of the study cognitive function testing could represent any of the first to the sixth time such testing was performed) height (cm) tobacco use (never previous current) alcohol use (never previous current) hypertension diabetes tibia lead concentration (μg/g) and education (five ordinal categories) One individual was excluded from the analysis based on MRI evidence of hydrocephalus and large outlying values for many volumes Model diagnostics were used to evaluate influence and normality for the ROI based analysis (e g normal quantile plots were examined for all of the ROI fits) Univariate analyses showed that all cognitive domains ROI volumes and voxel volumes were approximately normally distributed and there were no significant outliers or influential points except for those subjects identified with clinical or registration abnormalities

ROI based approach

To be consistent with the results of our prior published report associations of the six cognitive domains were examined with 20 previously selected ROI volumes (volumes of total brain total gray matter total white matter four lobar gray matters four lobar white matters cerebellum medial structures cingulate gyrus insula corpus callosum, internal capsule hippocampus entorhinal cortex and amygdala) (Stewart et al 2006) For bilateral structures the volume represented the sum of right and left structures to minimize multiplicity concerns but analyses were also performed separately for left and right sided ROI volumes and summarized in the results To facilitate interpretation each of the 120 associations was represented by a clock plot" that provided a visual summary of the strength direction and statistical significance of the association Details on the interpretation of the symbols on the plot are in the caption to Fig 2 The clock plots were created in the *R* statistical programming language (version 2 2 1) (R Development Core

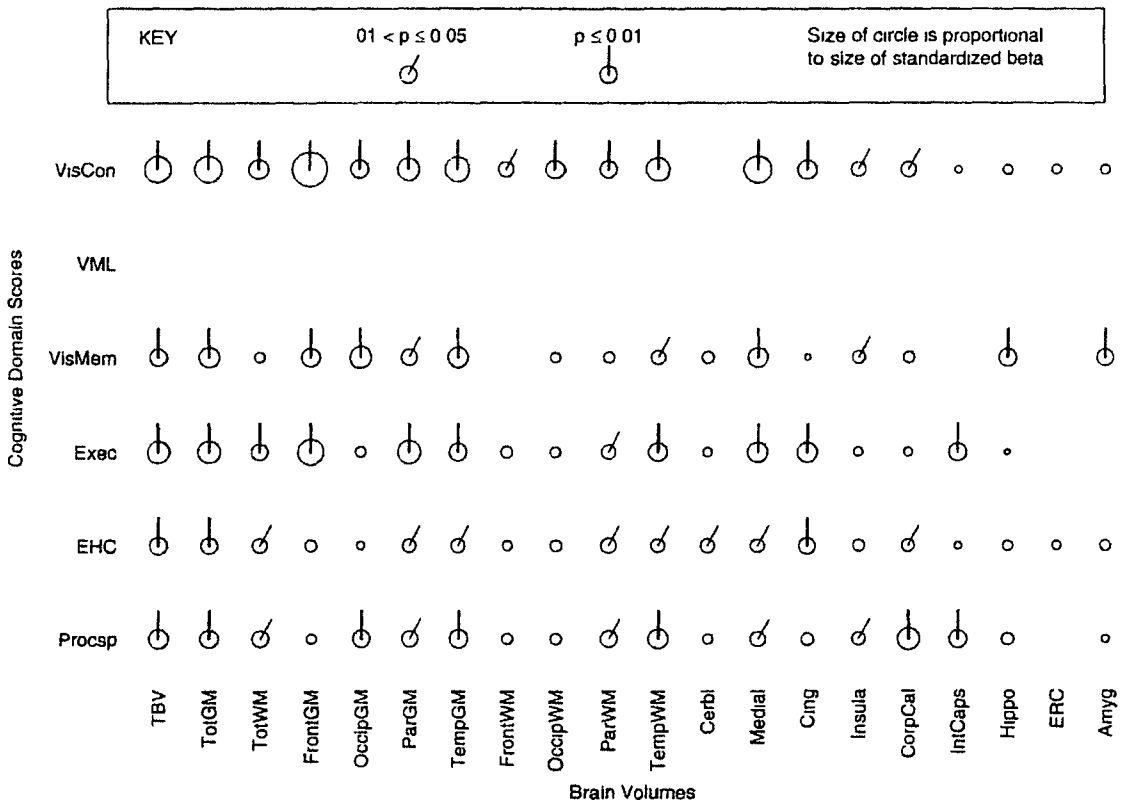

Fig. 2. Clock plots representing associations of cognitive domain scores with brain volumes using an ROI based approach adjusting for age, visit number, height, tobacco, alcohol, education, diabetes, and hypertension. All cognitive domain scores and ROIs were transformed so that the magnitudes are directly comparable. The rows consist of the six cognitive domain scores and the columns of the 20 ROIs, which are (roughly) arranged from largest to smallest volume from left to right. The diameter of the circle is proportional to the magnitude of the association between the specific domain score and structure volume. If a line is on the circle, this indicates the p value was less than or equal to 0.05. Lines on the top of the circle indicate positive betas (i.e., increasing volume is associated with better cognitive domain function) and where the line appears on the circle corresponds to the size of the p value (the bold line at 1:00 o'clock corresponds to a p value ≤ 0.01, the line at 12:00 o'clock from >0.01 to ≤ 0.05). This is summarized in a key at the top of the graphical display. Abbreviations are as follows: VisCon = visuo-construction, VML = verbal memory and learning, VisMem = visual memory, Exec = executive functioning, EHC = eye–hand coordination, Procsp = processing speed, TBV = total brain volume, TotGM = total gray matter volume, TotWM = total white matter volume, Front = frontal, Occip = occipital, Par = parietal, Temp = temporal, Cerbl = cerebellar, Medial = medical structures (bilateral amygdala, cuneus, entorhinal cortex, hippocampal formation, lingual gyrus, medial front orbital gyrus, medial frontal gyrus, medial occipito-temporal gyrus, parahippocampal gyrus, perirhinal cortex, precuneus, and uncus), Cing = cingulate gyrus, CorpCal = corpus callosum, IntCaps = internal capsule, Hippo = hippocampus, ERC = entorhinal cortex, and Amyg = amygdala.

Team, 2006). Multiplicity was not addressed in this plot as it was used primarily as an exploratory tool for comparison with the voxel wise results. However, to address the possibility of chance associations, we report the level of false discovery rate control for the ROI associations (Benjamini and Hochberg, 1995; Storey, 2002). To evaluate whether relations of ROI volumes with cognitive domain scores were different in lead workers and controls, we evaluated regression models with cross product terms between lead worker vs. control status and ROI volume.

Voxel wise approach

Like the ROI based analysis, cognitive domain scores were regressed on voxel volumes on a voxel by voxel basis, controlling for the aforementioned covariates using linear regression in the R statistical programming language. The SPM2 package (Statistical Parametric Software, Functional Imaging Laboratory, Wellcome Department of Imaging Neuroscience, University College London, 2003) was used to perform its standard smoothing procedure but was not used for regression because it treats the voxel volume as the regressor and cognitive domain scores as the independent variables. To be exactly analogous to the ROI based analysis, we used the programs of R so that domain scores were the dependent variables in each approach. Also like in the ROI based analysis, to evaluate whether relations of voxel volumes with cognitive domain scores were different in lead workers and controls, we evaluated regression models with cross product terms between lead worker vs. control status and voxel volume.

We used MRIcro (Rorden and Brett, 2000) for glass brain projections of the association maps of t statistics with each of the six cognitive domain scores in three views (coronal, sagittal, transverse) represented by thresholding the t statistics at two significance levels (red color $3.09 < t \leq 4.265$, uncorrected p value of $0.00002 \leq p < 0.001$, and orange color $t > 4.265$, uncorrected p value of $p < 0.00002$). We did not correct for multiplicity in this analysis because random field theory based correction can over-control for type I error at the expense of sensitivity. To illustrate the dependence of the results on the threshold level, associations

for two levels are displayed Finally to address the possibility of chance associations we report the associated false discovery rates for the voxel by voxel comparisons (Benjamini and Hochberg 1995 Storey 2002)

To assist in the interpretation of the domain associated volumes we determined the volume of the domain associated areas within individuals and provide summary statistics for each domain across individuals Recall that voxels in the RAVENs maps contain volumetric measurements for each subject Therefore by using the thresholded ($p<0.001$) between subject, domain associated results as a mask and then applying it to individual RAVENs maps we produced a collection of individual specific volumes These volumes contained in the mask were then added to create a volume summary for the associated areas derived from the voxel wise analysis The result is a volumetric summary for each subject of the area where structure and function are most strongly correlated between subjects

Results

Descriptive summary of study subjects

The 514 former workers in this analysis were on average 56 1 years of age and had a mean duration of occupational lead exposure of 8 7 years The average time interval between last occupational exposure to lead and when the MRI was obtained was 18 years Individuals were predominantly white more than 90% completed high school and approximately 35% had some college (Table 1) Summary statistics for the 20 ROIs have been previously reported (Stewart et al 2006) As expected, ROI volumes were correlated for example the highest correlations were observed between total brain volume and the 19 other ROIs (Pearson s r ranging from 0 43 for entorhinal cortex to 0 89 for total gray matter volume with a median for all ROIs of 0 70) Occipital white matter had the lowest correlations with other ROIs (ranging from 0 16 for parietal gray matter to 0 71 for total white matter median of 0 28) Cognitive domain scores were also correlated ranging from a low of Pearson s $r=0.36$ (processing speed and visuo construction) to a high of 0 60 (executive functioning and eye–hand coordination)

ROI based method

After adjustment for covariates brain volumes were selectively associated with cognitive domain scores (Fig 2) At the $p\leq 0.05$ level of significance 15 ROIs were associated with performance in visuo construction 12 with processing speed 11 with visual memory executive functioning and eye–hand coordination and none with verbal memory and learning In terms of the magnitude of the associations on average visuo construction had the largest regression coefficients Entorhinal cortex volume was not significantly associated with performance

domain and four ROIs (frontal white matter occipital white matter hippocampus amygdala) were associated with performance in only one domain in contrast six ROIs (total brain total gray matter parietal gray matter temporal gray matter temporal white matter and medial structures) were associated with performance in five domains At the $p<0.05$ threshold the false discovery rate is controlled at 0 053 while at the $p<0.01$ threshold it is controlled at 0 012 (Benjamini and Hochberg 1995 Storey 2002) these are very close to the nominal levels and suggest that our associations are not likely to be false positive results

In the separate left and right sided ROI based analysis associations were substantively similar with the exception that more left sided than right sided ROIs were associated ($p\leq 0.05$) with performance in eye–hand coordination (15 on left 9 on right) and processing speed (13 on left 10 on right) consistent with the fact that most subjects were right handed In the cross product models there was no evidence that relations of ROI volumes with cognitive domain scores differed in former lead workers and non exposed controls (i e in the 120 models fewer p values for cross product terms of former lead worker vs non exposed control status and ROI volume were ≤ 0.05 than expected due to chance)

Table 1
Summary statistics for 532 former lead workers included in the analysis Former Lead Workers Study 2001–2003

Variable	Value
Age mean (SD) (years)	56 1 (7 7)
White race/ethnicity (%)	92 3
Educational level ( )	
Less than high school	6 2
High school graduate	58 8
Some college	30 5
College graduate	4 5
Tobacco consumption (%)	
Never	29 9
Current	20 2
Previous	49 9
Alcohol consumption (%)	
Never	4 0
Current	73 5
Previous	22 6
Hypertension (%)	
Yes	38 0
No	62 0
Diabetes (%)	
Yes	8 0
No	92 0
Year enrolled (%)	
1994	20 7
1995	39 4
1996–97	7 2
2001–03	32 8
Cognitive domain scores mean (SD)[b]	
Visuo construction	−0 354 (1 028)
Verbal memory and learning	0 261 (0 795)
Visual memory	0 149 (0 918)
Executive functioning	−0 161 (0 763)
Fye–hand coordination	−0 100 (0 878)
Processing speed	−0 159 (0 769)

[a] Defined as SBP>140 or DBP>90 or self reported use of anti hypertensive medications

[b] Means show departures from expected value of 0 and standard deviations from expected value of 1 because transformation was performed on all subjects with neurobehavioral data, not just those with MRIs

Voxel wise based method

There was substantial variation in the total volume and location of the areas of domain associated volumes identified in the voxel wise analysis The largest associated volumes for gray matter and white matter (at $p<0.001$ threshold mean [SD]) were with visuo construction (53.6 [6.0] cm^3) and executive function ing (45.5 [4.8] cm^3) respectively (Figs 3A and B) This was followed by executive functioning and processing speed for the magnitude of the gray matter association volumes and processing speed and visuo-construction for white matter association volumes Performance in verbal memory and learning was not associated with either gray matter or white matter volumes Notably and consistent with the ROI based analysis there was no evidence that relations of cognitive domain scores with voxel volumes differed in former lead workers and non-exposed controls (data not shown)

Voxel associations were somewhat specific to each domain (Table 2) We expressed specificity by the extent to which associated voxels were common across domains (i e defined as percent overlap — the voxel volume common to two domains divided by the union of the volumes for the two domains) Using the lower threshold ($t>3.09$ red areas Fig 3) the calculated percent overlap was higher on average for white matter than for gray matter associations For gray matter the percent overlap was highest (16%) for visuo construction and executive functioning followed by eye–hand coordination and processing speed (15%) For white matter the percent overlap was highest for processing speed with both executive functioning and eye–hand coordination (30%) followed by eye–hand coordination with executive functioning (29%)

Because the thresholding scheme that we used for the voxel wise analysis may appear too susceptible to chance associations we investigated multiplicity by estimating the associated false discovery rates for the association volumes (Benjamini and Hochberg 1995 Storey 2002) For example for gray matter the false discovery rates were all less then 0.6% a very low rate for the lower ($t>3.09$) threshold (Storey and Tibshirani 2003) for white matter and the lower threshold, false discovery rates were all less than 2.2% Based on these rates and the relative symmetry and spatial contiguity of the results (Fig 3) we are confident that conclusions are not driven by chance associations

Discussion

In a group of former organolead manufacturing workers in whom we have previously reported what we term accelerated aging associated with cumulative lead dose using two different but complementary methods while controlling for covariates we found the two methods were generally consistent with each other in the observed associations of cognitive domain scores with brain volumes In this cohort of 45 to 75 year-old men with past occupational exposure to organic and inorganic lead we had previously observed that peak tibia lead concentration (an estimate of past cumulative lead dose) was associated with neurobehavioral test scores at cross section (Stewart et al 1999) longitudinal decline in cognitive function (Schwartz et al 2000) the prevalence and severity of white matter lesions and with decreased volumes in both larger (e g total brain lobar gray and white matter) and smaller (e g cingulate gyrus insula corpus callosum) ROIs (Stewart et al 2006) almost two decades after occupational exposure had ended In part, Fig 1 indicates that a relation between structure and function is a necessary condition in supporting the hypothesis that the observed influence of lead dose on cognitive function is mediated through a persistent change in brain volumes We have now demonstrated that brain volumes are associated with cognitive domain scores and there is some specificity in these relations by domain

The ROI based approach provides a standard way to measure volumes of anatomically (and to a large extent functionally) distinct areas and compared to total tissue volumes over the entire brain allows us to examine the spatial heterogeneity of relations of volumes with cognitive function However the ROI approach is non specific in two ways First ROIs encompass complete but somewhat complex and heterogeneous structures where only part of the structure may be relevant to a specific function Second cognitive functions are not generally defined by anatomic structures but rather a process that simultaneously and sequentially engages parts of numerous structures The voxel wise approach overcomes these two limitations but is itself faced with inferential challenges Some of this is due to statistical multiplicity issues and there is no uniformly accepted method to define the overall statistical significance of the observed relations The voxel wise method does not rely on *a priori* ROI definitions and examines the entire brain in an unbiased region by region manner thereby allowing us to find new ROIs that might be specific to certain brain pathologies and form new hypotheses Therefore ROI based approaches are more informed but constrained by the specific anatomical definitions while voxel based analysis is completely unconstrained but also uninformed These two approaches are therefore complementary

In our previously published analyses of lead and cognitive decline because tibia lead was associated with declines in function in a broad range of cognitive domains (but with the strongest effects on verbal memory and learning visual memory and executive function) (Schwartz et al 2000) we predicted that it would be associated with smaller volumes in several structures ranging from large to small evidence of both global and more specific effects on brain structure (Stewart et al 2006) In our analysis of the relations of peak tibia lead with brain volumes (Stewart et al 2006) we confirmed this in observing at least borderline ($p \leq 0.07$) associations of lead with 10 ROIs (total brain total gray matter total white matter frontal parietal gray matter temporal and parietal white matter cingulate gyrus insula, and corpus callosum) Of the domains with the strongest evidence of longitudinal declines associated with lead two – visual memory and executive function – had consistent associations with ROI volumes Although cross sectional associations of these types cannot provide unequivocal evidence that the effect of lead on cognitive function is mediated through an effect on brain structures these findings are a necessary but not sufficient condition

Prior studies have evaluated relations between brain structure and cognitive function using a large number of approaches to study populations imaging methods and acquisition protocols volumetric methods cognitive assessment and statistical analysis (Coffey et al 2001) Most prior authors have used one of three common methods (1) determined volumes of a small set of brain regions of interest (ROI) and used linear regression to evaluate associations with neurobehavioral test scores on a continuous scale (Coffey et al 2001 MacLullich et al 2002 2004 Tisserand et al 2000 Van Petten et al 2004) (2) used voxel based lesion symptom mapping in patients with strokes or other central nervous

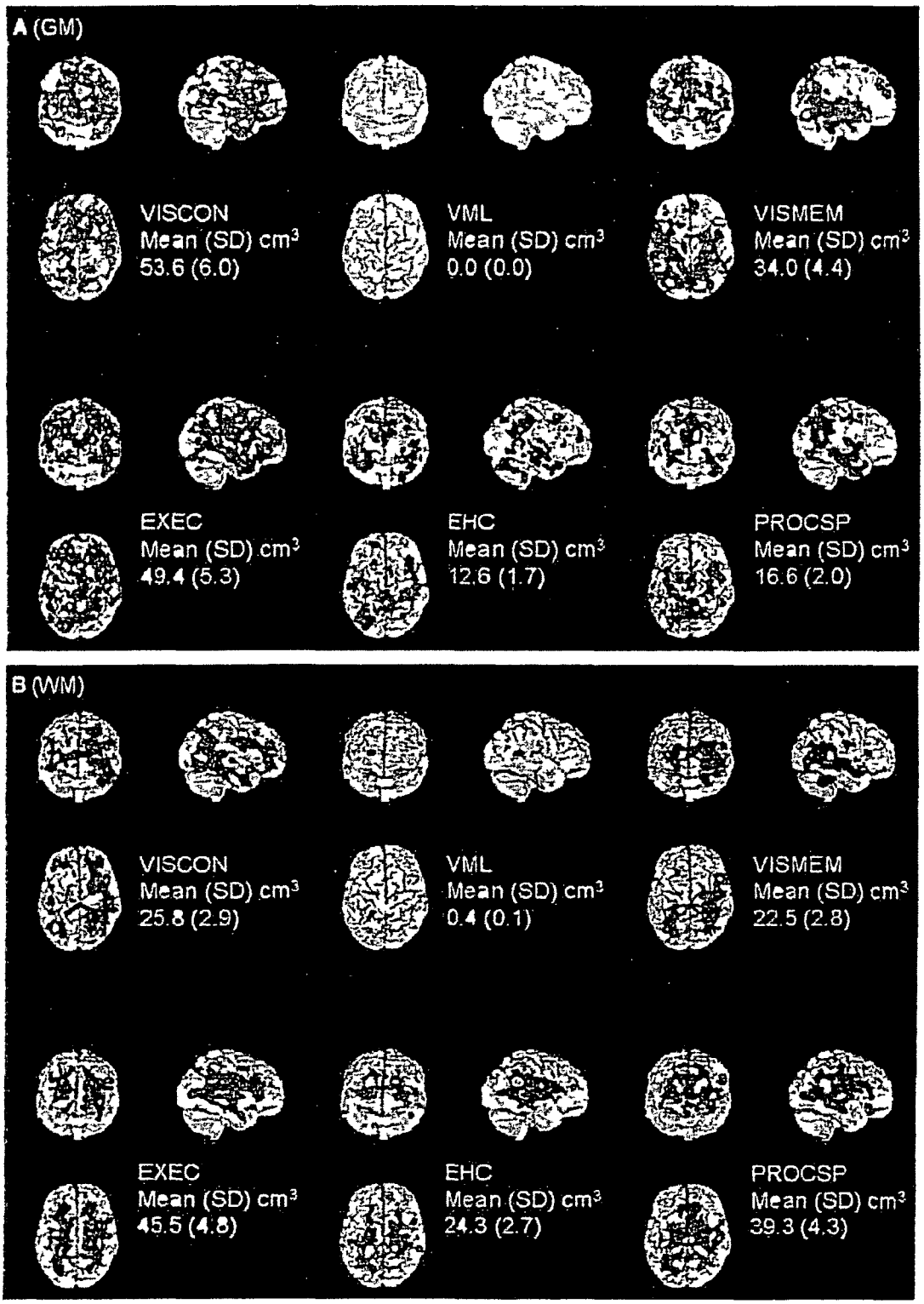

Fig 3 (A and B) Spatial distribution of relations between local tissue volumes and performance in six cognitive domains are shown for gray matter (A) and white matter (B) Cognitive domain scores were separately regressed on voxel volumes on a voxel by voxel basis adjusting for covariates (see Methods) The t statistics for the cognitive function terms were thresholded at $t>3$ 09 (corresponding to a p value 0 00002 $\leq p<0$ 001 red color) and $t>4$ 265 (corresponding to a p value <0 00002 orange color) For each domain associations are shown for coronal sagittal and transverse glass brain projections The mean (SD) values are a summary for each subject of the area where structure and function are most strongly correlated between subjects at the $p<0$ 001 level of significance (For interpretation of the references to colour in this figure legend the reader is referred to the web version of this article)

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Table 2
Percent overlap among areas of associations between voxel volumes and cognitive domain scores in voxel wise analysis for gray matter and white matter

Domain	Matter	Percent overlap at $t>3.09$ and $t>4.265$[b]			
		VISMEM	EXEC	EHC	PROCSP
VISCON	Gray	7 3	16 7	3 0	3 0
	White	17 4	12 0	5 0	8 0
VISMEM	Gray		8 0	4 0	10 2
	White		16 0	12 0	19 2
EXEC	Gray			7 1	10 0
	White			29 5	30 1
LHC	Gray				15 0
	White				30 13

Calculated as the intersection of the areas comparing two domains divided by the union of the areas in those two domains As there were no associations with verbal memory and learning in the voxel wise analysis overlap with this domain is not shown in the table

[b] The first number is the percent overlap of the voxels associated with domain scores at $t>3.09$ and the second number the percent overlap at $t>4.265$

system lesions (Bates et al 2003 Dronkers et al 2004 Schoch et al 2006) or (3) used neurobehavioral testing to categorize study subjects into groups with poor or declining vs normal cognitive function (or compared patients with CNS disease e g Huntington s disease to controls) then used voxel based morphometry to compare voxel wise associations in the two groups (Chetelat et al 2005 Kassubek et al 2005 Peinemann et al 2005 Tisserand et al 2004)

Cumulative knowledge based on the neuropsychological literature (Lezak et al 2004) often from patients with dementing illnesses or specific lesions and on the more recent functional and structural neuroimaging literature suggests that especially for complex cognitive tasks large neural networks encompassing a number of discrete anatomical areas are involved in task completion However the extant literature is also clear that specific tasks are mediated by certain areas of the brain and allows predictions to be made regarding expected associations between brain volumes and cognitive processes In the current study we found a number of expected structure–function associations For example visuo construction function associated with the integrity of the frontal parietal and occipital lobes (Antonova et al 2005 de Jong et al 1999) was associated with decreased volume in frontal white matter (ROI based) and frontal–parietal–occipital regions (voxel wise) In the ROI analysis visual memory associated with right temporal–occipital lobe function (Lezak et al 2004) was found to be related but not exclusively so to volumes of the temporal and parietal lobe Classically executive functioning relies heavily on the prefrontal cortex (cingulate cortex and the dorsolateral prefrontal cortex [DLFPC]) and our ROI analysis found relations with volumes in the frontal lobe However other ROI associations were also observed (occipital lobe insula, corpus callosum) and the voxel wise analysis identified associations in the frontal lobe and cingulate as well as the occipital and parietal lobes

There is little information available on the anatomical sites involved in eye–hand coordination with the exception of one study that reported that Trails A performance was associated with white matter hyperintensities without regard to a specific anatomical location (van der Elst et al 2005) Processing speed measured by a simple reaction time task has been linked to functioning of the DLPFC and ventral pre motor brain regions Our ROI based analysis found that processing speed was associated with reduced volumes in many regions (frontal parietal occipital medial cingulate insula hippocampus) while the voxel wise analysis identified mainly reduced parietal occipital volumes The insula and corpus callosum were associated with visual memory executive functioning eye hand coordination and processing speed performance These anatomical regions are involved in somatosensory function (Robinson and Burton 1980) and body awareness and all four of these cognitive domains required these processes (Karnath et al 2005) Verbal memory and learning has been historically linked to the prefrontal cortex posterior cingulate cortex precuneus thalamus left temporal lobe and hippocampus (Grasby et al 1993) but surprisingly both our methods failed to observe any relations of this domain with volumes

It may be difficult to compare the results of our study to others for a number of reasons First, several of the cognitive domains were comprised of multiple individual test scores Most prior studies especially with functional MRI report structure function relations with single tests It is likely that optimal performance on each test involves different neural networks so that combining different tests would logically involve multiple brain regions because of the involvement of different neural networks involved in task performance Also each task required a number of different processes Finally it is also accepted that many of the tasks utilized in our study rely more heavily on one side of the brain than the other To reduce the number of comparisons in our ROI analysis right and left brain structures were combined into a single volume resulting in larger brain regions than would result in studies examining functional brain laterality However it should be noted that our voxel-wise analysis allows for laterality and is not constrained by this point

In conclusion we have shown that brain volumes are associated with cognitive function in both ROI based and voxel wise analyses In this group of older subjects who are experiencing declines in cognitive function due to aging and past lead exposure it is likely the variation in net loss that accounts for the structure function relations The findings suggest that absolute brain volumes are associated with cognitive function

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References

Andreasen N C Rajarethinam R Cizadlo T Arndt, S Swayze V W I Flashman, L A et al 1996 Automatic atlas based volume estimation of human brain regions from MR images J Comput Assist Tomogr 20 (1) 98–106

Antonova E Kumari V Morris R Halari R Anilkumar A Mehrotra R et al 2005 The relationship of structural alterations to cognitive deficits in schizophrenia a voxel based morphometry study Biol Psychiatry 58 (6) 457–467

Bates E Wilson S M Saygin A P Dick, F Sereno M I Knight R T et al 2003 Voxel based lesion symptom mapping Nat Neurosci 6 (5) 448–450

Benjamini Y Hochberg Y 1995 Controlling the false discovery rate a practical and powerful approach to multiple testing J R Stat Soc B 57 289–300

Chetelat G Landeau B Eustache F Mezenge F Viader F de la Sayette V et al 2005 Using voxel based morphometry to map the structural changes associated with rapid conversion in MCI a longitudinal MRI study NeuroImage 27 (4) 934–946

Colley C E Ratchif G Sixton J A Bryan R N Fried L P Lucke J F 2001 Cognitive correlates of human brain aging a quantitative magnetic resonance imaging investigation J Neuropsychiatry Clin Neurosci 13 (4) 471–485

Davatzikos C 1996 Spatial normalization of 3D brain images using deformable models J Comput Assist Tomogr 20 (4) 656–665

de Jong B M Willemsen A I Paans A M 1999 Brain activation related to the change between bimanual motor programs NeuroImage 9 (3) 290–297

Dronkers N F Wilkins D P Van Valin Jr R D Redfern B B Jaeger J J 2004 Lesion analysis of the brain areas involved in language comprehension Cognition 92 (1 2) 145–177

Goldszal A F Davatzikos C Pham D L Yan M X Bryan R N Resnick S M 1998 An image processing system for qualitative and quantitative volumetric analysis of brain images J Comput Assist Tomogr 22 (5) 827–837

Grasby P M Frith C D Friston K J Bench C Frackowiak R S Dolan R J 1993 Functional mapping of brain areas implicated in auditory–verbal memory function Brain 116 (Pt 1) 1–20

Kabani N MacDonald J D Holmes C J Evans A C 1998 A 3D atlas of the human brain NeuroImage 7 (4) S717

Kamath H O Baier B Nagele T 2005 Awareness of the functioning of one s own limbs mediated by the insular cortex? J Neurosci 25 (31) 7134–7138

Kassubek J Juengling F D Ecker D Landwehrmeyer G B 2005 Thalamic atrophy in Huntington s disease co varies with cognitive performance a morphometric MRI analysis Cereb Cortex 15 (6) 846–853

Lezak M D Howieson D B Loring D W Hannay H J Fischer J S 2004 Neuropsychological Assessment, 4th edition Oxford Univ Press Oxford

Links J M Schwartz B S Simon D Bandeen Roche K Stewart, W F 2001 Characterization of toxicokinetics and toxicodynamics with linear systems theory application to lead associated cognitive decline Environ Health Perspect 109 (4) 361–368

MacLullich A M Ferguson K J Deary I J Seckl J R Starr J M Wardlaw J M 2002 Intracranial capacity and brain volumes are associated with cognition in healthy elderly men Neurology 59 (2) 169–174

MacLullich A M Edmond C L Ferguson K J Wardlaw J M Starr J M Seckl J R et al 2004 Size of the neocerebellar vermis is associated with cognition in healthy elderly men Brain Cogn 56 (3) 344–348

Peinemann A Schuller S Pohl C Jahn T Weindl A Kassubek J 2005 Executive dysfunction in early stages of Huntington s disease is associated with striatal and insular atrophy a neuropsychological and voxel based morphometric study J Neurol Sci 239 (1) 11–19

R Development Core Team 2006 R A Language and Environment for Statistical Computing R Foundation for Statistical Computing Vienna, Austria

Resnick S M Goldszal A F Davatzikos C Golski S Kraut M A Metter E J et al 2000 One year age changes in MRI brain volumes in older adults Cereb Cortex 10 (5) 464–472

Robinson C J Burton H 1980 Organization of somatosensory receptive fields in cortical areas 7b retroinsula postauditory and granular insula of M fascicularis J Comp Neurol 192 (1) 69–92

Rorden C Brett M 2000 Stereotaxic display of brain lesions Behav Neurol 12 (4) 191–200

Schoch B Dimitrova A Gizewski E R Timmann D 2006 Functional localization in the human cerebellum based on voxelwise statistical analysis a study of 90 patients NeuroImage 30 (1) 36–51 (Mar)

Schwartz, B S Bolla, K I Stewart W Ford D P Agnew J Frumkin H 1993 Decrements in neurobehavioral performance associated with mixed exposure to organic and inorganic lead Am J Epidemiol 137 (9) 1006–1021

Schwartz B S Stewart W F Bolla K I Simon P D Bandeen Roche K Gordon P B et al 2000 Past adult lead exposure is associated with longitudinal decline in cognitive function Neurology 55 (8) 1144–1150

Shen D Davatzikos C 2003 Very high resolution morphometry using mass preserving deformations and HAMMER elastic registration NeuroImage 18 (1) 28–41

Shih R A Glass T A Bandeen Roche K Carlson M C Bolla K I Todd A C et al 2006 Environmental lead exposure and cognitive function in community dwelling older adults Neurology 67 (9) 1556–1562

Stewart W F Schwartz B S Simon D Bolla, K I Todd A C Links J 1999 Neurobehavioral function and tibial and chelatable lead levels in 543 former organolead workers Neurology 52 (8) 1610–1617

Stewart W F Schwartz B S Simon D Kelsey K Todd A C 2002 ApoE genotype past adult lead exposure and neurobehavioral function Environ Health Perspect 110 (5) 501–505

Stewart, W F Schwartz, B S Davatzikos C Shen D Liu D Wu X et al 2006 Past adult lead exposure is linked to neurodegeneration measured by brain MRI Neurology 66 (10) 1476–1484

Storey J D 2002 A direct approach to false discovery rates J R Stat Soc B 64 479–498

Storey J D Tibshirani R 2003 Statistical significance for genomewide studies Proc Natl Acad Sci U S A 100 (16) 9440–9445

Talairach J Tournoux P 1988 Co planar Stereotaxic Atlas of the Human Brain Thieme Medical New York

Tisserand, D J Visser P J van Boxtel M P Jolles J 2000 The relation between global and limbic brain volumes on MRI and cognitive performance in healthy individuals across the age range Neurobiol Aging 21 (4) 569–576

Tisserand, D J van Boxtel M P Pruessner J C Hofman P Evans A C Jolles J 2004 A voxel based morphometric study to determine individual differences in gray matter density associated with age and cognitive change over time Cereb Cortex 14 (9) 966–973

van der Flier W M Middelkoop H A Weverling Rijnsburger A W Admiraal Behloul F Bollen E L Westendorp R G et al 2005 Neuropsychological correlates of MRI measures in the continuum of cognitive decline at old age Dement Geriatr Cogn Disord 20 (2 3) 82–88

Van Petten C Plante E Davidson P S Kuo T Y Bajuscak L Glisky E L 2004 Memory and executive function in older adults relationships with temporal and prefrontal gray matter volumes and white matter hyperintensities Neuropsychologia 42 (10) 1313–1335

Yan M X H Karp J N 1995 An adaptive Bayesian approach to three dimensional MR brain segmentation Proceedings of XIVth International Conference on Information Processing in Medical Imaging pp 201–213

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Past adult lead exposure is linked to neurodegeneration measured by brain MRI

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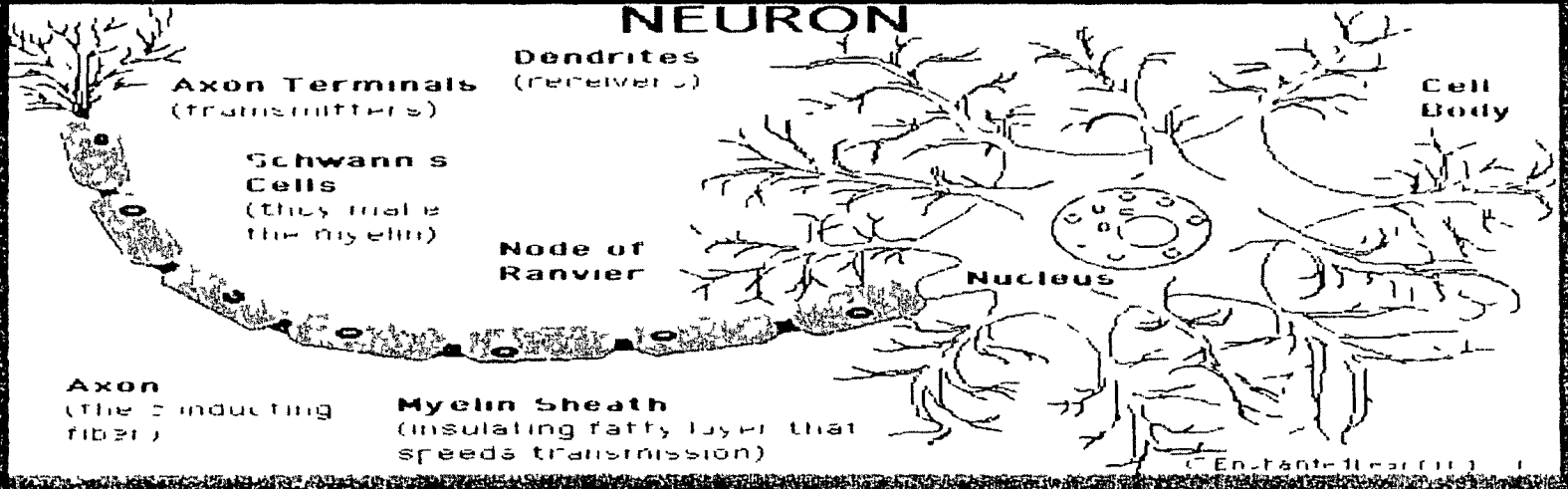
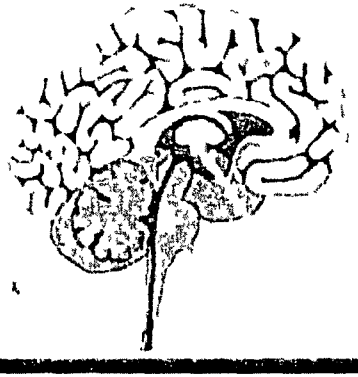
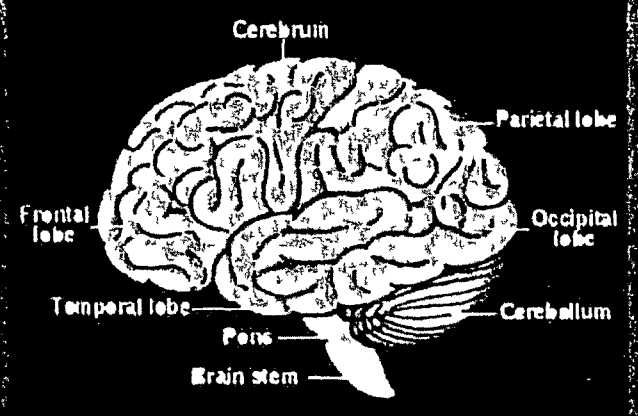
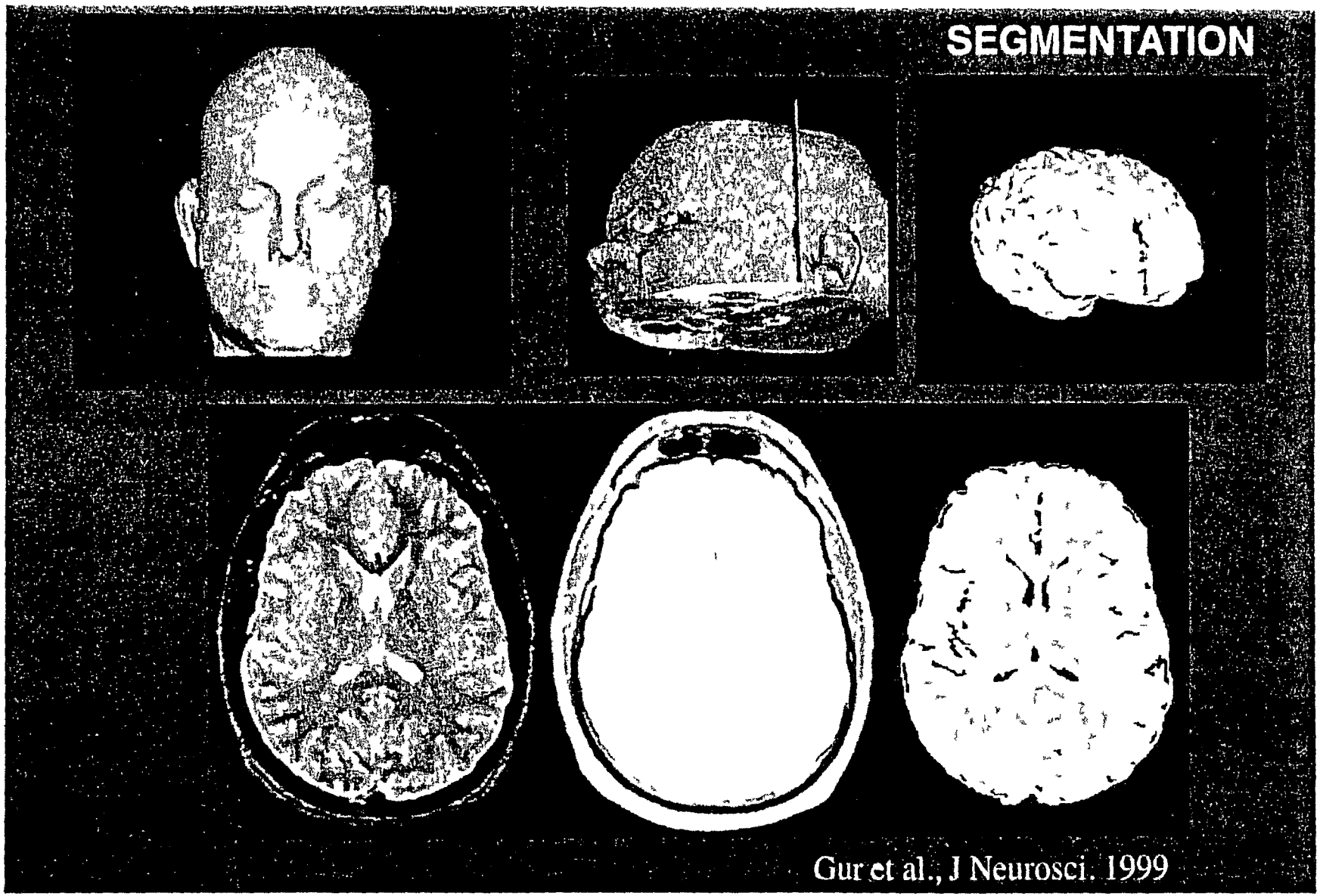


The Large Scale Structure of the Brain






SEGMENTATION
Gur et al., J Neurosci. 1999

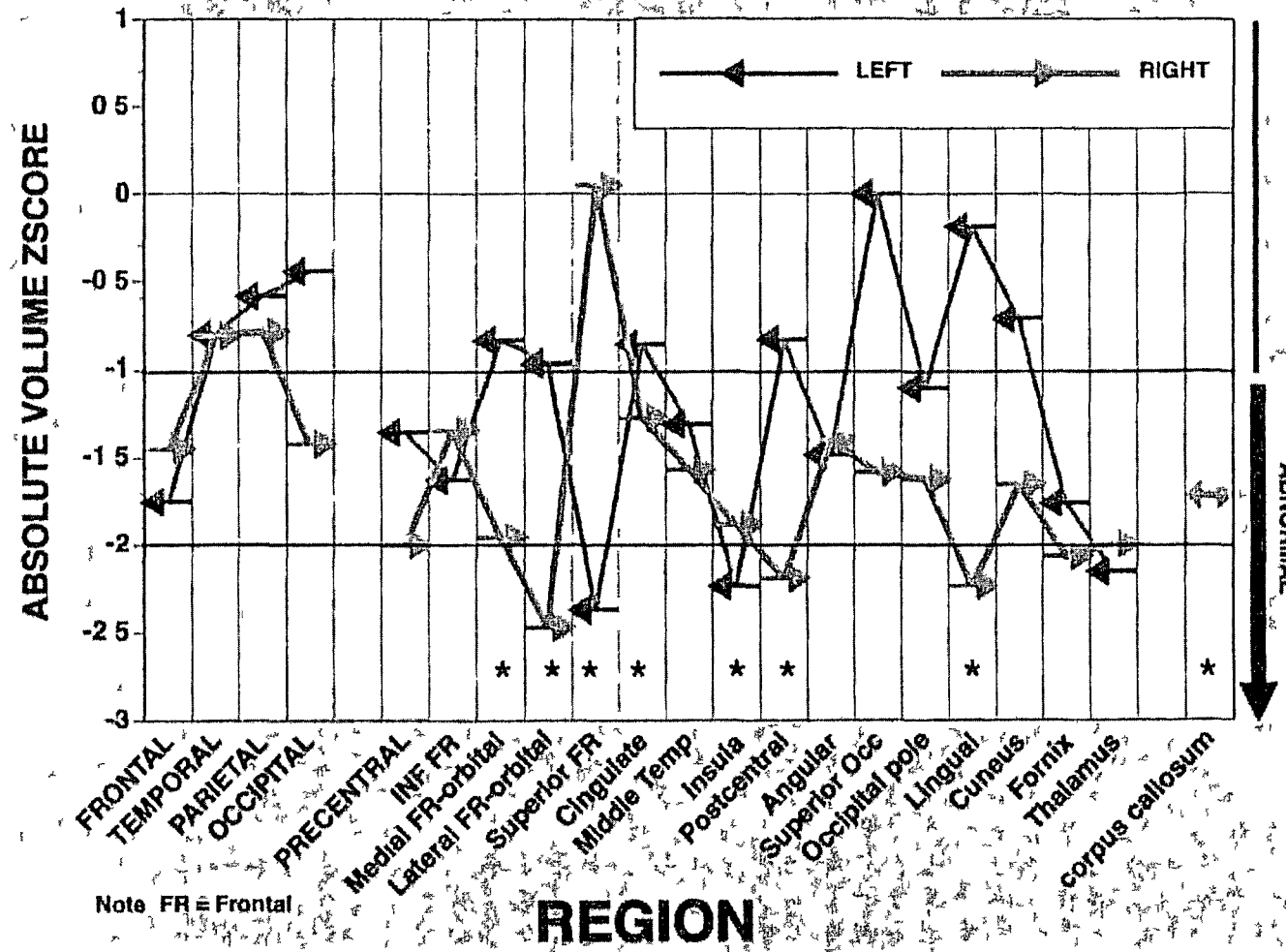
#3

3685

Original 30% atrophy

C. Davatzikos 2007

Figure 1. Volumetric analysis of Mr. Evans' MRI. Volumes are expressed as z-scores (SDs from the mean) relative to healthy men.



* Known to be affected by childhood lead exposure

UNIVERSITY OF PENNSYLVANIA HEALTH SYSTEM

Ruben C Gur, Ph D
Professor

DEPARTMENT OF PSYCHIATRY NEUROPSYCHIATRY PROGRAM DIRECTOR OF NEUROPSYCHOLOGY

PLAINTIFF'S EXHIBIT 452
PENGAD 800 631 6989

PATIENT S NAME	*Kamell Evans*
DATE OF BIRTH	[redacted]
EDUCATION	*12+ years*
DATE OF REPORT	*5/20/2009*
INTEGRATION BY	*Ruben C Gur Ph D*
REFERRED BY	*Christopher Seeds Esq*

RE SUMMARY OF MRI FINDINGS

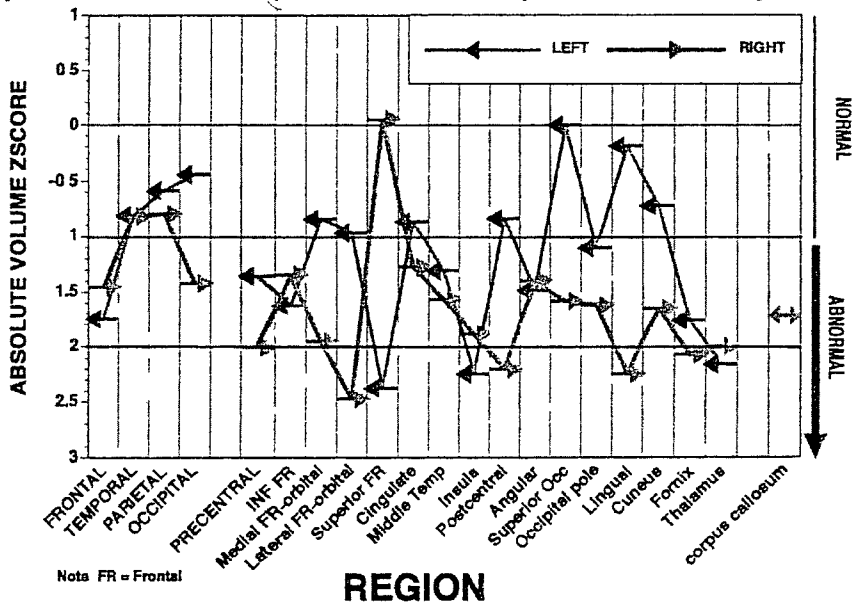
Dear Mr Seeds

At your request I have reviewed the magnetic resonance imaging (MRI) of Mr Evans in order to assess the presence of any brain neuroanatomic abnormalities This report will describe results of quantitative analyses of the MRI performed on Mr Evans on 04/15/2009

MRI RESULTS

The magnetic resonance (MR) images of Mr Evans were examined via delineation of 92 regions of interest (ROI) which was assisted by a semi-automated template-warping algorithm [1] When regional distribution of volumes was examined it was found that Mr Evans has several parenchymal abnormalities Examination of volumes of individual structures (**Figure 1**) revealed reduced volume approaching or exceeding 2 S D below normal in frontal lobe (including right precentral and medial and lateral orbital frontal and left superior frontal regions) as well as temporal (insular) and occipital (lingual) regions and bilaterally in thalamus Other regions showed clinically significant volume reduction (greater than 1 S D below normal) These include additional frontal regions and also other limbic regions such as the cingulate middle

Figure 1 Volumetric analysis of Mr Evans' MRI Volumes are expressed as z-scores (SDs from the mean) relative to healthy men.



[1] D Shen C Davatzikos IEEE Transactions on Medical Imaging 21 1421-1439 (November 2002)

10 h Floor Gates Building 3400 Spruce St Philadelphia PA 19104 4283
Phone 215 615 3604 Fax 215 662 7903 Email gur@upenn edu

temporal as well as occipital and parietal regions Reduced volume is overall more pronounced on the right although some left hemispheric regions such as the superior frontal gyrus insula and fornix are also affected Notably the corpus callosum is reduced in volume at -1 72 standard deviations below normal

The frontal lobe regions relate behaviorally to deficits in the ability to make rational plans inhibit impulses and modulate emotions Reduced volume in temporo-limbic regions such as cingulate middle temporal and insula would result in further deficits in processing of anxiety signals and emotion regulation The reduced volume in occipital regions would result in degraded processing of visual information and reduced thalamic volume as well as fornix would result in deficits in stimulus processing and integration with internal states

Abnormalities of the nature and severity documented in Mr Evans s MRI indicate severe anatomic changes that include loss of tissue in regions crucial for cognitive and affective processing and daily living The severity and distribution of tissue loss is consistent with long-term exposure to toxins such as lead or solvents

SUMMARY AND OPINION

The quantitative analyses of a neuroanatomic study of Mr Evans s brain reveal moderate to severe abnormalities in regional brain volume Structural neuroimaging indicates reduced volume in frontal lobes including precentral and medial and lateral orbital frontal and superior frontal regions as well as temporal (insular) and occipital (lingual) regions and bilaterally in thalamus Additional frontal regions and also other limbic regions such as the cingulate middle temporal as well as occipital and parietal regions showed milder volume reduction These abnormalities likely relate to behavioral deficits in the areas of rational decision-making emotion processing and coordination of sensory information Thus Mr Evans has brain damage that causes diminished capacity to appreciate and respond to threat and to adjust his behavior to the social and environmental context The severity and distribution of tissue loss is consistent with long-term exposure to toxins such as lead or solvents

Please let me know if you have questions or need further clarifications All the opinions contained herein are stated to a reasonable degree of scientific certainty

Ruben C Gur Ph D
Professor of Neuropsychology

Dale M Davis
Criminal Mitigation Services

P O Box 50944
Summerville SC 29485
Phone 843 871-6176
Fax 843 875 6626
e mail dalemdavis@bellsouth net

October 1 2004

Joseph L Savitz III
South Carolina Office of Appellate Defense
1122 Lady Street Suite 940
Columbia SC 29201-3243

RE State v Kamell Evans

Dear Joe

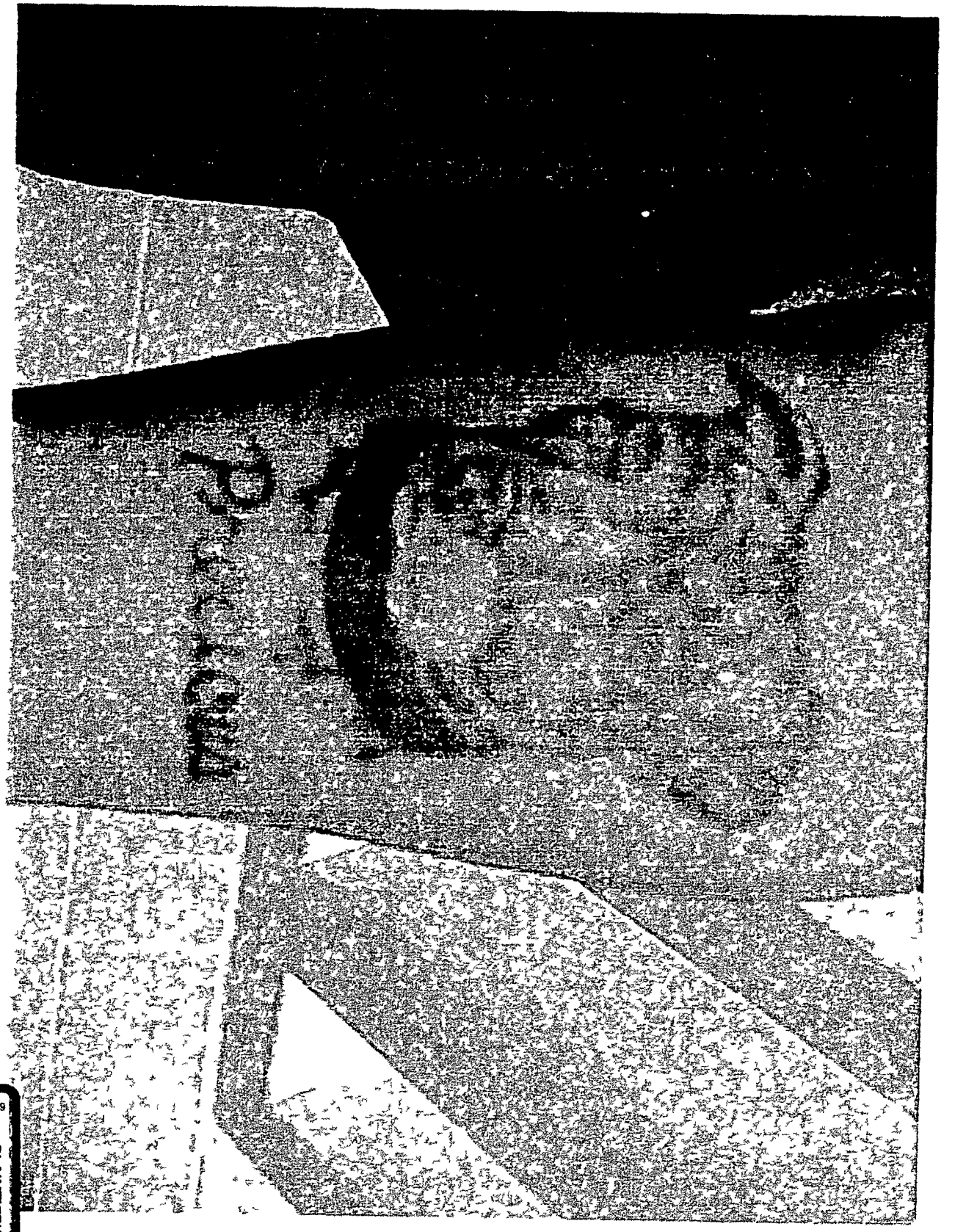
I was introduced to you by Teresa Norris at the Public Defender Conference in Charleston and we spoke about this case at that time My affidavit and a copy of the e mail correspondence are enclosed I wanted to send this on to you as I am starting a case in Georgia on Monday and wanted to be sure you got it as soon as possible

If there is anything I can do to assist with this please let me know I am enclosing a card that has all of my contact information on it Thanks so much for your interest in this case It has haunted me since I heard the verdict even though I knew what the verdict would be based on the preparation or I should say lack of preparation

With warmest regards

Dale M Davis
Capital Mitigation Specialist

Enclosure as stated above/



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6-4

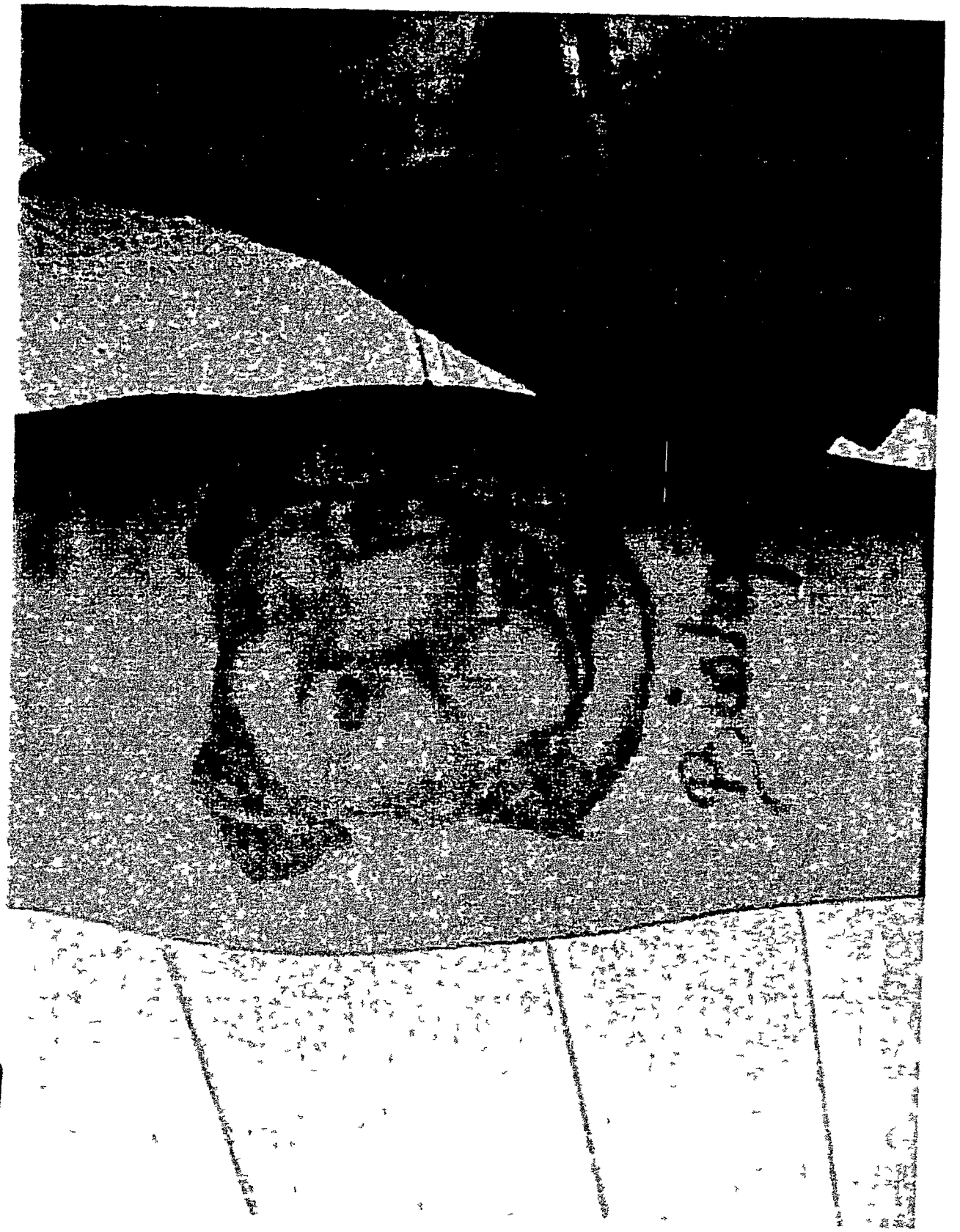

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EXHIBIT
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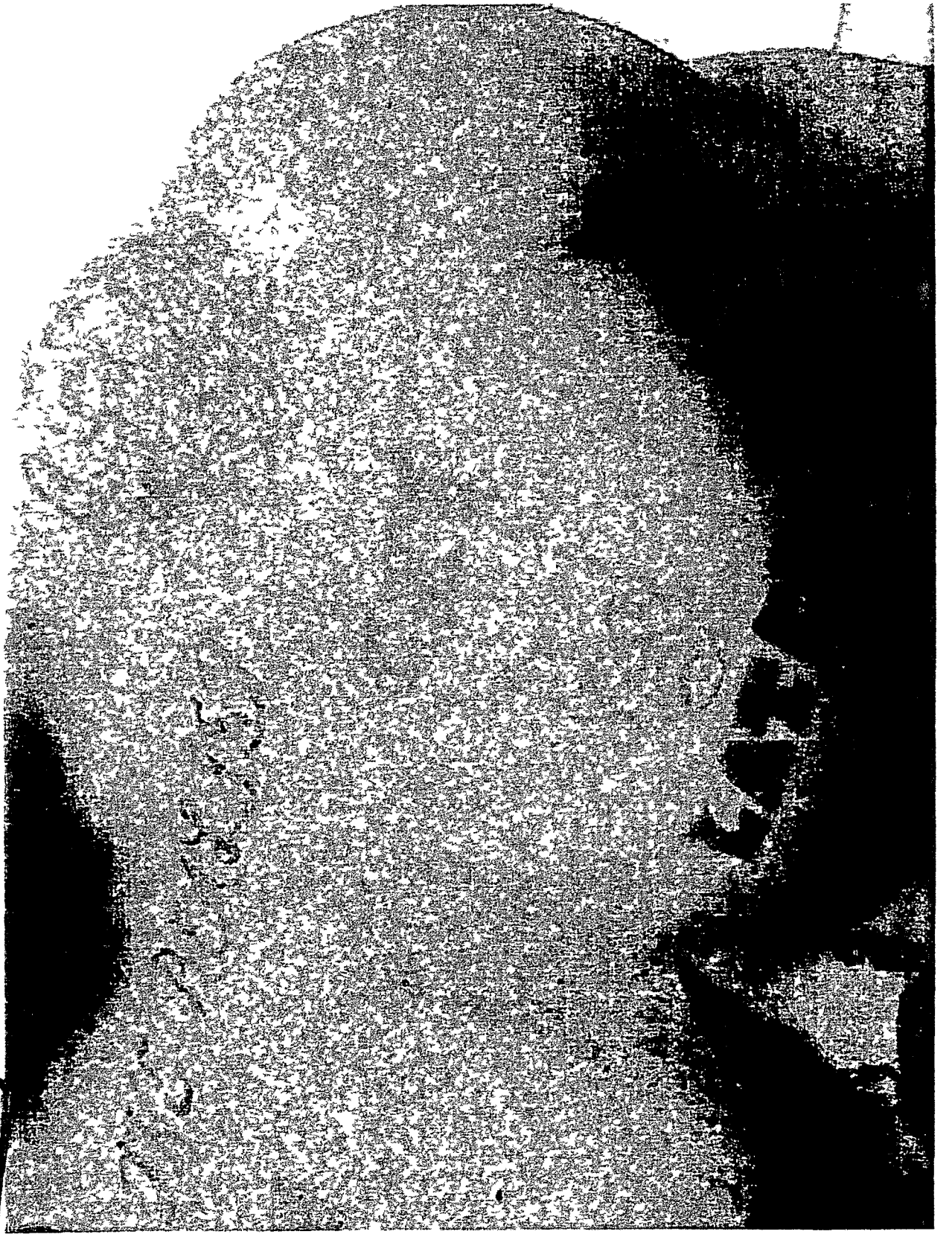

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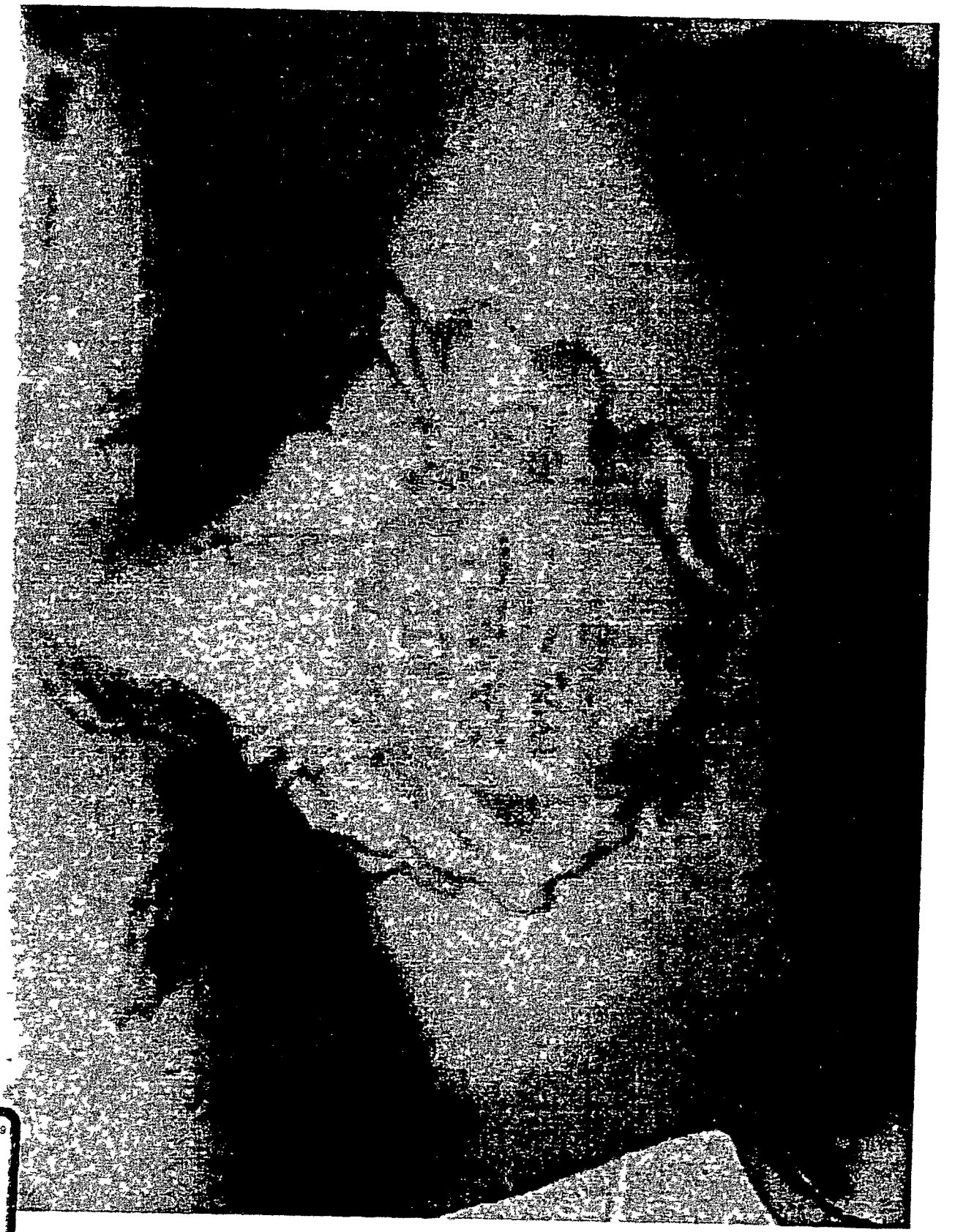

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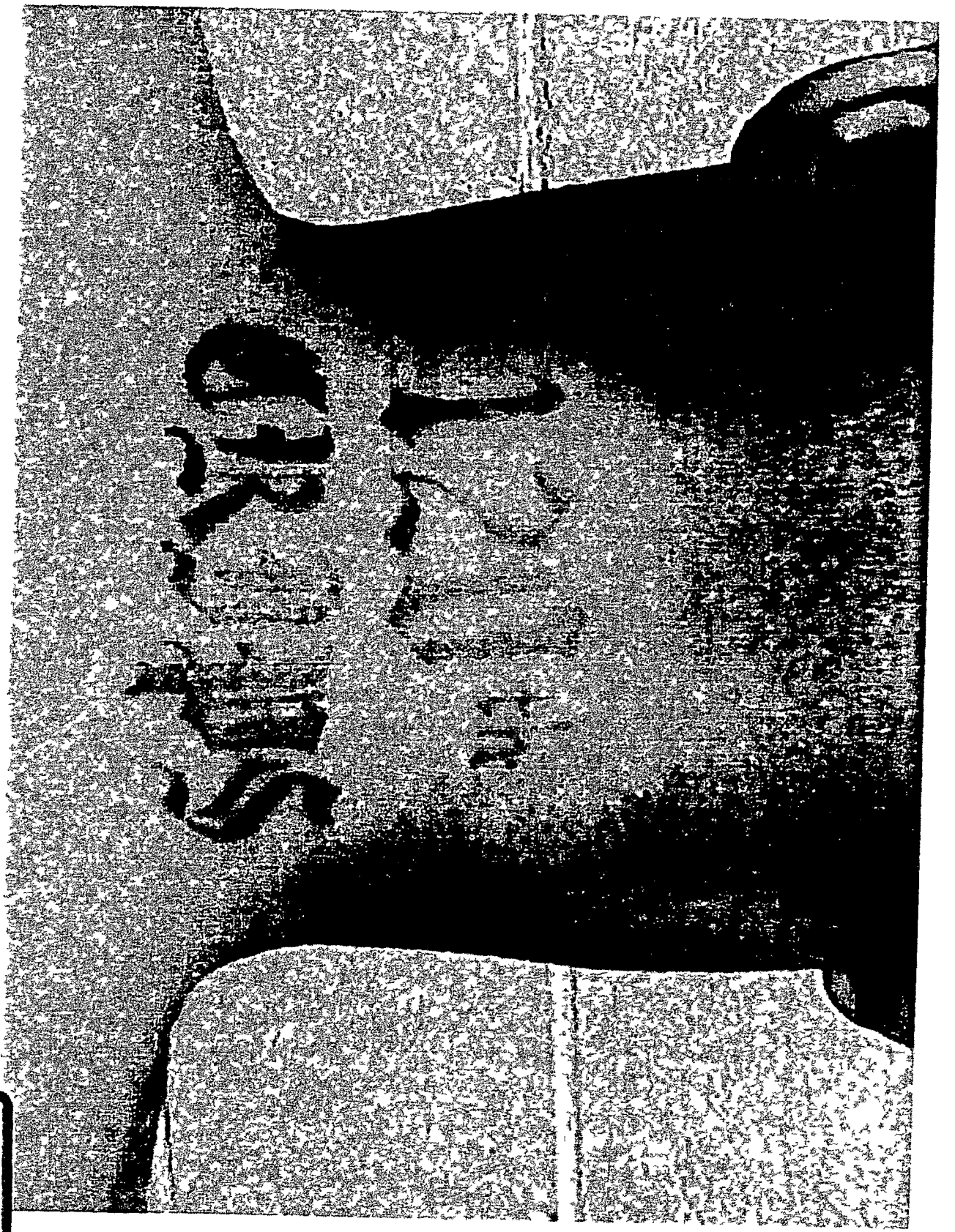

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EXHIBIT
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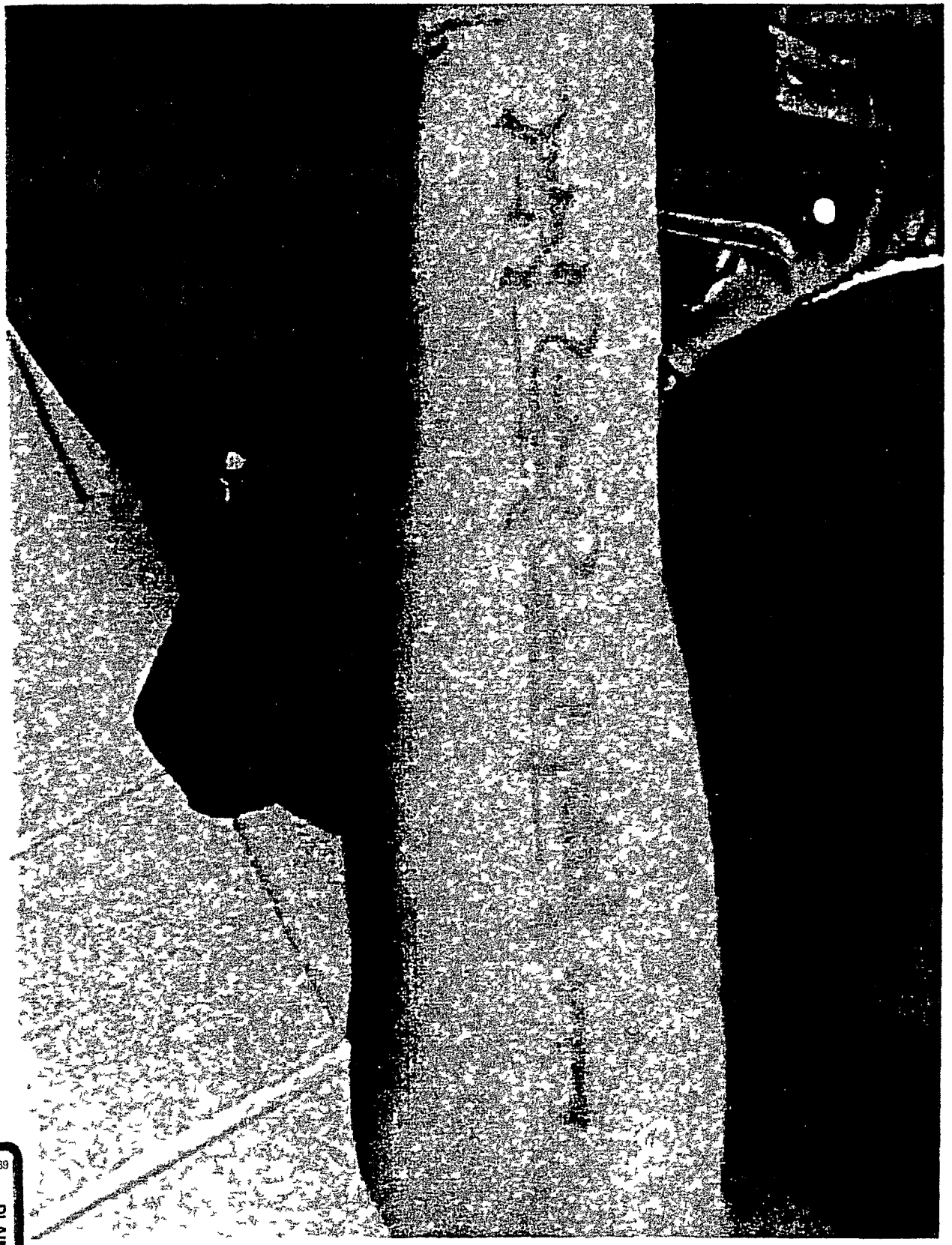

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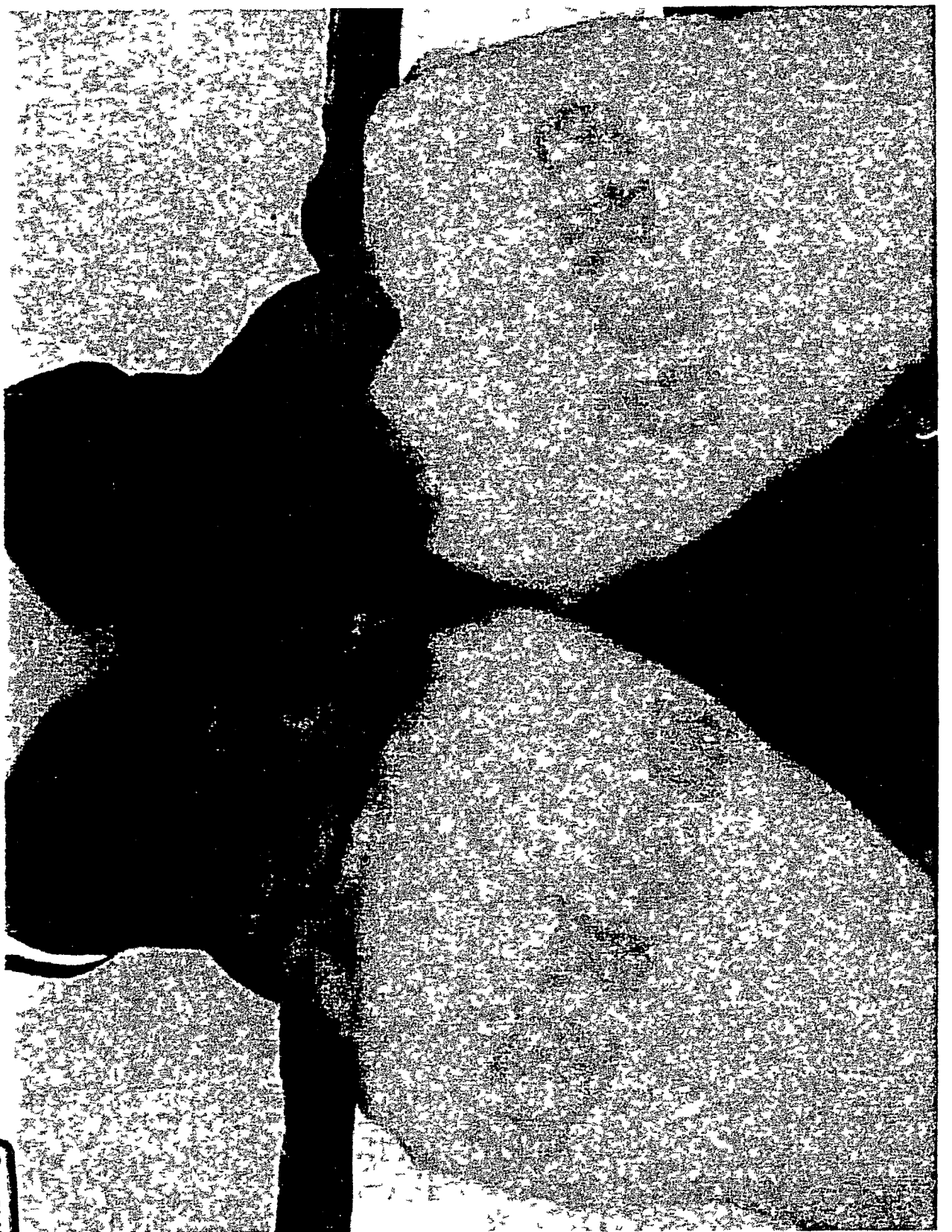

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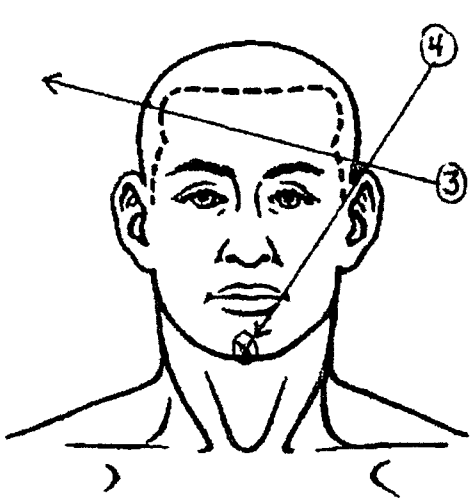
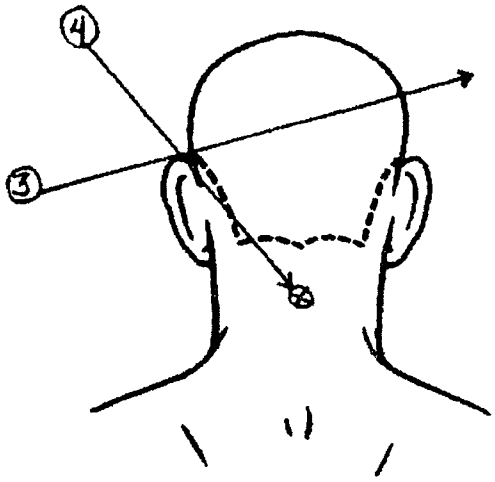
PLAINTIFF'S EXHIBIT

CASE NO. _____ NAME KAMELL EVANS 3699





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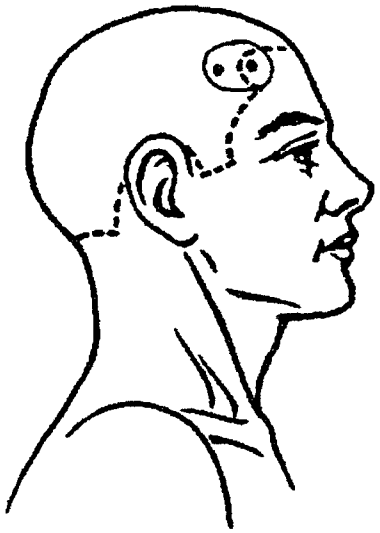

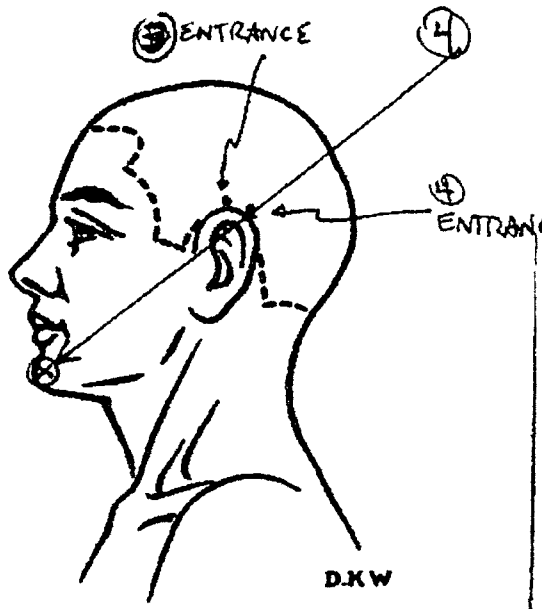

⊗ = RETAINED PROJECTILE

DIAGRAM E

Figure 25 (21)

Dr. ARDEN

PLAINTIFF'S EXHIBIT 2-473

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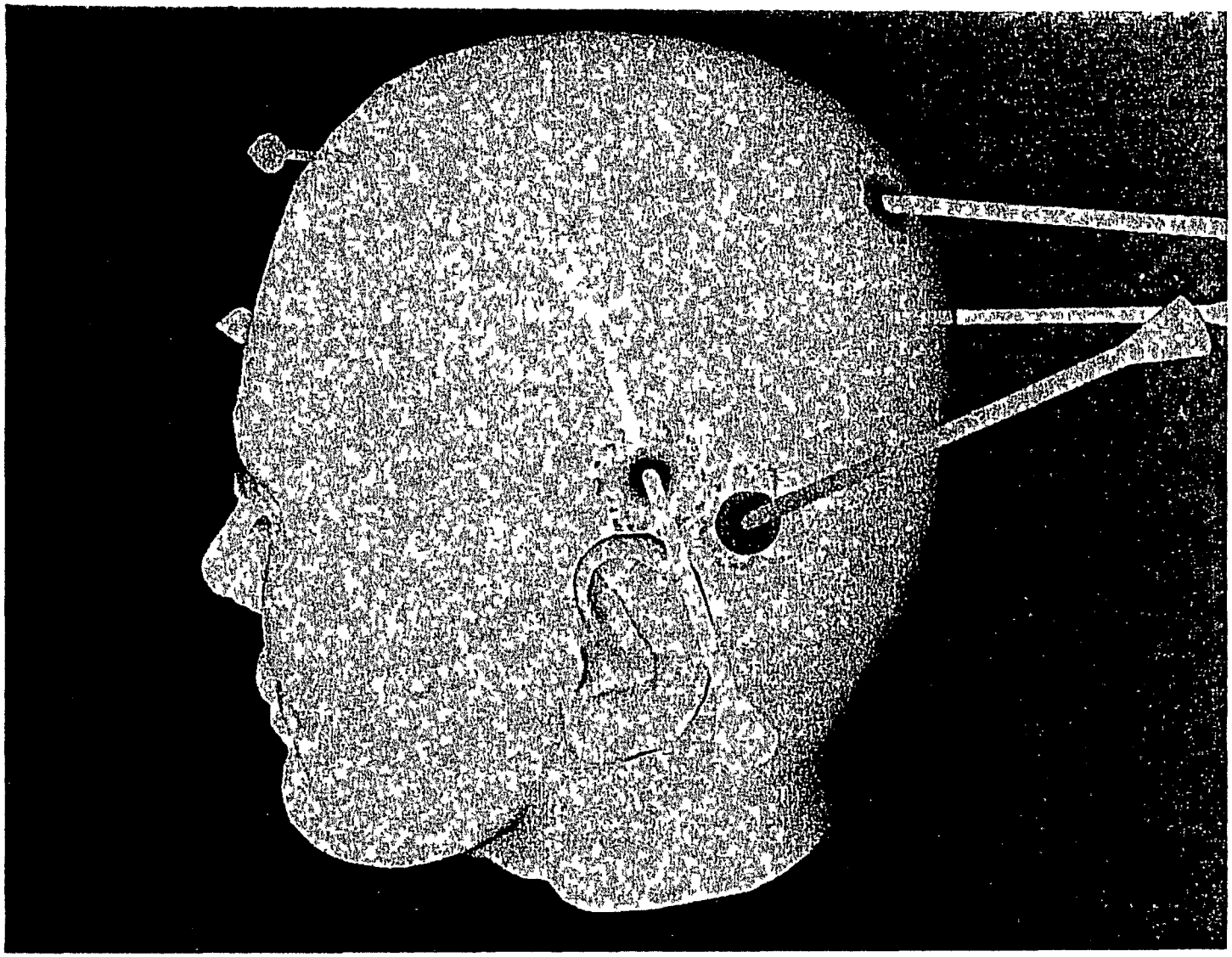
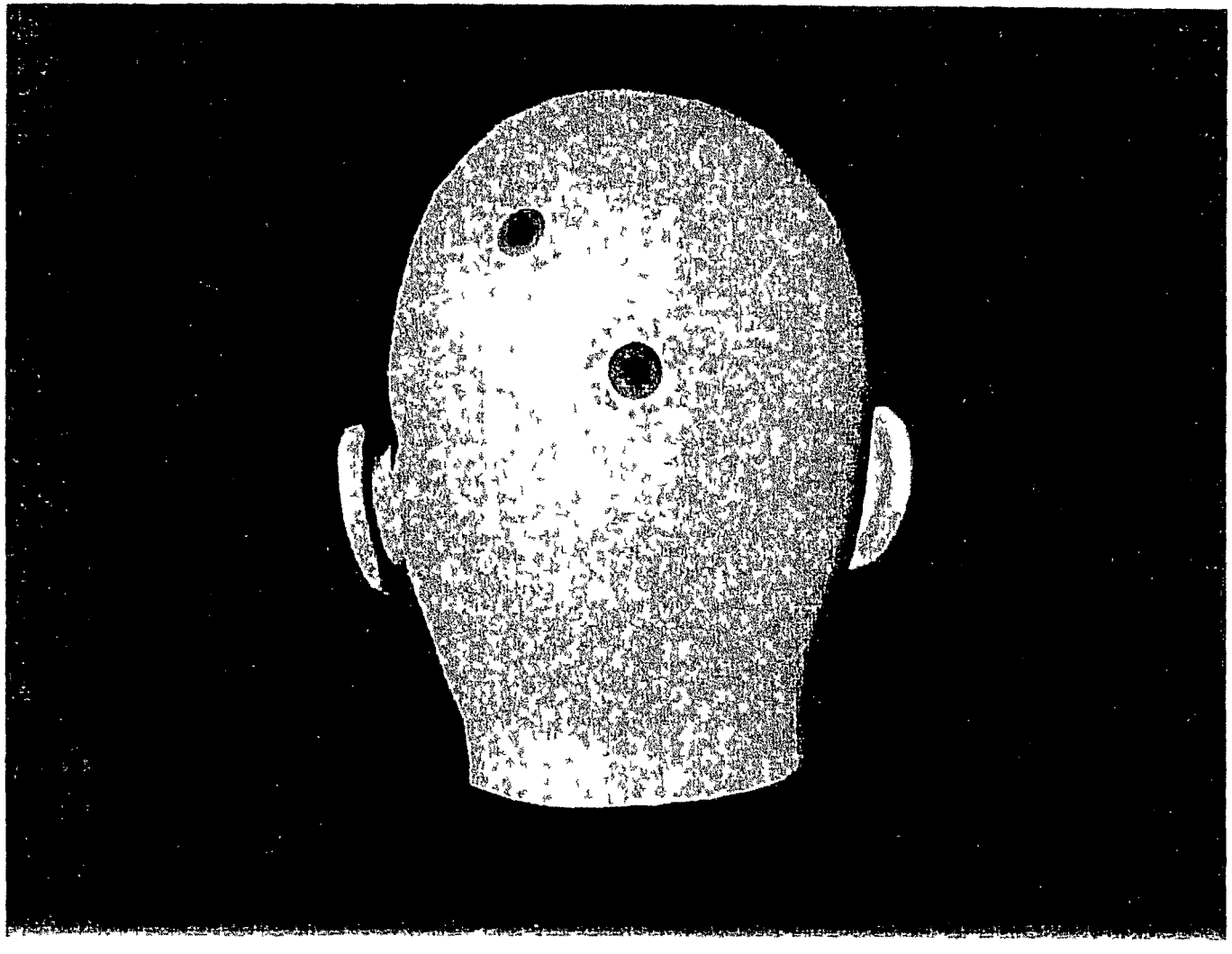
Left View of Head of Antonio Jose Sapinoso
Trajectory of Entrance Wound # 4



State's Exhibit # 48 o

3701

Rear View of Head of Antonio Jose Sapinoso
Entrance Wound # 2



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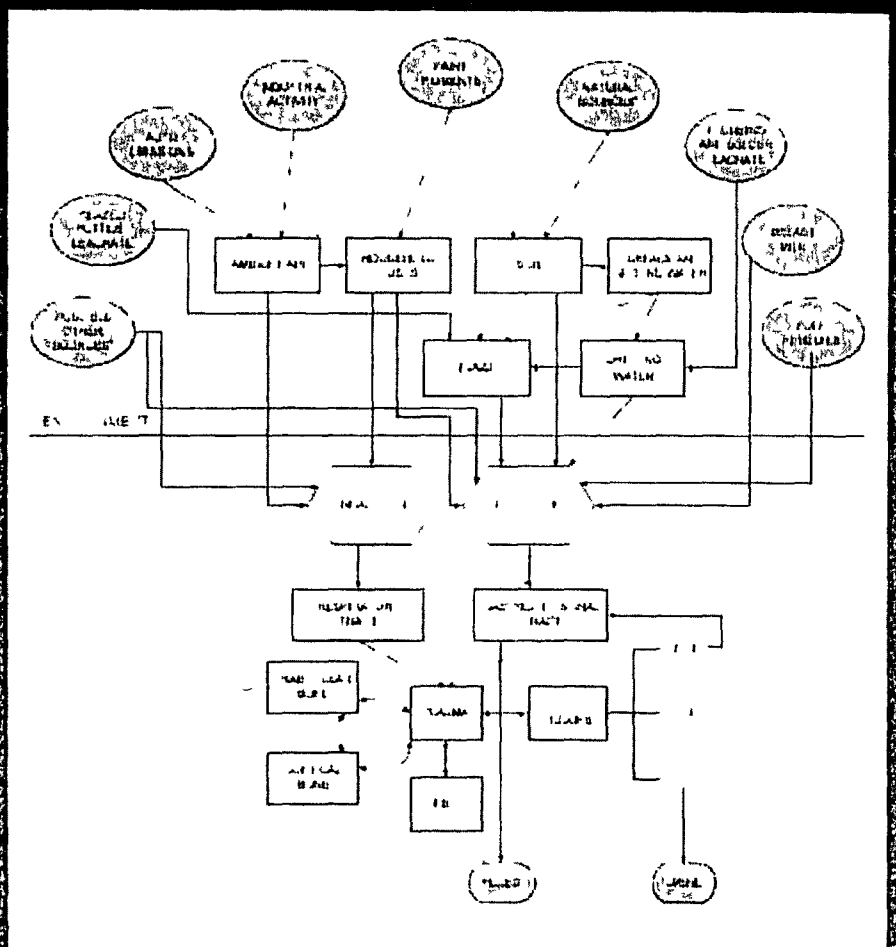

Canfield, R.L., & Jusko, T.A. (2008). Encyclopedia of Infancy and Early Childhood Development

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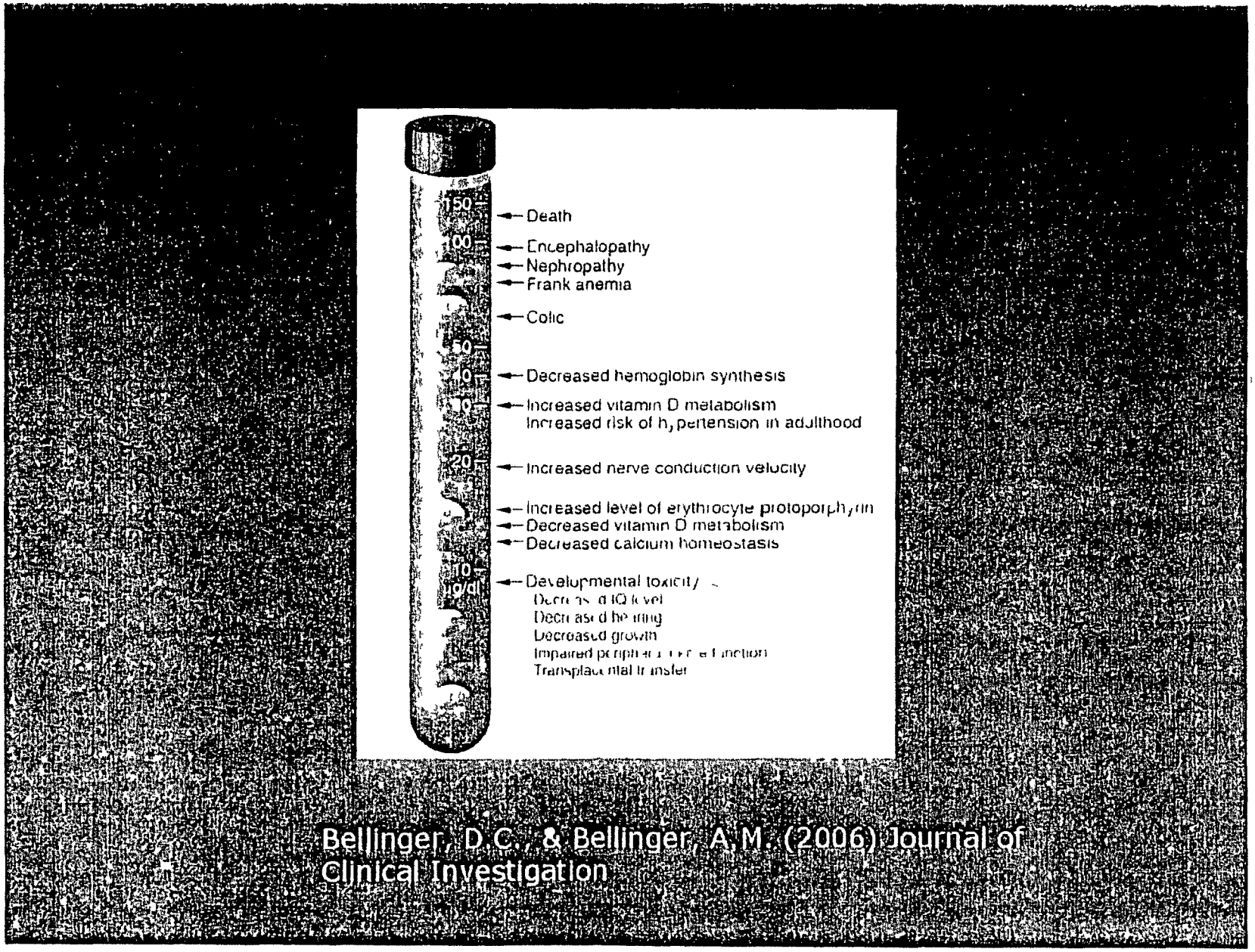
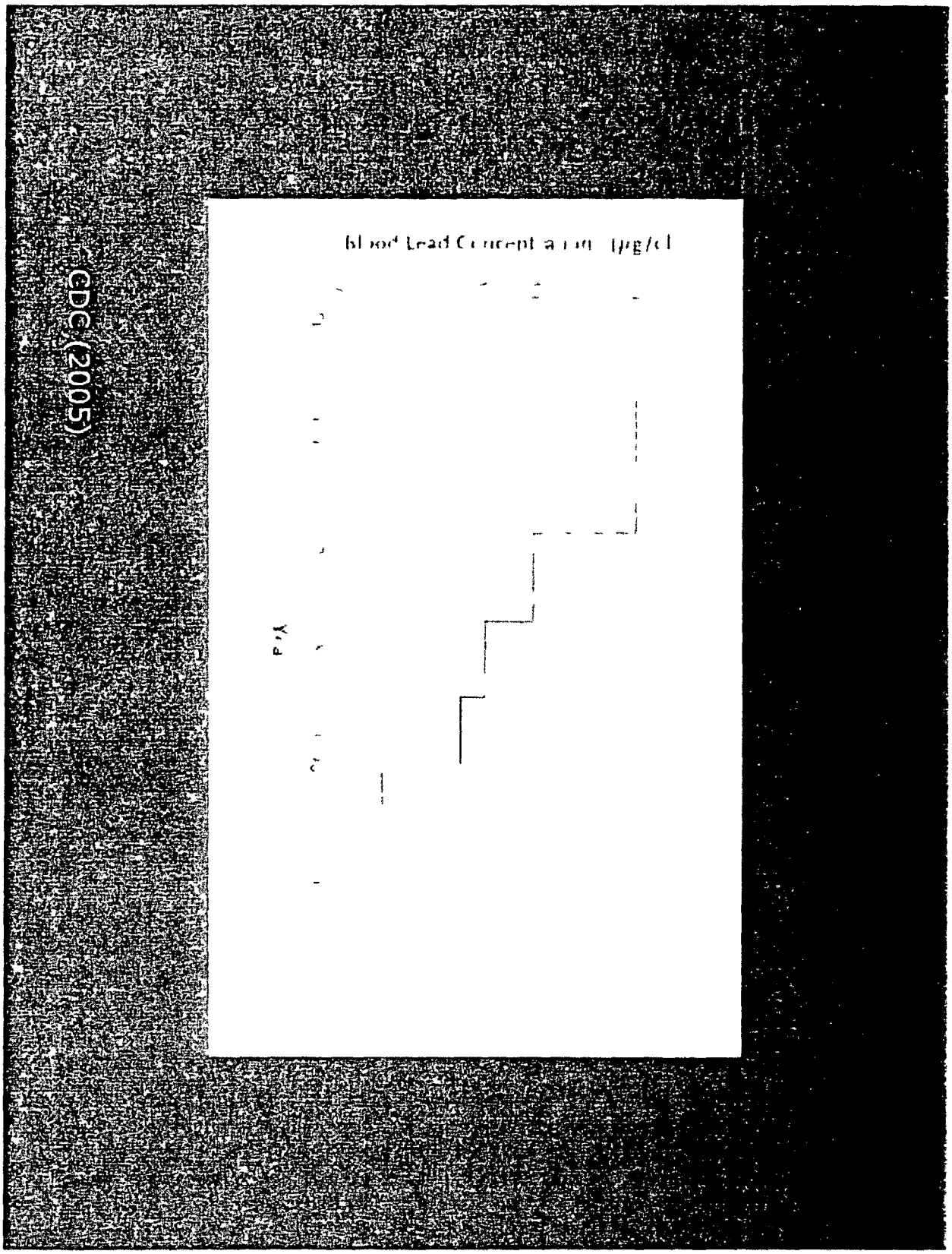
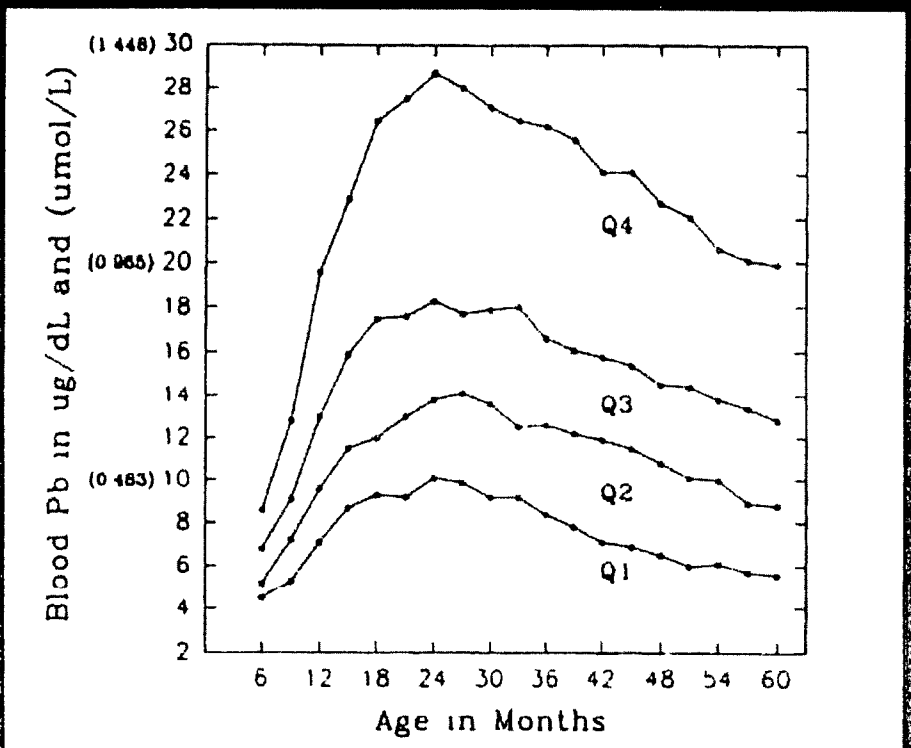


Bellinger, D.C., & Bellinger, A.M. (2006) Journal of Clinical Investigation


Blood Lead Concentration (µg/dl
CDC (2005)

3705



Dietrich, et al. (1993) Pediatrics

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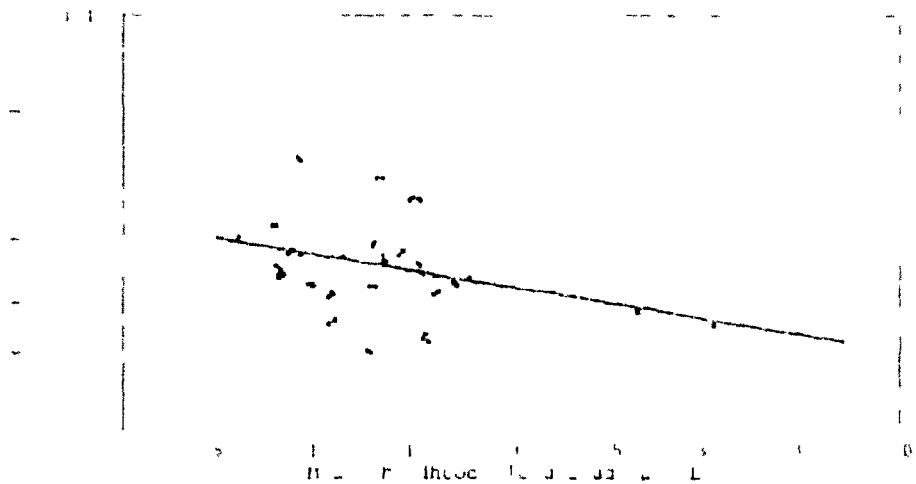


Figure 2. Regional Brain Volume Loss for the Cincinnati Study Participants

Cecil, K.M., et al. (2008) PLoS Medicine

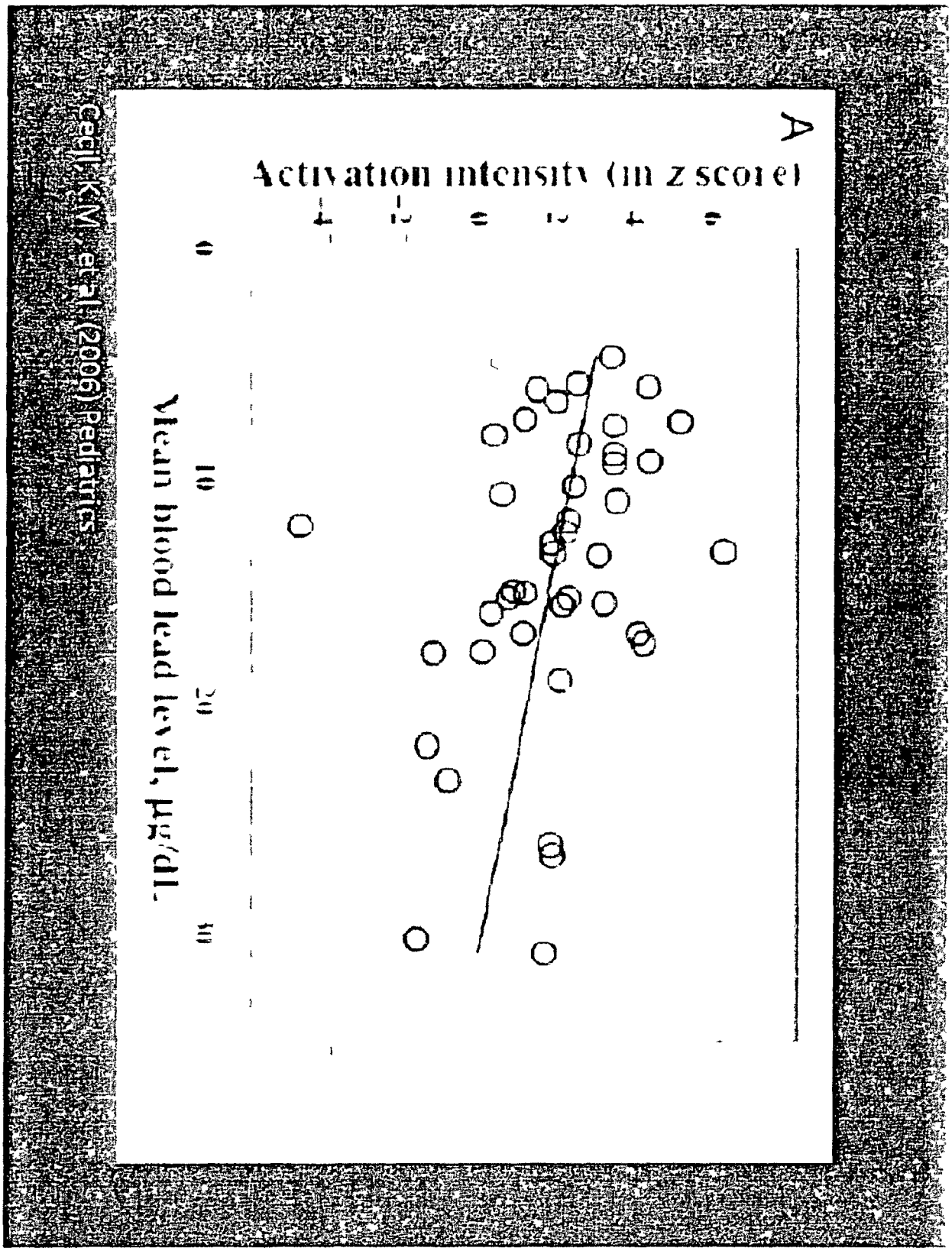
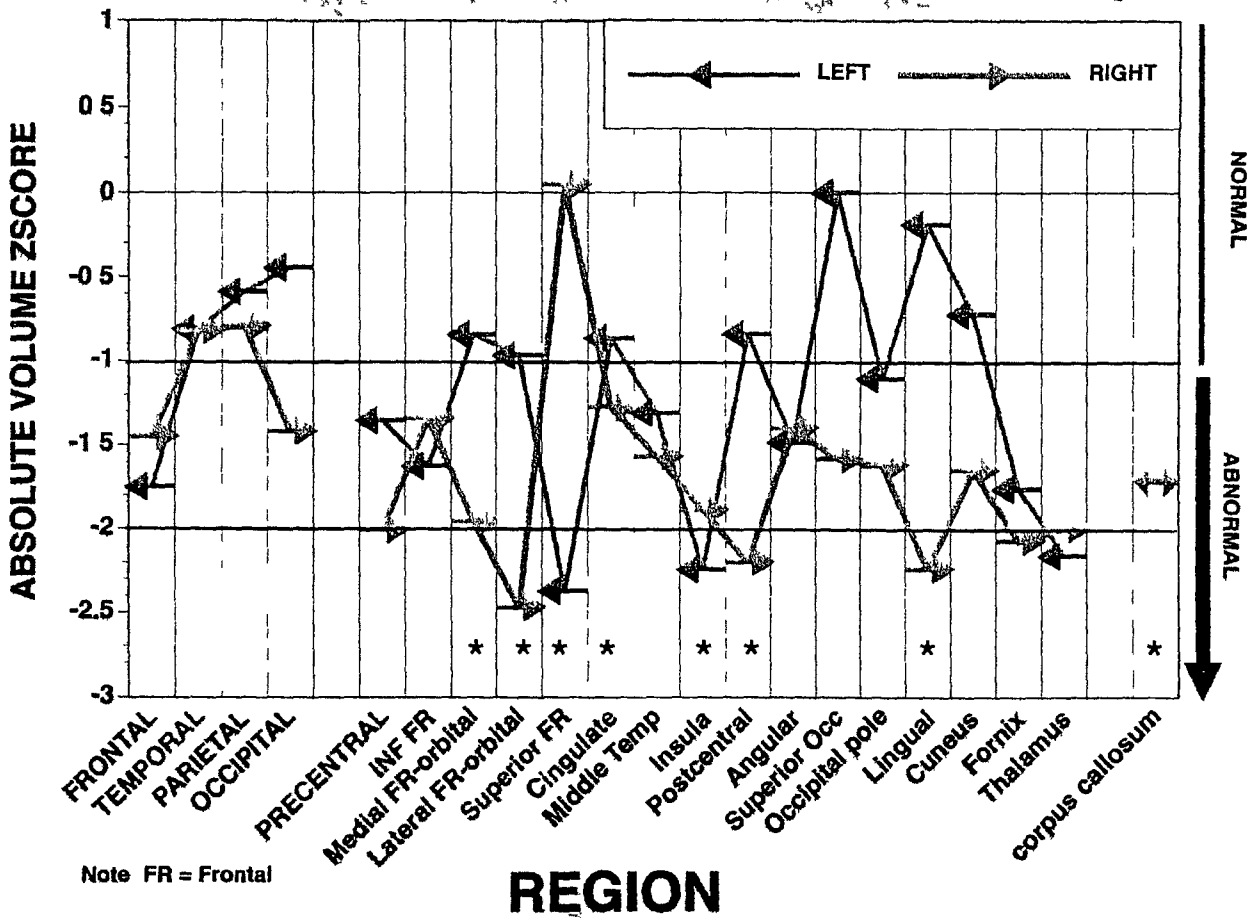

A
Activation intensity (in z score)
Mean blood lead level, μg/dL
Cecil, KM, et al. (2006) Pediatrics

Figure 1. Volumetric analysis of Mr. Evans' MRI. Volumes are expressed as z-scores (SDs from the mean) relative to healthy men.



* Known to be affected by childhood lead exposure

3709

Renee L Evans
September 28th, 2003

Test 1

Example paragraph,
Page 178-180

Topic
Bad-temper

My ex-husband has a bad-temper

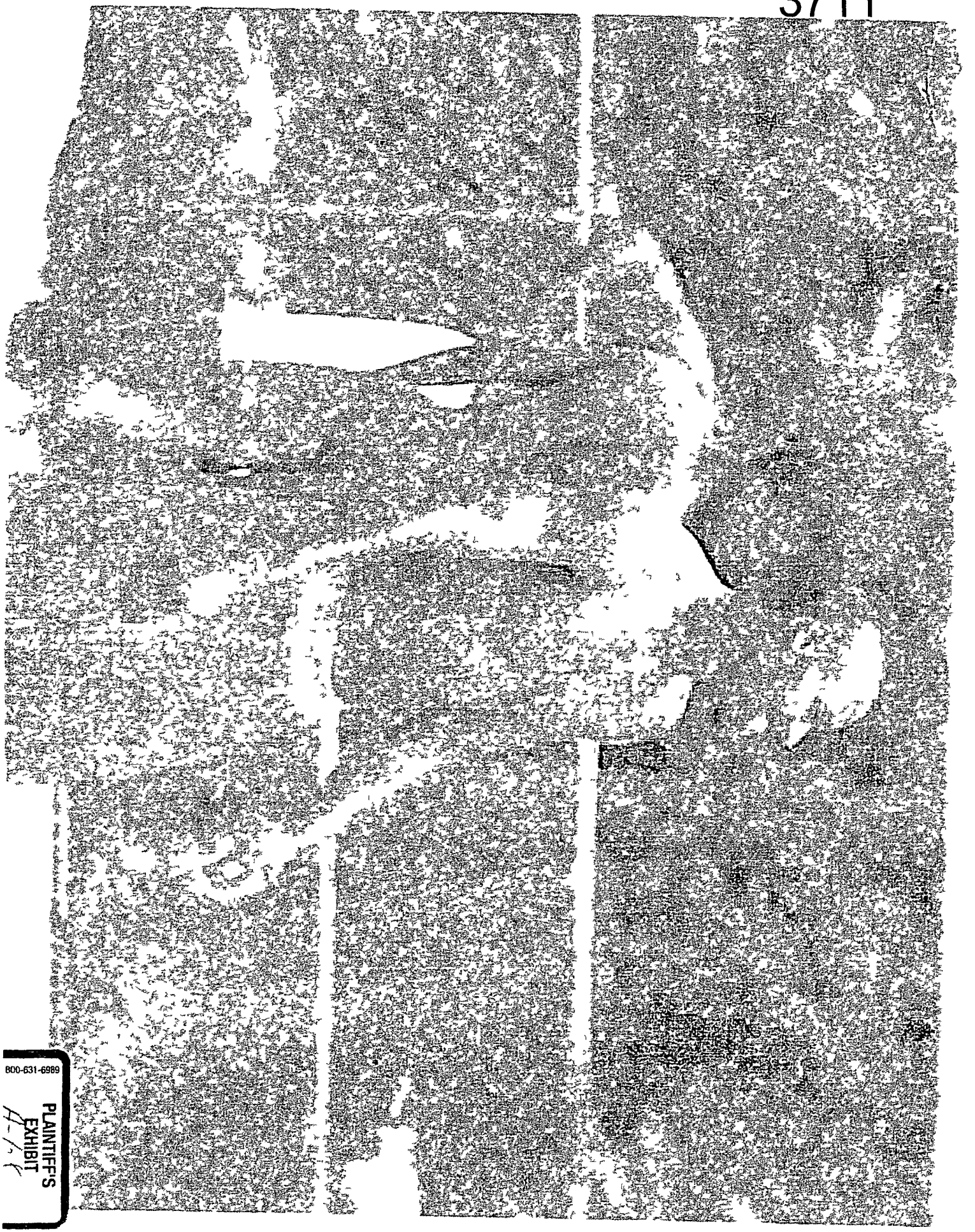
Every other word that comes out of his mouth is a cursing word
He gets loud and embarrasses people in public
He throws objects Anything that he can get his hands on
He assaults people with fire arms, tree limbs, his hands,
He verbally and physically abuse people
He will leave you when he gets jealous
He gets angry if you ask him for money, look at you then storm out of the house in a rage

Don't support the topic (but keep)

He will control your life to his liking and forbid you to call for any outside help
He always has to be right
He always has to be in charge, act like a big man
I heard him when he drove up into the driveway

My ex-husband has a bad temper That is only one of the many reasons why I had to leave him Not only did I fear for my life on several occasions, but I also tried my best to shelter my children from being exposed to his ironic behavior and his multi mood swings It didn't take much to tick him off, but when he was mad he was in rare form When he was in conflict with someone on his job, an associate from the streets, or just pissed off by the other woman, he would storm into the house like a lion, screaming and cursing like a sailor Once he came home after an evening of heavy drinking and was hungry It was late, my children and I had already eaten and we were in the bed When he walked through the kitchen and didn't see any food out, he exploded and erupted like a volcano My head met the floor, and my children yelled with fright As they ran to get the phone and call for help, my ex-husband pulled the plug right out of the wall and threw the

phone cross the room Another time our family was out at a cabaret party I love to dance A young man asked me to dance and I was delighted I danced the first record, and the music went right into another song When the third song began my ex-husband walked up to me, tapped me on the shoulder, and said, "sit down!" He did not stutter nor did he blink I swear you could see steam come from his nose out of his ears I guess I didn't move fast enough for him He pulled me by my hair, and he snatched it right out of my head My friends and family was there I was so embarrassed In his rage he then told me, to get home the best way I could, and I had better be home before he got there When I arrived home he was walking the dog down the street I was scared to let my girlfriend leave But wait there is more, my ex—husband took a stick that fell from a tree and he hit me with it Just because it was close to him and he was upset I couldn't tell you what provoked him that time I just curled up and scurried into the house And you would not believe what happened the very next day This time I came into the house and he was already there, in the bed room, but not sleep He assaulted my self esteem till I became helpless, and as he slung me across the top of the bed he began hitting on me I ended up with bruises on my body and my face rearranged, and then the unexpected happened He pulled out a gun and threatened to shoot me because he thought that I was fooling around with another man. He fired off three shots at random There is a whole still in the wall where one of the bullets entered My children were asleep in the room across from ours and by the grace of God they did not hear a thing that night At that point I woke up mentally, and my inner self told me, it's time to do something about the dilemmas that I was faced with If I stayed in the relationship, one of us would have ended up dead or seriously hurt I tried to deal his insecurities and bad-temper but enough was enough



800-631-6989
PLAINTIFF'S EXHIBIT
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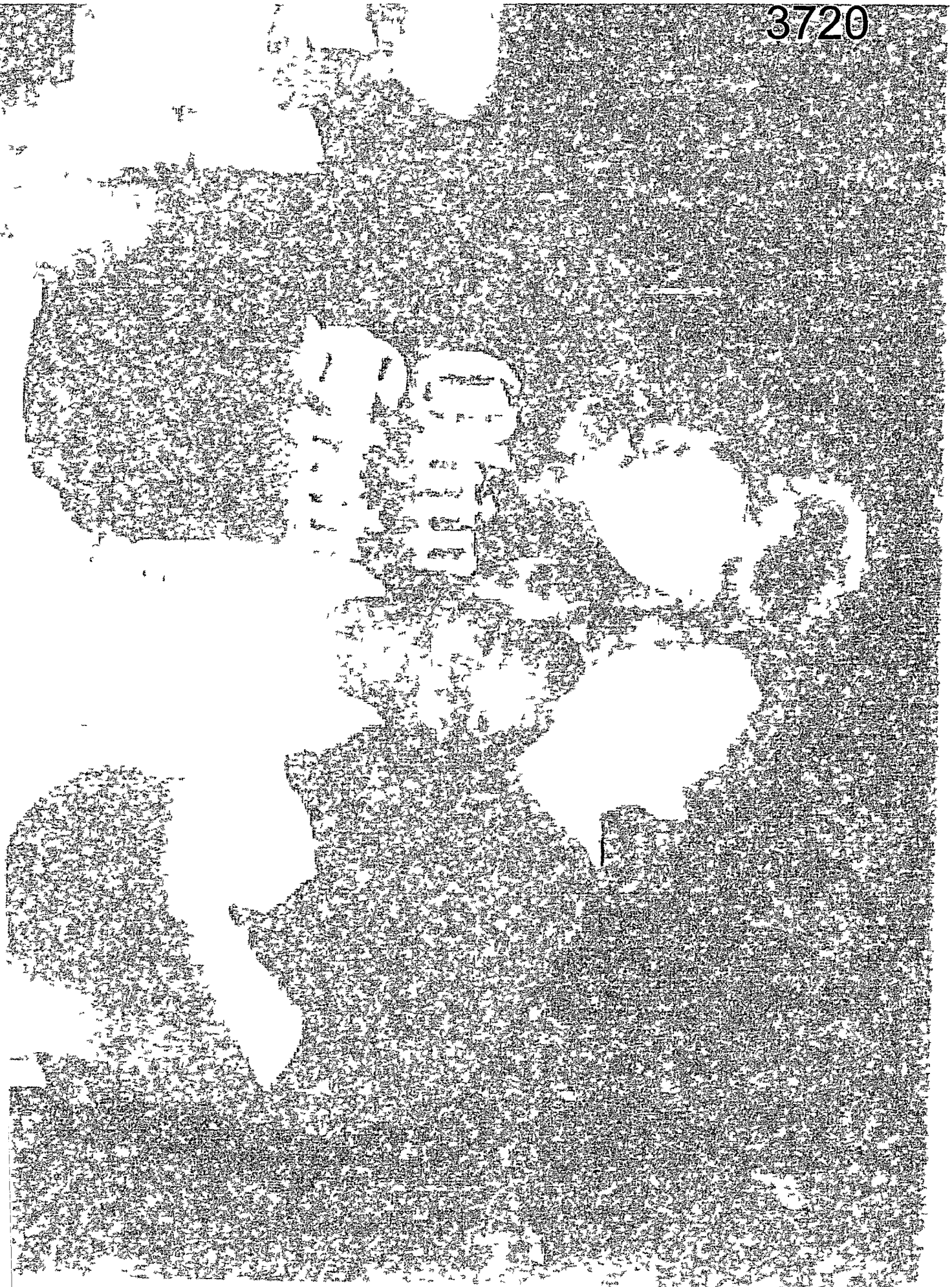
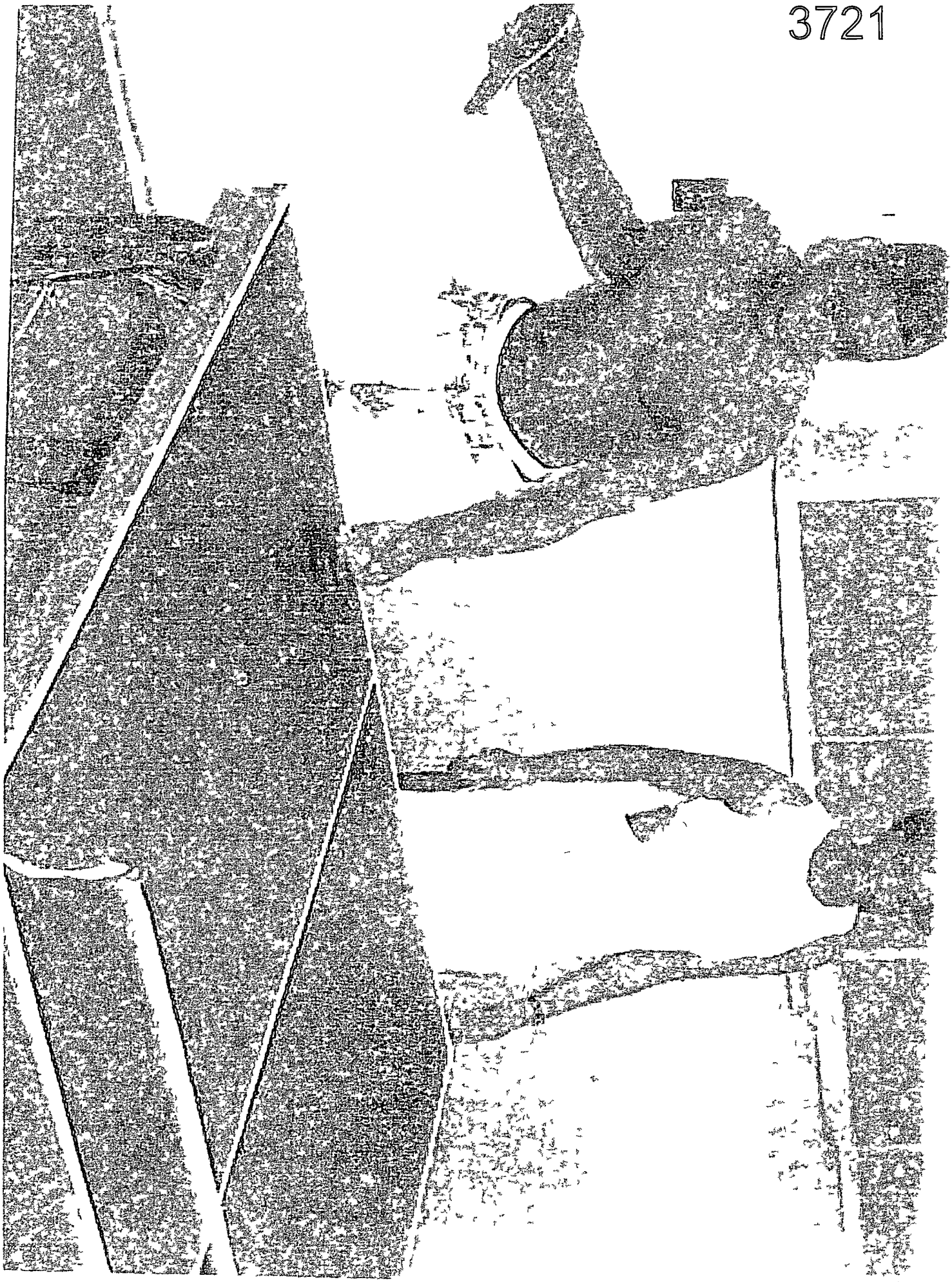
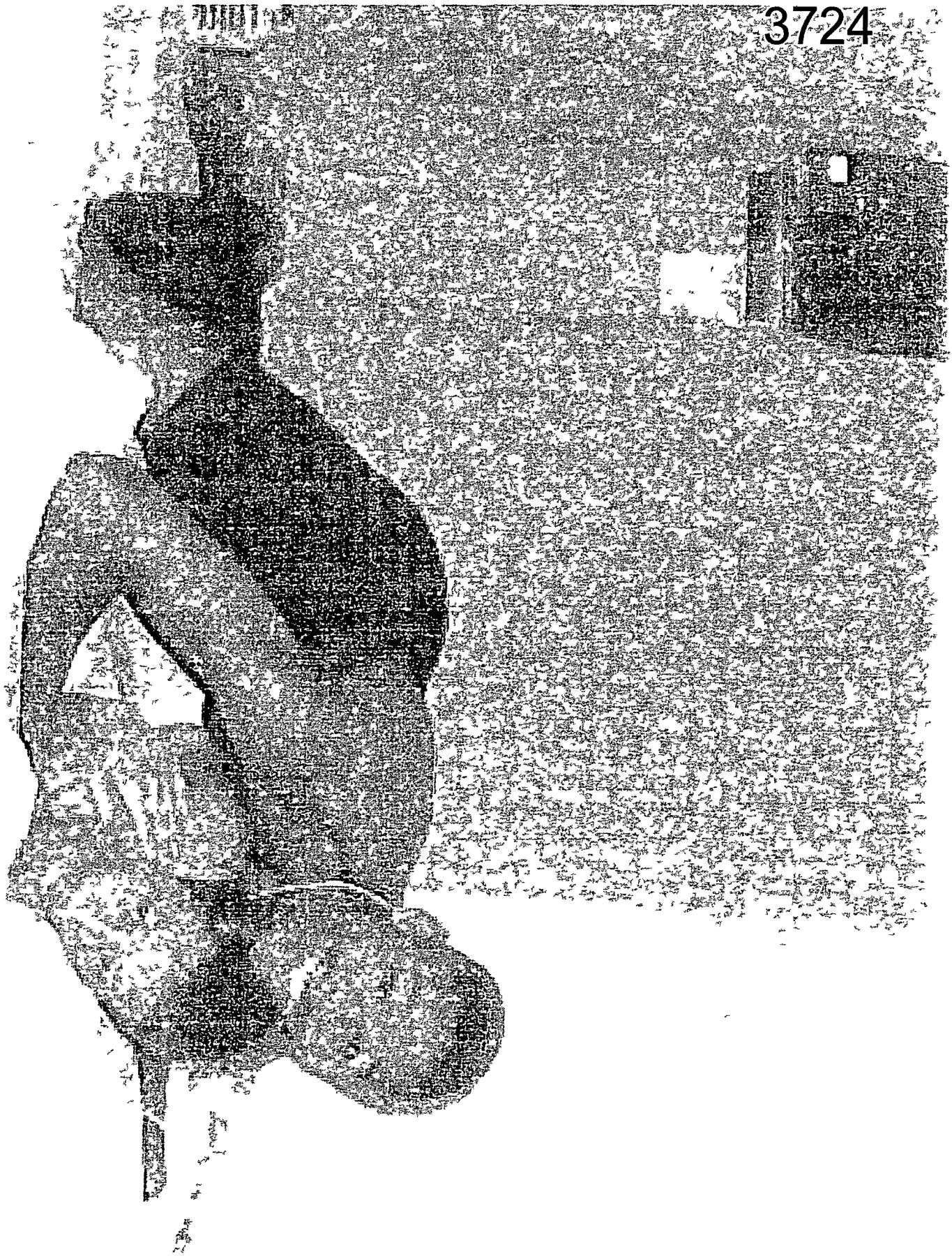
adidas

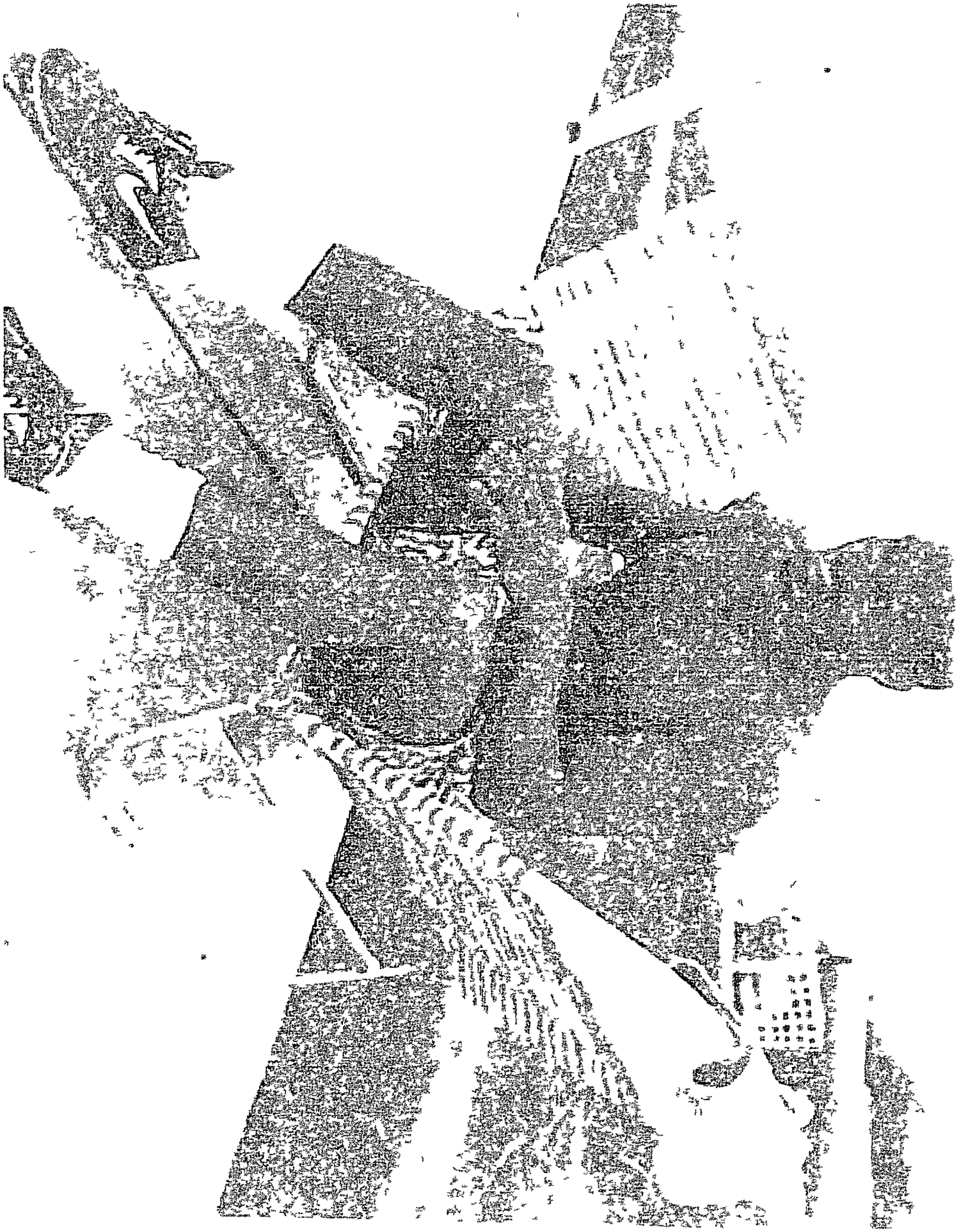
3713

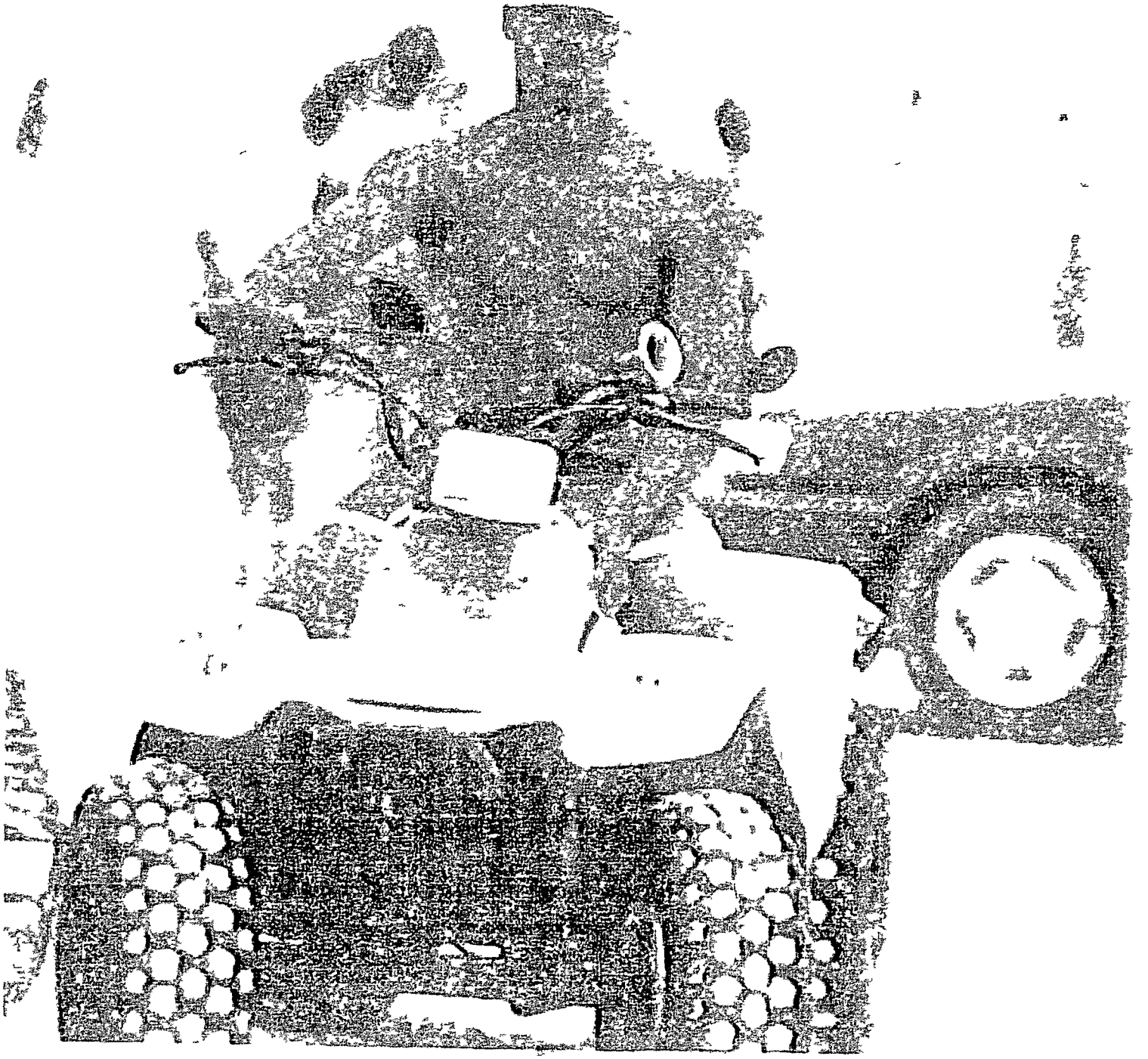
37114











8732

Kamell D Evans #398
Greenville County Detention Center
20 McGee Street
Greenville SC 29601-2210

May 27 2004

The Honorable J Derham Cole
PO Box 3483
Spartanburg SC 29304

Dear Judge J Derham Cole

Re The State of South Carolina vs Kamell D Evans

This letter is in regards to the appointment by the court of Mr Skip Goldsmith and Mr Rodney Richey as counsel for my defense in the case The State of South Carolina vs. Kamell D Evans This letter is written after meetings with Mr Rodney Richey discussions by phone with Mr Richey and written correspondence received from Mr Richey This letter is also written after consideration of the meeting on Thursday April 1 2004 with my parents and Mr Richey the telephone conversation with Mr Richey my stepmother and myself on Friday April 9 2004 and the lack of involvement of Mr Skip Goldsmith I would like to inform the court I have major concerns about being adequately represented in my case I am informing you of these concerns in detail as follows

1 Mr James Goldsmith lead attorney visited me in June 2003 and on only one other occasion at the Greenville County Detention Center (GCDC) Mr Goldsmith has not returned any of my telephone messages since my incarceration in April 2003

2 Mr Rodney Richey has visited me on (4) occasions for approximately (1) hour each has returned my phone calls (10) times and has sent written correspondence to me (6) times Enclosed with the latest written correspondence were letters addressed to (8) other individuals I do not know concerning their personal legal matters This error made by Mr Richey leads me to believe confidential information concerning my case has been sent to other parties

3 On Tuesday April 6 2004 Mr Robert H Joseph informed Mr Richey and Mr Goldsmith that he has a conflict of interest with many of the officers involved and as a result he can not perform investigative work in the above referenced matter

4 Based on a telephone conversation with Mr Richey on April 1 2004 it is my understanding that a few years ago he represented a person charged with murder and the state was seeking the death penalty He personally knew the officer that was killed but felt no conflict of interest

5 It is my understanding the Order for funding defense in my case was not forwarded to Judge Derham Cole until January 14 2004 and Mr Richey s office had not received funds on April 1 2004

6 It is my understanding Mr Richey s office did not receive the investigative case file for discovery until March 2004

7 To the best of my knowledge no person in my family has been contacted concerning information about my medical history educational history family and social history prior adult and juvenile record and religious and cultural influences

8 Mr Richey made statements during the meeting with my father and stepmother that I had not been abused as a child and have an above average IQ These statements are most likely incorrect

9 Subpoenas requesting my school records were not sent until April 15 2004

10 Mr Richey has stated he does not know if the Sapinoso family is opposed to having me sentenced to death To the best of my knowledge there is currently no investigator or mitigation specialist working on my case

11 In April Mr Richey advised my stepmother to seek a second opinion concerning specific questions my parents and I have concerning my case She met with a criminal defense attorney on April 23 2004 for approximately one hour He stated he thought it was bazaar that Mr Richey suggest any client seek a second opinion The criminal defense attorney said he definitely would give my parents and me a copy of the motion of discovery to review It was his opinion that learning about the facts of the case would help my parents if they were to be witnesses during the mitigation phase of the trial He felt it was very unusual that Mr Richey will not allow us to have a copy He did not agree with Mr Richey that there is a danger that my parents will spread the information around once it is in their possession He trusts that they have my best interests at heart In consulting with the private attorney my stepmother discussed my trial date in September 2004 The criminal defense attorney said we should be very concerned about my case being ready for trial It was his opinion that all of the investigative work concerning my background should have been completed by this time including an independent evaluation by an expert psychologist

In closing it is my understanding I am entitled to effective legal counsel under the 6th and 14th Amendments to the Constitution I also am aware that many public defender agencies are understaffed and underfunded However it is my understanding that there is sufficient SC State funds available at this time for my appointed attorneys to meet nationally recognized standards for Indigent Defense Systems Based on the above information I am requesting you review the performance of both attorneys that have been appointed to defend me I am confident you will then agree with my request for new counsel to be appointed by the court.

Respectfully

Kamell D Evans / Robyn E Grant-Evans

Kamell D Evans #398
REG

cc James Goldsmith
Rodney Richey
John Mauldin
Denyse Williams ACLUSC Columbia SC
Lottie Gibson NAACP Greenville SC
Barry Evans
Robyn E Grant-Evans

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	Case No 06-CP-23-7719
KAMELL D EVANS *Applicant*	
	AFFIDAVIT OF JOANN BRUGGER
v	
STATE OF SOUTH CAROLINA *Respondent*	

JoAnn Brugger, who appeared personally before me, affirms and states the following

1 I am the director of the Huntington Learning Center located at 225 Halton Road in Greenville, South Carolina

2 Our office no longer has Kamell's file, however, I was able to retrieve a computer printout which indicates the dates and purpose of attendance

3 Kamell enrolled in our program in December 1995 to receive SAT prep tutoring

4 Kamell received nineteen hours of SAT prep instruction during a two month period between December 21, 1995 and February 27, 1996

5 The goal of SAT prep tutoring is to assist the student by sharpening his critical thinking, math conceptualization, reading and vocabulary skills

6 The cost of tutoring was $40 per hour for a total bill of $ 855 00, which was paid in full

JoAnn Brugger
JOANN BRUGGER

Sworn to and subscribed before me
this 27 day of May, 2009

Jenny M Knight
Notary Public for the State of South Carolina

My commission expires 9 17 2018

PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
A70
1-5-09

Huntington LEARNING CENTER

SAT Prep

Attendance & Charges C165
Printed May 05 2009 at 09 15 AM

Student Name	Student ID	Home Phone
Evans, Kamell	12081995001	Business Phone

Activity Date	Day	Reference Date	On Site	Off Site	Source	Trans Type	Service	Times	Units	Unit Price	Adjust	Total Charge
02/27/1996	Tue	02/27/1996		VAC		TF	S1	03 00 PM 05 00 PM	2 00	$0 00	0 00	$0 00
02/24/1996	Sat	02/24/1996		VAC		TF	S1	09 00 AM 11 00 AM	2 00	$0 00	0 00	$0 00
02/20/1996	Tue	02/20/1996		VAC		TF	S1	03 00 PM 05 00 PM	2 00	$0 00	0 00	$0 00
02/17/1996	Sat	02/17/1996		VAC		TF	S1	09 00 AM 11 00 AM	2 00	$0 00	0 00	$0 00
02/13/1996	Tue	02/13/1996	ATD			TF	S1	03 00 PM 05 00 PM	2 00	$0 00	0 00	$0 00
02/13/1996	Tue	02/13/1996				CF	LC		2 00	$40 00	0 00	$80 00
02/10/1996	Sat	02/10/1996				CF	LC		2 00	$40 00	0 00	$80 00
02/10/1996	Sat	02/10/1996	ATD			TF	S1	09 00 AM 11 00 AM	2 00	$0 00	0 00	$0 00
02/06/1996	Tue	02/06/1996	ATD			TF	S1	03 00 PM 05 00 PM	2 00	$0 00	0 00	$0 00
02/06/1996	Tue	02/06/1996				CF	LC		2 00	$40 00	0 00	$80 00
02/03/1996	Sat	02/03/1996		VAC		TF	S1	09 00 AM 01 00 PM	4 00	$0 00	0 00	$0 00
01/30/1996	Tue	01/30/1996	EXT			TF	S1	04 00 PM 06 00 PM	2 00	$0 00	0 00	$0 00
01/30/1996	Tue	01/30/1996				CF	LC		2 00	$40 00	0 00	$80 00
01/28/1996	Sun	01/28/1996	MU			TF	S1	02 00 PM - 05 00 PM	3 00	$0 00	0 00	$0 00
01/28/1996	Sun	01/28/1996		WOH		TF	S1	08 00 AM 12 00 PM	4 00	$0 00	0 00	$0 00
01/28/1996	Sun	01/28/1996		WOH		TF	S1	05 00 PM 06 00 PM	1 00	$0 00	0 00	$0 00
01/27/1996	Sat	01/27/1996		VAC		TF	S1	12 00 PM 01 00 PM	1 00	$0 00	0 00	$0 00
01/27/1996	Sat	01/27/1996		ABS		TF	S1	09 00 AM - 12 00 PM	3 00	$0 00	0 00	$0 00
01/27/1996	Sat	01/27/1996				CF	LC		3 00	$40 00	0 00	$120 00
01/23/1996	Tue	01/23/1996	EXT			TF	S1	04 00 PM 06 00 PM	2 00	$0 00	0 00	$0 00
01/23/1996	Tue	01/23/1996				CF	LC		2 00	$40 00	0 00	$80 00
01/20/1996	Sat	01/20/1996	ATD			TF	S1	09 00 AM 11 00 AM	2 00	$0 00	0 00	$0 00
01/20/1996	Sat	01/20/1996		VAC		TF	S1	11 00 AM 01 00 PM	2 00	$0 00	0 00	$0 00
01/20/1996	Sat	01/20/1996				CF	LC	-	2 00	$40 00	0 00	$80 00
01/16/1996	Tue	01/16/1996	EXT			TF	S1	04 00 PM 08 00 PM	2 00	$0 00	0 00	$0 00
01/16/1996	Tue	01/16/1996				CF	LC		2 00	$40 00	0 00	$80 00
01/13/1996	Sat	01/13/1996	ATD			TF	S1	09 00 AM - 11 00 AM	2 00	$0 00	0 00	$0 00
01/13/1996	Sat	01/13/1996		VAC		TF	S1	11 00 AM 01 00 PM	2 00	$0 00	0 00	$0 00
01/13/1996	Sat	01/13/1996				CF	LC		2 00	$40 00	0 00	$80 00
12/21/1995	Thu	12/21/1995				DT	LC	-	1 00	$95 00	0 00	$95 00

Total Charges	**$855 00**
Total Payments	**$855 00**
Account Balance	**$0 00**

Projected Tuition

From	To	Service	Hours	Tuition Rate	Charges	Balance @ EOM	$0 00
05/04/2009	05/31/2009	LC	0 00	$0 00	$0 00		
						Balance Due @ 5/31/2009	**$0 00**

Attendance Summary

Source	ATD	ABS	MU	EXT	VAC	ANM	WOH	INST	USED
Id									

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Huntington LEARNING CENTER

Student Name	Student ID	Home Phone
Evans Kamell	12081995001	Business Phone

Attendance Summary

Source	ATD	ABS	MU	EXT	VAC	ANM	WOH	INST	USED
SSIS									
EDIT									
ADD									
Othe	10 00	3 00	3 00	6 00	17 00		5 00	19 00	19 00
Total	**10 00**	**3 00**	**3 00**	**6 00**	**17.00**	**0 00**	**5 00**	**19 00**	**19 00**

Statement History

Statement Date	Daily Maint Date	Account Balance	Projected Hours	Tuition Amount	Balance Due
02/26/1996	2/25/1996	$40 00	18 00	$720 00	$760 00
01/18/1996	1/17/1996	$0 00	16 00	$640 00	$640 00
01/11/1996	1/10/1996	$0 00	16 00	$640 00	$640 00

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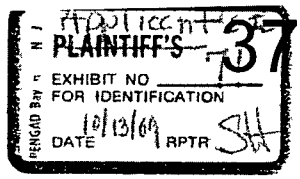


3739

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)
)
KAMELL D EVANS)
Applicant)
)
) AFFIDAVIT OF ERNEST MOON
)
)
v)
STATE OF SOUTH CAROLINA)
Respondent)
)

Ernest Moon, who appeared personally before me, affirms and states the following

1 I am currently employed in the security department for ALCOA in Cleveland Ohio I have been employed in a law enforcement type position for 26 years

2 I met Kamell when he was approximately 8 years of age while I was dating Kamell s aunt Cynthia Page whom I later married I have a son Ernest, Jr, who is two years younger than Kamell

2 Kamell and my son Ernest Jr, played municipal league basketball for Coach Buddy King, at a recreation center in inner city Cleveland While I was married, either Cynthia or I would transport Kamell to the recreation center three or four times a week for practice and on the weekends for a game After our divorce in 1985, I continued to transport Kamell to his sporting activities

3 I introduced Kamell to Bob Nance in 1989 Bob became Kamell s sports coach/mentor at that point Bob is married to Kamell's aunt, Sandra Nance

4 Kamell was a great kid and a very talented athlete He was never involved with gangs in Cleveland

Sworn to and subscribed before me
this 27 day of MAY, 2009

Donetta P Bray
Notary Public for the State of Ohio

NOTARIAL SEAL STATE OF OHIO

DONETTA P BRAY
Notary Public State of Ohio
Recorded in Ashtabula County
My Commission Expires
April 3 2013

My commission expires _____

Ernest Moon

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	Case No 06-CP-23-7719
	)	
KAMLLL D EVANS	)	
Applicant	)	
	)	
	)	AFFIDAVIT OF WILMA PAGE
	)	
	)	
v	)	
STATE OF SOUTH CAROLINA	)	
Respondent	)	
	)	

Wilma Page who appeared personally before me, affirms and states the following

1 I live in Bedford Heights Ohio Barry Evans is the oldest of my four children Kamell Evans is my grandson

2 I was born in Laurel Mississippi in 1934 I was nineteen years old when Barry was born At age twenty I moved to Cleveland Ohio, to live with my brother Once I got a job and a place to live I returned to Mississippi to get Barry who had been in the care of my parents

3 I had three more children while living in Cleveland My other three children are Gregory Page Cynthia Page and Sandra Nance who all reside in Cleveland I am extremely close to all of my children

4 I worked for thirty years in a housekeeping position in a large office building in downtown Cleveland I worked from 6 00 pm to 2 00 am I took the bus to and from work because I never learned to drive Once my children started driving one of them would pick me up from my job at 2 00 am so I would not have to ride the bus home Once my grandchildren were born I also provided daycare for them during the day before I would go to work in the evenings

5 I was both a mother and father to my children All four of my children graduated from high school and each of them has either attended college or trade school I am very proud of all of them

6 Barry was a very gifted athlete and played football in high school He had dreams of attending college on a football scholarship Renee became pregnant during their senior year in high school At the time, I was not aware that Barry was dating anyone

7 Barry and Renee were in a very unhappy marriage which ended in a divorce when

Kamell was about eight years old

8 As for the events which led to Kamell going to live with his father in South Carolina I was told Kamell had skipped school his mother became angry and she locked him out of the house Kamell was outside in February with no coat Kamell called his father in South Carolina and explained the situation Barry drove to Ohio, found Kamell, and returned to South Carolina with him There had been other times when Kamell called my daughter Cynthia to bring him food because there was nothing in the house to eat and his mother was not home

9 As a small child and an adolescent Kamell and I have always had a very close relationship He was respectful and well mannered and always had a smile He was never in a gang in Cleveland He calls me every Sunday afternoon from prison and I always look forward to talking to him

Wilma Page
WILMA PAGE

Sworn to and subscribed before me
this 25 day of March, 2009

Donetta P Bray
Notary Public for the State of Ohio

My commission expires _____

NOTARIAL SEAL STATE OF OHIO
DONETTA P BRAY
Notary Public State of Ohio
Recorded in Ashtabula County
My Commission Expires
April 3 2013

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE KAMLLL D EVANS *Applicant* v STATE OF SOUTH CAROLINA *Respondent*	IN THE COURT OF COMMON PLEAS Case No 06-CP-23-7719 AFFIDAVIT OF SANDRA NANCE

Sandra Nance who appeared personally before me affirms and states the following

1 Barry Evans is my older brother I am the youngest of the four children in my family I live in Cleveland, Ohio I am married to Bob Nance

2 My mother, Wilma Page moved from Mississippi to Cleveland when she was twenty years old Barry was born before my mother moved to Ohio My brother, sister and I were all born after my mother moved to Ohio

3 Kamell calls my mother on the phone almost every Sunday I go to my mother s house on Sunday so I can be there for Kamell s call My brother sister mother and I travel to South Carolina at least one time a year to visit with my brother Barry and his family We have also gone to Lieber Correctional Institution to visit with Kamell on several occasions

4 My husband Bob was like a second father to Kamell After my brother and Renee divorced, Bob took Kamell under his wing He took him to many sporting events, sports camps, and privately coached Kamell Kamell was a truly gifted athlete

5 After my brother and Renee divorced, my brother moved to Springfield Ohio Shatima and Kamell stayed with Renee in Cleveland After Shatima left for college only Kamell was left living with Renee Renee worked and had an active social life Kamell called my sister Cynthia numerous times to bring him food because there was none in the house My sister would either bring him food from her house or stop by McDonald s and get him something to eat

6 My family traveled to South Carolina in September 2004 for Kamell s trial No one from my family in Cleveland was asked by Kamell s defense attorney s to testify on his behalf during the sentencing phase of his trial Had we been asked

we would have certainly testified

7 I met Christina Rodriguez on two occasions The first time was while visiting my brother Barry at his home in Greer, SC The second occasion was at a large family reunion in Mississippi during the summer of 2002 While in Mississippi I observed Kamell s tattoos when he took his shirt off at some point I recall thinking his tattoos were not a good thing and may eventually cause him problems He did not have any tattoos on his forearms and hands at that time

SANDRA NANCE

Sworn to and subscribed before me
this 25 day of May 2009

Notary Public for the State of Ohio

My commission expires _____

NOTARIAL SEAL STATE OF OHIO

DONETTA P BRAY
Notary Public State of Ohio
Recorded in Ashtabula County
My Commission Expires
April 3 2013

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE KAMELL D EVANS *Applicant* STATE OF SOUTH CAROLINA *Respondent*	IN THE COURT OF COMMON PLEAS Case No 06-CP-23-7719 AFFIDAVIT OF EDDY KING

Eddy King who appeared personally before me affirms and states the following

1 My name is Eddy King but I am known to all my friends and the kids as Coach Buddy King" I am currently ~~the Assistant Director~~ of the Bath House ESK Recreation Center located at 2526 Central Avenue in downtown Cleveland

2 I met Kamell Evans in 1989 through Ernie Moon Ernie played high school basketball at the time and was dating Kamell s aunt whom he later married Ernie was kind of a mentor to Kamell he brought him to his basketball games and other sporting events

3 I coached all sports in those days My teams often won the City Championship in basketball Because he was such a great athlete I recruited Kamell to play on my City League basketball team in 1989-1990 James Posey now in the NBA also played on my team that year Kamell was just as talented as Posey was at that time My team won the City Championship that year

4 Kamell s mother or other relatives would bring Kamell to the recreation center I never met his father From what I heard, Kamell s mother was into partying' at that point in time and was not spending that much time at home with Kamell

5 Kamell was a very respectful, likeable kid and a joy to coach He was not involved in any gangs or gang activity

EDDY KING

Sworn to and subscribed before me
this 21 day of May, 2009

Donetta P Bray
Notary Public for the State of Ohio

My commission expires _____

NOTARIAL SEAL STATE OF OHIO

DONETTA P BRAY
Notary Public State of Ohio
Recorded in Ashtabula County
My Commission Expires
April 3 2013

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE KAMELL D EVANS *Applicant* v STATE OF SOUTH CAROLINA *Respondent*	IN THE COURT OF COMMON PLEAS Case No 06-CP-23-7719 AFFIDAVIT OF GREG PAGE

Greg Page, who appeared personally before me affirms and states the following

1 I live in ~~Twinsboro~~ Twinsburg, Ohio which is a suburb of Cleveland Barry Evans is my step-brother and he is 9 years old than me Kamell Evans is my nephew

2 I knew Barry and Renee had a rocky marriage prior to their divorce Both of them are to blame for many of the problems in the marriage Kamell went to live with his father in South Carolina after being physically neglected by his mother after the divorce

3 Kamell was a good kid He was fun to be around very respectful, and well mannered He was never involved in gangs while living in Cleveland

4 The last time I saw Kamell, prior to his arrest, was in Mississippi at a family reunion during the summer of 2002 Christine was with Kamell at the reunion, however, she was very quiet and she kept to herself

5 I have several tattoos which ~~I showed Kamell~~ at the reunion ~~and he showed me his~~ ~~tattoos~~ Kamell did not any gang related tattoos at that time

6 I was employed as a correctional officer at a county jail in Cleveland for eleven years

7 I along with my mother and two sisters attended Kamell s trial in South Carolina in 2004 I would have testified in the sentencing phase of the trial had I been asked to do so by his trial lawyers We were shocked to see photos of Kamell s

additional gang related tattoos at trial because we knew he did not have them the previous summer

GREG PAGE

Sworn to and subscribed before me
this 25 day of May, 2009

Donetta P Bray
Notary Public for the State of Ohio

My commission expires _____

NOTARIAL SEAL STATE OF OHIO

DONETTA P BRAY
Notary Public State of Ohio
Recorded in Ashtabula County
My Commission Expires
April 3 2013

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE KAMELL D EVANS *Applicant* v STATE OF SOUTH CAROLINA *Respondent*	IN THE COURT OF COMMON PLEAS Case No 06-CP-23-7719 AFFIDAVIT OF JAMES CARGILE

James Cargile who appeared personally before me affirms and states the following

1 I live in Warresnville Heights, Ohio I recently retired from Ford Motor Company after thirty years of employment Renee Evans is my older sister Kamell Evans is my only nephew

2 I along with my brother and two sisters attended Glenville High School in ~~East~~ Cleveland with Barry Evans Barry was a very good athlete and was quarterback of our high school football team My sister Renee got pregnant with Barry s child during their senior year in high school They eventually married a year or so after their first child Shatima was born Kamell was born four years later

3 Renee and Barry had a very rocky marriage with numerous separations and they eventually divorced Barry was often physically abusive to my sister On several occasions after a bad fight prior to their divorce, my mother enlisted me to help Renee and the children pack up and move back home But before long Renee and Barry would get back together and then I would have to move her the children and all their stuff back to the house on Thorne Ave where she lived with Barry

4 Kamell was a very respectful likeable polite kid He was never involved in gangs while living in Cleveland

5 I along with my mother and both my sisters, traveled to South Carolina in 2004 to attend Kamell s trial

6 Had anyone in my family been asked by Kamell s trial attorneys we would have gladly testified for Kamell during the sentencing phase of his trial

Sworn to and subscribed before me
this 19 da of January 2009 James A Eiglo

Notary Public for the State of Ohio

My commission expires _____

KHADIJA WILSON
Notary Public State of Ohio
Recorded in Cuyahoga Cty
My Commission Expires
March 3 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
KAMELL D EVANS	)	
Applicant	)	
	)	
	)	AFFIDAVIT OF DAVID CAMP
	)	
	)	
v	)	
STATE OF SOUTH CAROLINA	)	
Respondent	)	
	)	

David Camp who appeared personally before me affirms and states the following

1 I currently live in Akron Ohio and I work for a construction company In the winter I have a part time job at the Cleveland Airport on a crew which de ices airplanes I grew up on Thornhill ~~Road~~ in Cleveland Ohio I was raised by my mother and my grandmother in a strict home with many rules My mother was the first ~~female~~ journeyman electrician in Cleveland
AFRICAN AMERICAN FEMALE

2 I met Kamell at a birthday party when we were both five years old His grandmother lived several houses down from my grandmother s house on Thornhill ~~Road~~ Kamell went to grandmother s house everyday after school and on the weekends I attended a local Catholic School and Kamell attended public schools Although we attended different schools we became very close friends beginning at age eight or nine and remained friends until his move to South Carolina in 1991 Kamell's mother was also a single parent

3 Kamell and I formed a close friendship Our time together consisted of playing sports doing chores walking to nearby bowling alley and talking to girls as we got older We played on the same recreational football and basketball teams Competition made up a huge part of our friendship Kamell was always a much better athlete than myself I always thought he had enough talent to eventually play either professional football or basketball

4 Gangs were never part of my life or Kamell s during the days we hung out together We knew there were guys hanging out and probably selling drugs a few blocks away on 117th street, however our worlds did not cross paths

5 Kamell and I were a bit on the geeky side during our adolescent years We were each lanky and we both wore eye glasses I think my personality complimented Kamell s well I would think things through before acting

Kamell was more quick to react without thinking things through When Kamell did something, he did it full force

6 Around the ages of ten or eleven, Kamell and I often hung out with two other guys named Derrick "~~Moot~~" Baker and Tony Elliot who lived near our ~~D~~ grandmother's on 120th Street The four of us called ourselves the "one, two, O boys" because we lived on 120th Street We developed our own secret handshake It was an adolescent thing to do but we felt it sealed our friendship I think of these guys when I think of 120th Street There were no gangs at 120th Street and Thornhill, where our grandparents lived

7 I never really knew the details of Kamell's move to South Carolina He called me one day and said he might be going to South Carolina to live with his father I did talk to him not long after he arrived in South Carolina and he told me things were going for well for him I was happy for him

DAVID CAMP

Sworn to and subscribed before me
this 28 day of May, 2009

Donetta P Bray
Notary Public for the State of Ohio

My commission expires _____

NOTARIAL SEAL STATE OF OHIO

DONETTA P BRAY
Notary Public State of Ohio
Recorded in Ashtabula County
My Commission Expires
April 3 2013

Kamell DeShaun Evans
"Mel"

DOB [redacted] — 27 years old

education 2½ years North Olmsted College

1997 + 1998

business management

close to Associate degree

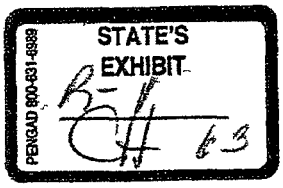
High school Green High School graduated May, 1997

- > varsity — all four years in football (linebacker)
- > varsity — basketball 3 years - varsity
- varsity — baseball > 4 years

Green Middle School

elementary school — Ohio
Caledonia Elem — Cleveland

> moved to Green when 11 or 12



single male / no children

> never been married

mother Kenne' Evans

grew up 1/2 life w/ her

> from birth to 10 or 11

> still in Cleveland, Ohio

> went back to school

> business Mgment

> 51/52 years old

(*) > has good relationship w/ her

father Barry Evans

[redacted]

> electrical engineer

> moved in w/ him when 11 or 12

> current wife Robin Evans

full sister Shatima Evans

> 31 or 30

> [redacted]

> married

> 2 boys

> cosmetologist

moved from Cleveland to Green 7 to 8 years ago

2 — 12 months

(1) B[redacted] i[redacted]
13 years old
W/ High school

(2) w[redacted] q[redacted]
10 years old

> live w/ Barry + Robin
Robin's children

> Lin Cleveland — Δ + Mom
had problem
(single mom, sister
— college)
Δ "running the streets"

> no bad trouble,
no jail, bad brushes
w/ law

> Δ decided himself to
move down w/ Dad

> in gang in Cleveland
"Crips"
> "up" neighborhood
comes + under in
the Crips

> from 11 or 12 —> 17
senior year at Green High

> going to school here

> summers in Cleveland,
Spring Break / Christmas

> mama family
living there

> ran w/ the "Cuzs"

> Δ was a leader
> he "worked his way
up the ranks

> sold crack, coke +
weed — never caught

> NO "Cuz" involvement
in Green

> sold crack, coke, + weed
in Green — never caught

- Got caught w/ 0.2 G — 1/4
pound — sent Warden —
probation
> Δ made probation
+ 1½ years

- only record = PCID
  marijuana — prob —
  made it fine

Mental Health history

> father set rules
> very different from Cleveland
- some issues here
> resented rules, etc

> Greenville — counseling
  2/3 sessions

> thabiz it

Green Middle — good discipline record

> expelled for "carrying a pistol"
  > 5th grade

Green High — good record
— good ball player

NGC — no problems
— brf, still had problems w/ father
— left — ? — fr high.
— tall, studying, school cafeteria — just eat light

Had summer CNC F/T
> summer job

Here 4 years at HPS
— good record here
— 10/hr
— P/T

> living w/ father + sister — kind of floating here

> then P/T job — "All Metals"
— 3 years
— F/T — 8 hours

(+) working 12 - 13 hours a day
→ did this for 3 years

(+) > last job N B Handy
> loader
> warehouse work
> 2nd shift — bad man
(+) very good record here
(+) very good references

> feel + good about references from all of these people

- I can't believe he is "innocent"

  > "what happened ?"

  - will cooperate w/ full investigation, wants to know what happened

- it was not planned

Character References

(1) Coach Jeff Neely
Green High School

(2) Coach Holcombes
Green High School

(3) Jimmy Blakely
N B Hamby

(4) Supervisor — UPS

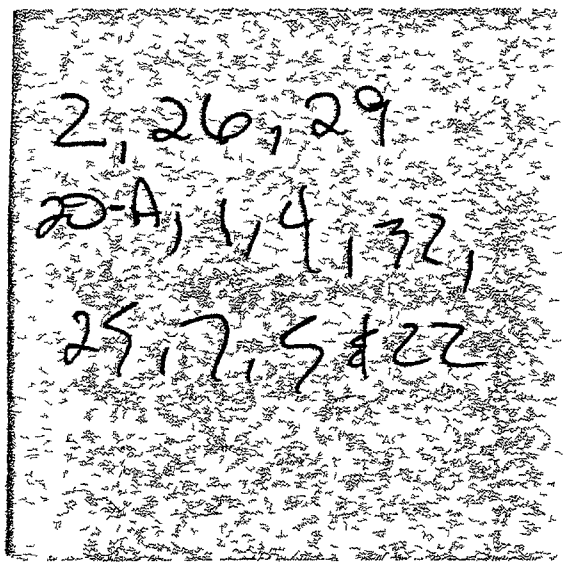
(5) Supervisor — All Metals

(6) North Greenville College

1/12/04

field notes — Review of Hand Evans

4/2/03



- > hostage situation
- > Boyfriend of Joe's sister
- > hostage negotiator ?
- > Emergency — Malden PD — one of first on the scene
- > sister Christina Rodriguez
- > Δ called her re kidnapping
- > she had broken up w/ Δ the Tuesday before
- > Δ upset, made threats
- > Joe + Dad — shot in the head
- > Joe + mother + grandson found restrained
  - > had holden
- > 7 hand guns found
  - > and clock

PENGAD 800-631-6989
STATE'S EXHIBIT
R-7
CH 6-3

Swat entered home

appears - Δ never went upstairs

> Δ was interviewed

(#) - gunshot residue taken from Δ when booked

- R Pamela Crawford — SCED forensic psychiatrist Δ didn't speak to her she interviewed some others

> Nancy Kelly — search warrant of Δ's home (2x) (R00 [redacted])

- R Ward — autopsy's
  (1) Grandfather — 4 shots to the head
  (2) Joe — 2 shots to the head

> search warrant — Δ clothing

> Tabatha Ross — shot while laying down — probably

> 7 shots fired

- Shanda Raymond — upstairs — locked in closet — on phone (cell) w/ police + 911 re loading of rifle

witness — G/F
— pattern of threats and abuse here
— not good
— he made threats against her + ex family

> B/M identified (9) while in the home

> Δ looked out window 10-12 times

> Δ put a gun to G/F's head a week before

> 3 or 4 neighbors ?

> Δ on phone w/ neighbors (304X)
— w/ G/F also

> Δ's truck seized (from wife location)

MEMO

TO The File

FROM SWS

SUBJECT State vs Kamell Evans - Initial Client Conference

DATE July 13, 2004

On July 9, 2004, I had the initial client conference with the Defendant, Kamell Evans During this conference I introduced myself and overall had an excellent meeting with Mr Evans He provided me information regarding his education (both college and high school, elementary and middle school) He provided fairly in-depth information to me regarding his mother and father, his basic background information, along with information regarding a full sister and two half sisters He informed me that he was raised in Cleveland, Ohio with his mother until approximately the age of eleven and twelve when he moved down to Greer, South Carolina, and lived with his father at that point He stated that while he was in Cleveland he joined a gang called the 'Crips" and that his mother left him alone for long periods of time because she worked in downtown Cleveland Although he did not get in formal trouble, he did have various brushes with the law and was basically 'running the streets " This is basically the reason he came to live with his father in the Greer area when he was twelve years old While he was in Cleveland and as a juvenile he sold crack, cocaine and marijuana but was never caught He did the same in Greer Also, he was never caught as a juvenile Apparently, he was expelled from middle school for possession of a pistol Mr Evans reports a good disciplinary record at Greer Middle School Greer High School, and North Greenville College

Self-reported prior criminal record - Consists solely of a General Sessions possession with intent to distribute marijuana - guilty plea, probationary sentence and successful completion of the probationary sentence

Self-reported mental health history - Was only two or three counseling sessions as a juvenile for anger and living condition issues when he moved in with his father No other treatment or history noted here

Mr Evans reports six years of part time employment with United Parcel Service as a loader/unloader Also reports a three-year part time job with All Metals and a three-year part time job with NB Handy as a warehouse worker and second shift leader of the warehouse Mr Evans reports that all of these employers should provide good positive references

Mr Evans does not deny guilt for the killing, and does not believe that he is "innocent " He reports to me that he will cooperate fully with medical and social worker examinations He stressed to me that this event was not planned and he would also like to know "what happened " He indicates to me that he must have snapped and would like to know why this occurred He does not know if this had something to do with a medical condition or something of that nature which has been inside of him, unknown, and surfaced during this incident

Character references would be Coach Jeff Neely of Greer High School, Coach Holcombe of Greer High School, Jimmy Blakely of NB Handy He will provide me with further character references and family information for the interview of family members

SWS/bb

3764

7/14/04

TO DO

- ✓ (1) hire investigator
- ✓ (2) meet w/ investigator ✓ give him list
- ✓ (3) file std motions
- (4) file venue motion
- (5) meet w/ Death Penalty Resource Center
- ✓ (6) meet w/ George Martin
- ✓ (7) research insanity defense
- ✓ (8) hire social worker
- ✓ (9) meet w/ social worker
- ✓ (10) hire psychiatrist
- ✓ (11) meet w/ psychiatrist
- ✓ (12) review Book #2
- (13) examine guilt phase witnesses
- ✓ (14) motion re D's statements hearing here

STATE'S EXHIBIT
R-4
43

Case w/ Chief

Steve (1) we need to run our investigation

Steve > (1) do order for Durham Jail

(2) SF a) interview the hostage investigation

SF b) interview the cops

SF c) crime photos + videos of scene

SF d) all forensic evidence

e) Pam Crawford

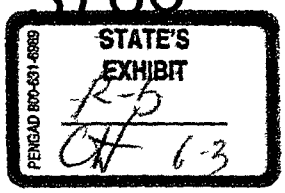
SF f) interview family > all statements

g) transcript of phone calls

SF > verify everything

Steve (2) social worker > do an order

3766



1/23/01

- end of conf
- interview / intro session w/ Q. Devree Markus + M J in vans
- Came go over of their notes, etc
- positive meeting
- pleasant interaction
- Gage - asks Q to put a jail witness list together
- okay w/ full disclosure of test results to prosecutor
  - > full explanation of this process/cons

KE

I agree to tests and release of ~~into of~~ necessary
Kamal Evans

Kamal Evans

Darrell Evans 7/30/04

> client conference

UPS BJ Young
in UPS - Atlanta Co.

[redacted]

> good friend
> good UPS contact

> full discussion of all pending charges

> doesn't believe abduction
> "they (hostages) could have left when they wanted to"

> Again, felt coerced re statement
but understood rights
"I wanted to be a man"
re taking responsibility

> KE he had all of my keys (during)

STATE'S EXHIBIT
K-6
54 63

Want to testify?

- I, or planned that he does
- Di will think about it
- I'll, planned prog/com here

> this mtg - I share & open to them for Q and A —

> Again, in my research & Lenora Tozzi back that he did the shooting

"I am not going to deny it"

- name of doc from [7/26/04]

(1 DOC records
> reviewed these
> appear 1 or 2 minor discipline issues
> grades decent

(2 Other #s
> grades fairly good
> dyslexia = 64/164
> no dency problems noted

(3 Lugg's Reports
> SCED OSR "one OSR but two from - Randell Evans, presence of gun shot residue

(* drawings of bullet entry's (* 2 in back of Jr Sammons head

coroners report for surgeon

STATE'S EXHIBIT
PERIGAD 800-631-6989

on the floor, older Japanese sitting on the floor w/ their back against a knee seat

witness Antonio K Cannon, owns a club of some type

> C wanted to be a gangster

> punk ass nigga

STEVEN W SUMNER, LLC
ATTORNEY AT LAW
114 MANLY STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE
(864) 235 3834

TELEFAX
(864) 233 8781

July 22, 2004

VIA HAND DELIVERY

Mr Kamell D Evans
Greenville County Detention Center
4 McGee Street
Greenville, South Carolina 29601

Re State of South Carolina vs Kamell D Evans

Dear Kamell

I am writing to advise you as to the status of your case Tomorrow morning, I have scheduled a meeting with Dr Jim Evans (neuro-psychiatrist), Scott Peterman (investigator), George Martin (former SCDC employee), and your father We are going to meet at my office in the morning to review your case Please be advised that over the course of the next month to six weeks any of these people may be meeting with you on one or more occasions It is important that you be as cooperative as possible with any and all questions and testing which they may employ As I have mentioned to you earlier, your complete cooperation is critical to your defense Additionally, Ms Dale M Davis will be meeting with you today at length Please cooperate fully with her interview As for Ms Davis and all of these individuals please sign any and all release and other papers which are necessary for their work Please remember that we are all working for you in this case

I hope you are well

With kind regards, I am

Yours very truly,

Steve W Sumner

SWS/bb

STEVEN W SUMNER, LLC
ATTORNEY AT LAW
114 MANLY STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE
(864) 235-3834

TELEFAX
(864) 233 8781

July 22, 2004

TO WHOM IT MAY CONCERN

Please be advised that Ms Dale M Davis has been retained by James (Skip) L Goldsmith and Steve W Sumner to work with them in the capital murder trial of Kamell D Evans Ms Davis will be interviewing/evaluating Mr Evans in preparation of his trial Please allow Ms Davis access to Mr Evans when and as requested by her

Please do not hesitate to contact me if you have any questions or need any additional information

With kind regards, I am

Yours very truly,

Steve W Sumner

SWS/bb

STEVEN W SUMNER, LLC
ATTORNEY AT LAW
114 MANLY STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE
(864) 235 3834

TELEFAX
(864) 233 8781

July 22, 2004

TO WHOM IT MAY CONCERN

Re State of South Carolina vs Kamell D Evans

Please be advised that James L (Skip) Goldsmith and I have retained Dr Jim Evans (neuro-psychiatrist), Mr Scott Peterman (investigator) and Mr George Martin (former SCDC employee) to assist us in this case Please allow these gentlemen access to Mr Evans when requested so that they can interview and/or perform testing

Please do not hesitate to contact me if you have any questions or need any additional information

With kind regards I am

Yours very truly,

Steve W Sumner

SWS/bb

STEVEN W SUMNER, LLC
ATTORNEY AT LAW
114 MANLY STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE
(864) 235-3834

TELEFAX
(864) 233 8781

July 30, 2004

TO WHOM IT MAY CONCERN

Re State of South Carolina vs Kamell D Evans

Please be advised that James L (Skip) Goldsmith and I have retained Ms Lenora Topp, a mitigation specialist, to assist us in this case Please allow Ms Topp access to Mr Evans when requested so that she can interview and/or perform testing

Please do not hesitate to contact me if you have any questions or need any additional information

With kind regards, I am

Yours very truly,

Steve W Sumner

SWS/bb

Steve Sumner

From George Martin [gnmartin3@sc rr com]
Sent Thursday August 12 2004 9 23 AM
To Steve Sumner
Subject Kamell Evans

Steve

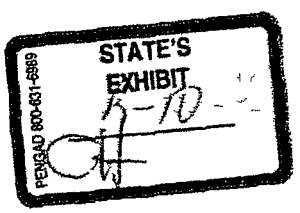
It was good to see you yesterday morning and I appreciate your arranging for a review of the files It was helpful to get some background before talking with Kamell As you d told me to expect he was very responsive and willing to talk about his circumstances In the course of our visit I got some material that I hope will be helpful at trial His account of his early gang involvement is right from the textbook

As soon as we get the SCDC policies I ll begin working on the summary you requested Given the time constraints it would be helpful if I could run by and pick up the material I live nearby and it would save several days of unnecessary delay in getting it to me The GCDC records are needed but I can pick them up when I come back up there

Kamell also gave me several names of GCDC officers who he thinks would offer helpful testimony One that sounded most promising is an Officer Markel--an older WM with a military background He wouldn t likely be a willing witness but it is worth talking to him

I ll also try to reach Lenora Topp to see where things stand with her

George



3776 1/9/01

Items w/ Skip

(1) Give her copies of what I got from Clerk Office

(2) Items

(1) Privy Class — social worker

(2) Private investigator — Feberman

(3) Motions we need to file

(4) Facts

skip (10) mitigation

steve (4) in penalty defense

(5) Divide the work:

steve (1) get experts ✓ (8) venue / steve (2) file motions ✓ steve ✓ jury motion

steve (3) Jim investigator (9) copies of media coverage

skip (6) Vern dive

skip (5) - assigned to Stacy Motions

skip (7) - Steve Zapp

steve (11) mit / family, character witnesses

steve (12) (11) mit / death penalty issues cases

STATE'S EXHIBIT 5-11

3777

DEFENSE OF INDIGENTS VOUCHER

TICE TO ASSIGNED COUNSEL OP PUBLIC DEFENDERS Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF ENDANT and attach your detailed time sheet Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other orting documentation if required Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification If more than one attorney was inted submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE NDIGENT DEFENSE AT (803) 734-1343 BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit ORIGINAL and two (2) copies along with one copy of the supporting documentation to South Carolina Office of Indigent Defense, P O Box 11433 1122 Lady Street Suite 1110 mbia, SC 29211 Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be pted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy YOU MUST SUBMIT THE ORIGINAL IED VOUCHER INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED NOTE. All vouchers must be received by the Office of Indigent Defense in correct not later than THIRTY (30) DAYS after services were completed in order to be paid.

City
GREENVILLE

List All Criminal Case Numbers
2003-GS-23-4083, -4084, -4085, -4086,

Its Full Name
AMELL DELSHAWN EVANS

2003-GS-23-4087, and -4086

[redacted] arceration)

List All Charges
MURDER x 2, KIDNAPPING x 2, BURGLARY POSSESSION

[redacted]

OF WEAPON DURING VIOLENT CRIME x 2

Type of Case (Most Serious Charge)
☒ Death Penalty ☐ Felony ☐ Misdemeanor ☐ PCR

suant to §§ 16-3-26 and 17 3-50 of the 1976 S C Code of Laws as amended claim is hereby made for compensation reimbursement, or is ified by the Public Defender for representation of the above named as set out below

NONDEATH PENALTY CASE FEES

____ Hours at $40 00 per hour for Out-of Court services $

____ Hours at $60 00 per hour for In-Court services (Restricted to actual trial or hearing times) $

DEATH PENALTY CASE FEES SEE ATTACHED TIME SHEET

7 ~~$50 00~~ 75 00 Hours at per hour for Out-of Court services $ 13,327 50

5 ~~$75 00~~ 100 00 Hours at per hour for In-Court services (Restricted to actual trial or hearing times) $ 5,950 00

MAXIMUM FEE allowed is $25 000 per attorney in Death Penalty cases, $3,500 in Felony cases and $1 000 in Misdemeanor and PCR cases. $ 19,277 50

EXPENSES

Distance Telephone Calls $

iiatric Examination $ See attached

t Witness(es)* $ See attached 14,005 89

ligative Services $ See attached

ordinary Travel Expenses $

iced Payment For Expenses $ 10,000 00

Expenses (explain) Copies and medical records $ 63 96

ACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT ORDER TO STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER.

EXPENSES (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required) $24,069 86

MAXIMUM expenses allowed are $20 000 in Death Penalty cases and $500 in all other cases.

I ☒ did not seek and obtain part payment from the Defendant in the amount shown below

mount paid by Defendant or on Defendant's behalf. $ -0-

TOTAL $

vance payment Date of request for funds (Approval Order attached) _____, 19___

al submission no further requests for funds Date case concluded Sept 21, 2004 ~~19xx~~

d of Disposition Trial ☐ Acquittal ☒ Guilty Verdict ☐ Dismissal ☐ Plea ☐ Mistrial ☐ Other

a true and correct statement of my services to and expenses for the above named Defendant

ure Signature

applicable category

blic Defender ☒ Private Attorney ☐ Public Defender ☐ Private Attorney

ILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY FIRM OR PUBLIC DEFENDER CORPORATION AS TED BELOW SOCIAL SECURITY OR F E I NUMBER MUST BE INCLUDED

Steve W Sumner (Steven W Sumner, LLC)

ESS 114 Manly Street

Greenville, South Carolina 29601

E I NUMBER 20-0507185 TELEPHONE NUMBER (864) 235-3834

APPROVED BY

(Trial Judge)

Circuit Court

(Court or Circuit)

DATE February 10 2005

CERTIFIED BY

Clerk of Court for _____

County (County of Appointment)

DATE _____ 19___

OID FILE NO

AGENCY VOUCHER NO

State of South Carolina vs Kamell D Evans, Page 1

DATE	DESCRIPTION	HOURS
07-02-04	Multiple calls with co-counsel and court re appointment	60
07-08-04	Call with Attorney Richey co-counsel, retrieval of file	1 00
07-07-04	Call with Judge Cole	10
07-09-04	Initial client conference, file set up and organization, calls to experts, file memo, conference with paralegal, multiple calls and fax to solicitor's office, retrieval and review of court file, review of potential defense motions	5 75
07-12-04	Conference with co-counsel, file review	5 00
07-13-04	File review, client conference, multiple calls re experts	3 00
07-14-04	File review (discovery), multiple calls, work on defense motions, review of prior death penalty file	7 00
07-15-04	Conference with investigator, discovery review calls with experts	4 00
07-16-04	Further work on motions, calls with Defendant's family, multiple calls for experts	3 00
07-19-04	Multiple calls to possible social workers	1 00
07-20-04	Conference with Solicitor, calls with co-counsel and investigator, research, draft of venue motion	2 00
07-21-04	Multiple calls with solicitor, mitigation specialist, Charleston County PD's office, Richland County PD's office	1 00
07-22-04	Correspondence, multiple calls with potential experts ad investigators, meeting with investigator	2 00
07-23-04	Client conference, interview with family and defense experts, conference with mitigation specialist file organization, calls re juror questionnaires	5 00
07-27-04	Review of juror questionnaires, research, multiple calls with solicitor, court, potential experts	3 00
07-28-04	Calls with experts	1 75
07-29-04	Correspondence, discovery review multiple calls with solicitor re status and Lenora Topp	2 50

State of South Carolina vs Kamell D Evans, Page 2

DATE	DESCRIPTION	HOURS
07-30-04	Client conference, conference with Lenora Topp, correspondence, discovery review research, call with co-counsel, draft of additional motions	6 00
08-02-04	Conference with investigator calls with experts, research	2 50
08-03-04	Conference with Dr Evans, calls with solicitor and investigator, correspondence, notes to file	1 50
08-04-04	Conference with co-counsel re evaluation and trial strategy, call with solicitor, investigator, file organization, correspondence	2 75
08-09-04	Various correspondence, calls with Martin re testimony, discovery review conference with investigator	2 00
08-10-04	Call with Dr Evans, client conference, call with Lenora Topp	1 50
08-11-04	Conference with Martin, correspondence multiple calls with clerk's office, call with Topp, research, call and review of Dr Berg's correspondence, call with co-counsel	3 50
08-12-04	Miscellaneous calls with experts and co-counsel, trial preparation	2 50
08-13-04	Review of State's motion responses, correspondence, subpoena preparation	2 00
08-16 04	Calls with court, clerk's office	50
08-17-04	Preparation for conference with Dr Berg, conference with Dr Berg, research, correspondence, bank deposit, remittance of expert retainers	3 00
08-20-04	Conference with solicitor re juror excuses, review of juror questionnaires	1 00
08-23-04	Pick up of questionnaires, review, call with solicitor re same, correspondence	1 50
08-24-04	File review and organization, correspondence, juror questionnaires, multiple calls	2 00
08-25 05	Conference with mitigation specialist, call with solicitor re trial	1 00

State of South Carolina vs Kamell D Evans, Page 3

DATE	DESCRIPTION	HOURS
08-26-04	Conference with George Martin, private investigator, call with mitigation specialist	1 25
08-27-04	Client conference, calls re juror excuses, notes to file, conference with private investigator, trial preparation	2 00
08-30-04	Organization of juror questionnaires, interview with Dr Evans, review of discovery, call with co-counsel	4 00
08-31-04	Research, conference with expert witness, client conference, trial preparation call with Mike Bartosh re procedure and strategy	4 75
09-01-04	Review of State's proposed exhibits, conference with Topp, conference with Martin, conference with investigator, conference with co-counsel, correspondence	6 00
09-02-04	Trial preparation with co-counsel, correspondence, client conference, multiple calls with potential defense witnesses, Topp	7 00
09-03-04	Polish and filing of supplemental motions, witness preparation, review of questionnaires, conference with solicitor re trial, conference with co-counsel, conference with solicitor re juror excuses, conference with John Mauldin re trial strategy, calls with potential witnesses	7 00
09-04-04	Review of Dr Berg's report, file organization, separate juror files, trial preparation	3 50
09-06-04	Call with Topp, client conference, research, trial preparation	3 50
09-07-04	Trial preparation, conference with co-counsel, witness preparation, call with solicitor	7 50
09-08-04	Witness interview, trial preparation, research, correspondence, review of supplemental discovery, notes to file, review of voir dire transcript and preparation of voir dire questioning	8 00
09-09-04	Travel, witness preparation, client conference conference with investigator, correspondence, call with Dr Berg, trial preparation, call with co-counsel	7 00
09-10-04	Trial preparation with co-counsel	6 00
09-12-04	File organization for trial review of juror questionnaires and organization, trial preparation	3 00
09-13-04	Conference with co-counsel and client family	2 00

State of South Carolina vs Kamell D Evans, Page 4

DATE	DESCRIPTION	HOURS
09-13-04	Jury Selection (In-Court)	8 75
09-14-04	Conference with co-counsel and client family	1 50
09-14-04	Jury Selection (In-Court)	8 50
09-15-04	Conference with client family, miscellaneous calls, co-counsel, Jury Selection (In-Court)	2 00 8 75
09-16-04	Juror strike preparation, conference with co-counsel, client conference, trial preparation, file memo	5 50
09-16-04	Jury strike, motions conference (In-Court)	3 25
09-17-04	Trial (In-Court)	8 25
09-17-04	Out-of-court work	1 75
09-18-04	Conference with client family, client, co-counsel	2 50
09-18-04	Trial (In-Court)	8 00
09-20-04	Trial (In-Court)	6 50
09-20-04	Trial preparation conference with co-counsel, Lenora Topp	3 50
09-21-04	Trial (In-Court)	7 50
09-21-04	Conference with Dr Berg, co-counsel, family after verdict	2 00
09-22-04	Post trial file organization, call with experts re final invoices, draft of Appeal, call with Supreme Court, Office of Appellate Defense, call with co-counsel re same	4 00
09-23-04	Correspondence, hand delivery of Appeal	1 00
	Total Out-of-Court hours	177 20
	Total In-Court hours	59 50

OFFICE OF INDIGENT DEFENSE VOUCHER

3782

NOTICE Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT and attach your detailed time sheet Order of Appointment and Notice of Intent to Seek Death Penalty Order allowing expenses bills for expenses and any other supporting documentation if required Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification If more than one attorney was appointed submit a single voucher signed by both attorneys IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803 734 1343 FAX 803 734 1345 email executive@scoid state sc us BEFORE INCURRING THAT EXPENSE Once the voucher has been approved by the trial judge and certified by the Clerk of Court submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to South Carolina Office of Indigent Defense P O Box 11433 1122 Lady Street Suite 1110 Columbia SC 29211 Please insure that all supporting documentation is included and that all parts of this voucher are completed Entries must be typed or legibly printed to be accepted Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED NOTE All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed but in no event later than June 30th of the year services were completed in order to be paid

County: GREENVILLE	List All Case Numbers (GS CP JU or Arrest Warrant Numbers): 03GS23-4083,-4084,-4085,-4086, -4087,-4088
Client s Full Name: KAMELL DELSHAWN EVANS	
Last Known Address (Pr or to Incarceration): [redacted]	List All Charges: MURDER X2 KIDNAPPING X2 BURGLARY POSS WEAPON DURING VIOL CRIME X2
Voucher Submitted Under Seal? ☐ YES ■ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases) ☐ YES ■ NO
Type of Cases (Most Serious Charge) ■ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR q Capital PCR q Capital Appeal q Non Capital Appeal q SVP q Other	

Pursuant to the most current and applicable S C law claim is hereby made for compensation reimbursement or is certified by the Public Defender for representation of the above named as set out below

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40 00 per hour for Out of-Court services	$
	Hours at $60 00 per hour for In-Court services (Restricted to actual hearing times)	$

DEATH PENALTY CASE FEES — SEE TIME SHEET ATTACHED		
229 5 (65.00 / 100.00)	Hours at $65 00 per hour for Out-of Court services	$ 14917 50
59 5	Hours at $76 00 per hour for In-Court services (Restricted to actual hearing times)	$ 5950 00
	TOTAL FEES	$ 20,867 50

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination	$
Expert Witness(es)	$
Investigative Services	$
Extraordinary Travel Expenses	$
Advanced Payment For Expenses	$
Other Expenses (Explain) NONE	$

REQUIRES PRE APPROVAL FROM THE COURT ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursabl

TOTAL EXPENSES (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases	
Less amount paid by Defendant or by any person on Defendant s behalf	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER	$

☐ Advance payment Date of request for funds (Approval Order attached) _____ 20__

■ Final submission no further requests for funds Date case concluded 21 SEPT 2004

Method of Disposition ☐ Plea ■ Trial ☐ Acquittal ■ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant

Attorney s Signature	Attorney's Signature
James L Goldsmith, Jr	
Check Applicable Category ☐ Public Defender ■ Private Attorney	Check Applicable Category ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW SOCIAL SECURITY OR F E I NUMBER MUST BE INCLUDED

Name and Address of Check Payee

James L Goldsmith, Jr
P O Box 752
Hendersonville, NC 28793

SS or F E I Number [redacted]

TELEPHONE NUMBER (828) 697-6759

APPROVED BY:

Trial Judge s Signature

Court or Circuit Circuit Court

Date Approved February 10, 2005

CERTIFIED BY:

Clerk of Court s Signature Paul B Wickensimer

Clerk o Court For (County) Greenville

Date Certified 2/17/2005

OID FILE NO

AGENCY VOUCHER NO

CID FORM 100 (10/02) Local Duplication is Authorized

PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

INDIGENTS VOUCHER

3783

NOTICE Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT and attach your detailed time sheet Order of Appointment and Notice of Intent to Seek Death Penalty Order allowing expenses bills for expenses and any other supporting documentation if required Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification If more than one attorney was appointed, submit a single voucher signed by both attorneys IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803 734 1343 FAX 803 734 1345 e mail executive@scoid state sc us BEFORE INCURRING THAT EXPENSE Once the voucher has been approved by the trial judge and certified by the Clerk of Court submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to South Carolina Office of Indigent Defense P O Box 11433 1122 Lady Street Suite 1110 Columbia SC 29211 Please insure that all supporting documentation is included and that all parts of this voucher are completed Entries must be typed or legibly printed to be accepted Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED NOTE All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed but in no event later than June 30th of the year services were completed in order to be paid

County	List All Case Numbers (GS CP JU or Arrest Warrant Numbers)
GREENVILLE	03GS23-4083,-4084,-4085,-4086, -4087,-4088
Client's Full Name: KAMELL DELSHAWN EVANS	
Last Known Address (Prior to Incarceration): [redacted]	List All Charges: MURDER X2 KIDNAPPING X2 BURGLARY POSS WEAPON DURING VIOL CRIME X2

Voucher Submitted Under Seal? ☐ YES ■ NO

Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases) ☐ YES ■ NO

Type of Cases (Most Serious Charge)
■ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR
☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other

Pursuant to the most current and applicable S C law claim is hereby made for compensation reimbursement, or is certified by the Public Defender for representation of the above named as set out below

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES

	Hours at $40 00 per hour for Out-of Court services	$
	Hours at $60 00 per hour for In Court services (Restricted to actual hearing times)	$

DEATH PENALTY CASE FEES — SEE TIME SHEET ATTACHED

229 5	Hours at ~~$50 00~~ 65.00 per hour for Out-of Court services	$ 14917 50
59 5	Hours at ~~$26 00~~ 100.00 per hour for In Court services (Restricted to actual hearing times)	$ 5950 00
	TOTAL FEES	$ 20,867 50

MAXIMUM FEE ALLOWED IS $25,000 per attorney In Death Penalty cases $3,600 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination	$
Expert Witness(es)	$
Investigative Services	$
Extraordinary Travel Expenses	$
Advanced Payment For Expenses	$
Other Expenses (Explain) NONE	$

REQUIRES PRE APPROVAL FROM THE COURT ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable

TOTAL EXPENSES (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required) $

MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases

Less amount paid by Defendant or by any person on Defendant's behalf $

TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER $

☐ Advance payment Date of request for funds (Approval Order attached) _____ 20__
■ Final submission no further requests for funds Date case concluded 21 SEPT 2004
Method of Disposition ☐ Plea ■ Trial ☐ Acquittal ■ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant

Attorney's Signature: James L. Goldsmith, Jr.
Check Applicable Category: ☐ Public Defender ■ Private Attorney

Attorney's Signature:
Check Applicable Category: ☐ Public Defender ☐ Private Attorney

APPROVED BY:
Trial Judge's Signature: [signature]
Court or Circuit: Circuit Court
Date Approved: February 10, 2005

CERTIFIED BY:
Clerk of Court's Signature
Clerk of Court For (County)
Date Certified

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW SOCIAL SECURITY OR F E I NUMBER MUST BE INCLUDED

Name and Address of Check Payee

James L Goldsmith, Jr
P O Box 752
Hendersonville, NC 28793

or F E I Number: 259-94-0743

TELEPHONE NUMBER: (828) 697-6759

OID FILE NO

AGENCY VOUCHER NO

ID FORM 100 (10/02) Local Duplication Authorized

PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

State v Kamell Delshawn Evans
Greenville County
03-GS-23-4083, -4084, -4085, -4086, -4087, -4088

Appointed 6 June 2003

TIME OUT OF COURT

DATE	SERVICES PERFORMED	TIME (hours)
6 JUN 03	Discussion of Appointment with Judge Kittredge	50
8 JUN 03	Telephone call to R Richey	50
9 JUN 03	Received order of Appt , reviewed same, opened file	50
10 JUN 03	Reviewed newspaper articles written about case to date, saved to file	1 00
11 JUN 03	Initial interview with client at LEC	3 00
12 JUN 03	Telephone call to client's father	50
15 JUN 03	Read *The South Carolina Capital Trial*, Clary and Bailey, 404 pages, with applicable parts noted to the file	8 00
18 JUN 03	Visit crime scene, defendant's home, route between	2 00
20 JUN 03	Discussion of case and capital litigation with J Mauldin	2 00
22 JUN 03	Meeting w/ client at LEC	2 00
30 JUN 03	Letter from R Richey Re solicitor's discovery policy in death penalty cases	25
30 JUN 03	Telephone call to R Richey Re discovery	50
09 JUL 03	Legal research issues applicable to discovery in capital case	2 00

#1

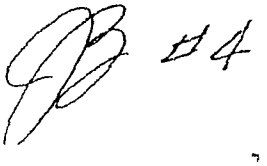
12 JUL 03	Draft motion for discovery Rule 5 and *Brady*	75
18 JUL 03	Meeting w/ client at LEC	2 00
26 JUL 03	Legal Research Statute and case law relating to Murder, manslaughter, defenses Notes and cases to file	5 00
16 AUG 03	Telephone call to R Richey Re pretrial motions	50
18 AUG 03	Reviewed motions prepared by RR Telephone call confirming same	1 00
29 AUG 03	Meeting w/ client at LEC	2 00
30 AUG 03	Legal Research Competency to stand trial, assist Counsel, mental state, guilty but mentally ill, insanity Notes and cases to file	5 00
18 SEP 03	Meeting w/ client at LEC	1 00
27 SEP 03	Legal Research Confessions, *Jackson v Denno* requirements, Search issues applicable to this case Notes and case to file	5 00
10 OCT 03	Letter re scheduling of case	25
11 OCT 03	Telephone call from R Richey Re scheduling of case	25
13 OCT 03	Letter re scheduling of case	25
15 OCT 03	Meeting w/ client at LEC	2 00
25 OCT 03	Legal Research Capital litigation in general, Constitutional issues, landmark cases reviewed, copied to file w/ notes	5 00
19 NOV 03	Meeting w/ client at LEC	2 00

#2

22 NOV 03	Legal Research Jury charges applicable to capital cases in general, specific charges for this case Review charges from other jurisdictions Copies of charges, cases, and notes to file	5 00
16 DEC 03	Meeting w/ client at LEC	1 00
20 DEC 03	Legal Research Venue, pre-trial publicity issues *Shepard* case dealing w/ venue where victim is sheriff's deputy as in present case Copies of cases to file w/ notes	5 00
30 DEC 03	Letters from R Richey and Betty Strom (re status of case)	50
07 JAN 04	Reviewed memo from R Richey Re murder statute and applicable case law	1 00
07 JAN 04	Letter from B Strom Re scheduling of case	25
09 JAN 04	Meeting w/ client at LEC	2 00
13 JAN 04	Letter from B Strom with Order setting case for trial week of 20 SEP 2004	25
14 JAN 04	Letter from B Strom with amended Order setting case for trial week of 20 SEP 2004 by consent	25
14 JAN 04	Letter from R Richey with proposed order for funding Defendant's expert witnesses	25
24 JAN 04	Legal Research Aggravating circumstances- Statutory and case law, copy cases and statutes to file w/ notes	5 00
11 FEB 04	Meeting w/ client at LEC	1 00

#3

18 FEB 04	Received Discovery from Solicitor's office, reviewed same, organized into files	8 00
28 FEB 04	Legal Research Aggravating circumstances- Statutory and case law, copy cases and statutes to file w/ notes	5 00
08 MAR 04	Interview potential witnesses	2 00
12 MAR 04	Meeting w/ client at LEC	3 00
13 MAR 04	Telephone call from RR Re scheduling trial date one week earlier to avoid conflict w/ sol conference, discussed whether to consent to same	50
16 MAR 04	Letter from B Arial to Judge Cole Re moving trial date up one week to commence 13 SEP 04	25
17 MAR 04	File review	2 00
20 MAR 04	Legal Research Aggravating circumstances- Statutory and case law, copy cases and statutes to file w/ notes	5 00
26 MAR 04	Letter from R Richey w/ proposed funding order	50
29 MAR 04	Meeting at RR's office w/ Inv Robert Joseph, discussion of case discussion of mitigation expert	3 00
30 MAR 04	Review trial notebook prepared by R Richey	2 00
05 APR 04	Letter from RR w/ copy of voucher and signed funding order	25
10 APR 04	Letter from RR w/ copy of letter from Inv resigning due to conflict	25
10 APR 04	Interview potential witnesses	2 00
10 APR 04	Telephone call to RR	50



18 APR 04	Telephone calls (5) to potential Mitigation experts/Investigators	1 50
24 APR 04	Legal Research Statutory and case law, copy cases and statutes to file w/ notes	5 00
29 APR 04	Meeting w/ client at LEC	2 00
09 MAY 04	Review/Update file	2 00
15 MAY 04	Legal Research Statutory and case law, copy cases and statutes to file w/ notes	5 00
18 MAY 04	Interview potential witnesses	2 00
20 MAY 04	Meeting in chambers w/ Judge Cole, RR, B Strom, B Arial	1 00
24 MAY 04	Meeting w/ client at LEC	1 00
25 MAY 04	Telephone call from RR Re his motion to withdraw	50
28 MAY 04	Received Notice and Motion to Withdraw from RR, reviewed same, Researched applicable case law	1 00
01 JUN 04	Telephone calls (6) to various Attorneys seeking advice/willingness to serve as co-counsel in case should RR be allowed to withdraw	1 50
03 JUN 04	Received Solicitor's Request for Notice of Alibi and Insanity Defense, reviewed applicable statutes and case law	1 00
08 JUN 04	Interview potential witnesses	2 00
09 JUN 04	Letter from RR w/ check for defense funds, deposit check into trust account	50

#5

19 JUN 04	Legal Research *Jury voir dire* issues, reviewed statutes, case law, specific questions copies to file w/ notes	5 00
21 JUN 04	Review/Update file	2 00
02 JUL 04	Telephone call to S Sumner	50
08 JUL 04	Telephone call to S Sumner	25
12 JUL 04	Meeting w/ S Sumner	2 00
13 JUL 04	Telephone call to S Sumner	25
14 JUN 04	Meeting w/ client at LEC	2 00
15 JUL 04	Received letter from RR w/ Order relieving him as counsel and appt S Sumner	25
14 JUL 04	Meeting w/ client at LEC	1 00
17 JUL 04	Legal Research Jury *voir dire* issues, reviewed statutes, case law, specific questions copies to file w/ notes	5 00
20 JUL 04	Legal Research Issue of jury sequestration, state favors, should defense oppose	2 00
28 JUL 04	Received sample Juror Questionnaire, Reviewed same	1 00
30 JUL 04	Telephone call to S Sumner	25
04 AUG 04	Meeting w/ S Sumner	2 00
10 AUG 04	Letter from S Sumner w/ Order from Judge Miller excusing us from court appearances 30 AUG through trial 13 SEP 04	25
11 AUG 04	Review/Update file	2 00
11 AUG 04	Telephone call w/ S Sumner	25
12 AUG 04	Telephone call w/ S Sumner	25

#6

21 AUG 04	Legal Research Jury argument, review applicable statutes, case law What are permissible/impermissible arguments and limits of argument	5 00
01 SEP 04	Meeting w/ S Sumner	2 00
02 SEP 04	Meeting w/ S Sumner	4 00
03 SEP 04	Meeting w/ J Mauldin	1 00
03 SEP 04	Meeting w/ S Sumner	2 00
04 SEP 04	Legal research Post-trial motions, appeal issues Technical aspects of taking appeal in capital case, preservation of issues on appeal	3 00
07 SEP 04	Meeting w/ S Sumner Meeting w/ client at LEC	7 00
08 SEP 04	Review case, notes on jury argument Prepare outlines for arguments w/ notes regarding facts	5 00
09 SEP 04	Reviewed Juror questionnaires, Continued preparation of presentation of evidence and arguments for trial	6 00
10 SEP 04	Meeting w/ S Sumner Preparation of presentation of evidence and arguments for trial	5 00
11 SEP 04	Trial preparation of presentation of evidence and arguments for trial	6 00
13 SEP 04	Trial preparation, meeting w/ S Sumner, conference w/ Defendant's family	2 00
14 SEP 04	Trial preparation, review jury Questionnaires, possible areas of Voir dire	1 50
15 SEP 04	Trial preparation, confer w/ S Sumner and defendant's family	2 00

BB #7

16 SEP 04	Trial preparation of presentation of evidence and arguments for trial	5 00
17 SEP 04	Trial preparation, review of previous testimony, confer w/ S Sumner and Defendant	1 75
18 SEP 04	Trial preparation, review of previous testimony, confer w/ S Sumner and Defendant	2 50
20 SEP 04	Trial preparation, review of previous testimony, confer w/ S Sumner and Defendant, Mitigation witnesses	3 50
21 SEP 04	Trial preparation, review of previous testimony, confer w/ S Sumner and Defendant	2 00
23 SEP 04	Meeting w/ S Sumner re appeal	50

TOTAL HOURS OUT-OF-COURT 229.50

TIME IN COURT

DATE	SERVICES PERFORMED	TIME (hours)
13 SEP 04	Jury qualification	8 75
14 SEP 04	Jury qualification/voir dire	8 50
15 SEP 04	Jury voir dire	8 75
16 SEP 04	Jury selection/pre-trial motions	3 25
17 SEP 04	Trial	8 25
18 SEP 04	Trial	8 00
20 SEP 04	Trial	6 50
21 SEP 04	Trial	7 50

TOTAL HOURS IN-COURT 59 50

#8

TIME AND ACTIVITIES REPORT
KAMELL D EVANS

July 23	6 45A-8 30 Travel to Greenville 8 30A-11 30 Meet with Sumner, D Davis, B Evans, and Dr JimEvans(psychol) interview K Evans @ GCDC 11 30A- 1 30P Travel to Columbia	6 hr 45 min 197 miles
Aug 9	Telecon w/S Sumner, Telecon w/K McKellar(SCDC) Telecon w/ Inmate Opns(SCDC)	1 hr
Aug 10	Email Sumner, Telecon w/ GCDC	30 min
Aug 11	7 00A- 9 00A Travel to Greenville 9 00A-10 45A Review Records @ Sumner Office 11 00A- 12 30P Interview K Evans—GCDC 12 30P- 2 30P Travel to Columbia	7hr 30 min 197 miles
Aug 24	Telecon w/Lenora Topp	30 min
Aug 26	6 45A – 8 45A Travel to Greenville 8 45A- 10 15A Review SCDC Policies @ Sumner Office 10 30A- 11 00A Interview K Evans – GCDC 11 00A – 12 30P Travel to Columbia	5hr 45 min 197 miles
	8 45P- 10 15P Telecon w/ Officers Banks & Merkle prepared report to S Sumner	1hr 30 min
Sept 1	6 45A – 8 45A Travel to Greenville 8 45A - 10 45 Review Evans GCDC files, met w/ Sumner Lenora Topp,& S Petersen 10 45A – 12 30P Travel to Columbia	5hr 45 min 197 miles
Sept 8	12 00P – 1 45P Travel to Greenville 1 45P – 2 45P Interview C/O Merkle w/S Sumner and review my testimony 2 45P – 4 30P Travel to Columbia	4 hr 30 min 197 miles

STATE'S EXHIBIT
R-14
1-3

Sept 20	9 15A – 11 00A Travel to Greenville	7hr 45 min
	11 00A –11 45A Sumner's Office	197 miles
	11 45A- 3 15P Greenville Co Courthouse	
	3 15P – 5 00P Travel to Columbia	

Totals	41 hr 30 min
	@ $90 per hr
	$3735
	less $1500 advance
	$2235
1182 miles@	$ 345 per mile
	$407 79
TOTAL DUE	$ 2642 79

George N Martin, III
266-64-9439

Dale M. Davis
Criminal Mitigation Services

P O Box 50944
Summerville SC 29485
Phone 843-871-6176
Fax 843-875-6626
e-mail dalemdavis@bellsouth net

August 4, 2004

Steve W Sumner, Esquire
114 Manly St
Greenville, SC 29601

RE State v Kamell Evans

STATEMENT #1

July 21, 2004 through August 3, 2003

26 25 Hours @ $50 per hour	$ 1312 50
407 Miles @ $ 37 per mile	150 59
Expenses*	113 26
Amount Due	**$ 1576 35**

*Expenses	Lodging	$ 73 26
	Food (2 days @ $20 per)	40 00
		$113 26

STATE'S EXHIBIT
5-13-
11 6 3

State v Kamell Evans

TIME LOG

Capital Mitigation Specialist Dale M Davis

Bill #1

Date	Time/ Mileage	Activity
7/21/04	1 5	Contact from lawyer re case, discussion of case & plans re seeing client & meeting in Greenville, set up/opened file for case, prep'd releases & other documents for meeting w/ client
7/22	8 5 hours	Travel to Greenvl, initial meeting with client at jail (4+ hours), contact atty & discuss same
7/23	10 75 407 miles	Meeting w/ atty & others at his office, review discovery & copy pertinent documents, Jail to meet w/ client again, Return home
7/25	1	Prep of initial witness contact info list, review of interviews for records need to obtain, prep initial info in release tracking chart
7/27	1	Interview sister re family background, etc
8/3	3 5	Review/org info gathered to date, updated family info w/ new facts from sister enter date, record location & contacts w/ actions into release tracking file began research with Ohio Board of Health re location of records for lead poisoning, multiple calls & internet searches located state agency & got details re possible leads to follow, memos re same, call to mother, interview, multiple contacts for old records w/ calls - letters & releases sent
		Hours 26 25 Mileage 407

LENORA TOPP

56 CENTRAL AVE, #204
ASHEVILLE, NC 28801
828/273-8996
828/258-0190 fax
toppgumshu@aol.com

September 22, 2004

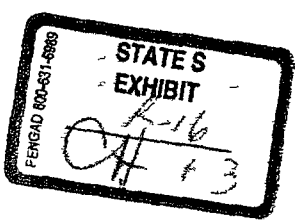
TO Steve Sumner
Attorney at Law

FROM Lenora Topp
Mitigating Specialist

REF **STATE vs KAMELL EVANS**

INVOICE

07/30/04	7 5 hrs 140 miles	Travel to Greenville/Meet with attorney & defendant
08/07/04	2 hrs 10 miles	Office/database research
08/09/04	6 hrs 140 miles	Travel to Greenville/attorney & jail
08/10/04	8 hrs 180 miles	Travel to Greenville/record requests/ phone calls/set up interviews
08/11/04	8 hrs 150 miles	Travel to Greer & Duncan/interviews
08/12/04	5 5 hrs 190 miles	Travel to Greenville/witness interviews
08/14/04	2 hrs 10 miles	Office/database research



8/15/04	4 hrs 140 miles	Travel to Greenville jail
08/16/04	1 5 hrs 10 miles	Office/phone calls & phone interviews
08/17/04	6 hrs 180 miles	Travel to Greenville/witness interviews
08/19/04	6 hrs 208 miles	Travel to Anderson & Clemson/witness interviews
08/22/04	6 hrs 150 miles	Travel to Greer & Duncan/witness interviews
08/23/04	3 75 hrs 10 miles	Office/reports/phone calls
08/24/04	5 hrs 140 miles	Travel to Greenville/defense team
08/26/04	1 hr 10 miles	Office/phone calls/records research
08/29/04	5 hr 10 miles	Office/telephone interview
09/01/04	8 5 hrs 200 miles	Travel to Greenville/employer interviews/phone calls/hospital records/attorney office
09/02/04	2 hrs 10 miles	Office/reports/phone calls
09/04/05	1 hr 10 miles	Office/phone calls
09/05/04	4 5 hrs 120 miles	Travel to Greer/family interviews
09/06/04	5 hrs 120 miles	Travel to Greer/family interviews
09/07/04	4 5 hrs 10 miles	Office/reports/phone calls

09/09/04	1 hr 10 miles	Office/phone calls
09/12/04	2 hrs 10 miles	Office/reports
09/13/04	4 hrs 142 miles	Travel to Greenville/courthouse/meet with family
9/14/04	6 hrs 120 miles	Travel to Greer/interview Ohio family members
09/15/04	5 hrs 140 miles	Travel to Greenville/attorney office/ phone calls
09/17/04	2 hrs 15 miles	Office/call witnesses/photo prints
09/18/04	4 5 hrs 142 miles	Travel to Greenville/court/delivery of evidence to attorney
09/20/04	11 5 hrs 142 miles	Travel to Greenville/court/mitigation phase
09/21/04	10 hrs 142 miles	Travel to Greenville/court/mitigation phase

TOTAL HOURS

144 25
x 50
$7212 50
-$2500 00 Retainer
$4712 50

TOTAL MILES

3011
x $ 345
$1038 80

STATEMENT

Date 09-25-2004

TO Mr Steve Sumner
Attorney At Law
ADDRESS

IN ACCOUNT WITH James R Evans, Ph D
[redacted]

In case of Kendell Evans

Meeting with Mr Sumner and defense team 7-23-04 3 hrs @ $125 00 hr	$375 00
Neuropsychological test administration 7-28-04 6 hrs @ $125 00 hr	$750 00
Quantitative EEG evaluation 7-28-04	$300 00
Test scoring/data compilation 1 hr	$125 00
Meeting with Mr Sumner 5 hr	$ 62 50
Interview with Kendell Evans 9-3-04 1 5 hrs	$187 50
Meeting with Dr Elin Berg re Evans case 8-18-04 1 hr	$125 00
Preparation for testimony in Evans case 1 hr	$125 00
Standby for testimony 9-20-04 3 5 hrs	$437 50
Testimony 9-20-04 1 hr	$125 00
Total	$2612 50
Paid	$1500 00
DUE	$1112 50

James R. Evans, Ph.D.

3800

[redacted]

comp w/ Wallace, Hunter, Evans + George, Hunter, Barnes, Evans, Hutchinson, Evans

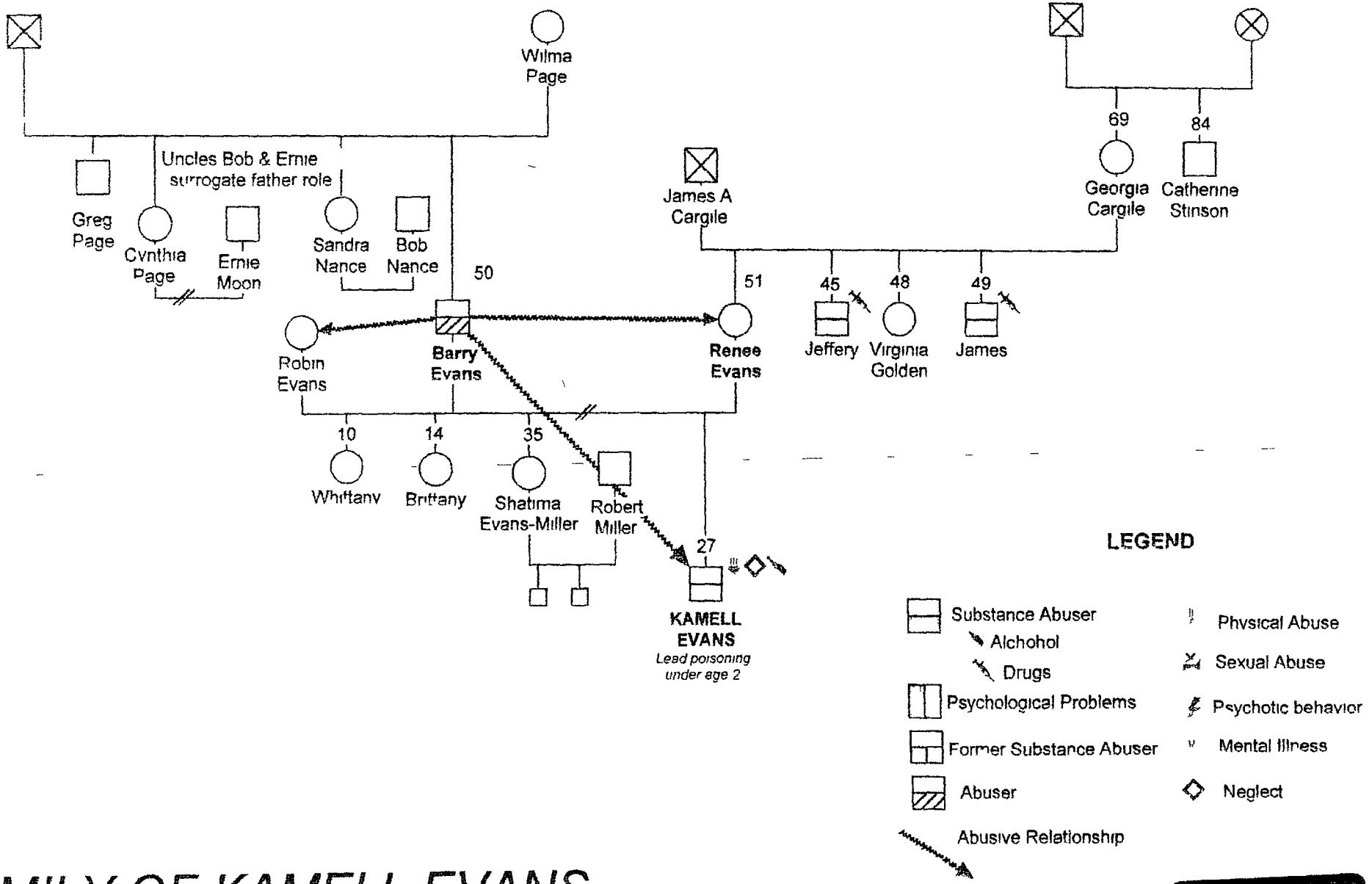
(1) Order – Release of Records – Subpoenas – Order Lee George/Wade

(2) updated CV from Lee Lyons

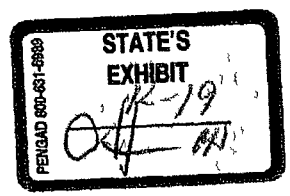
(3) New MMPI – award all supplies testing

(4) Inspection of crime scene for 2 parties – Lindsey Lee

3801



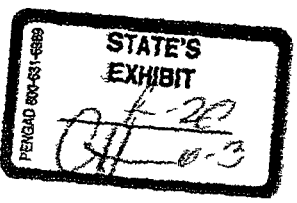
FAMILY OF KAMELL EVANS



I have read your interview with Barry Evans Do you think we should call him as a witness? Please give this some thought and call me tomorrow Thanks - Steve

9/9/04

90 Lenora 797?



SCDC policy provides for ~~SCT~~ members (including CP PS) separation & not allowed in a general population

If a newly received inmate comes to SCDC & has all the factors indicating STG gang membership (i.e - literature, tattoos etc,) - why wouldn't you immediately & permanently segregate him from the general Population - How would he ever be released from lock up?

PENGAD 800-631-6989
STATE'S EXHIBIT
R-21

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF GREENVILLE)

I Kamell D Evans, do hereby knowingly freely and voluntarily acknowledge the following information to my attorney Steve W Sumner

KE 1 I understand my constitutional right to not testify in this case I do not have to be a witness against my self and neither the court nor anyone can force me to testify in my case Furthermore I understand that the judge will instruct the jury that my failure to testify could not be held against me in any way If I choose to testify I will be subject to cross-examination by the prosecutor and potentially impeached with the statement which I previously gave to the police The decision to testify is mine and mine alone I have felt no coercion or pressure whatsoever from my attorney in this regard My attorney has explained the pros and cons of my testifying in this trial

KE 2 My attorney has explained the jury sequestration procedure to me, and I understand it completely I am informing my attorney that I have no objection to any motion he may file with the Court asking that the jury not be sequestered Should my attorneys decide to ask the judge to not sequester the jury, I support this decision

KE 3 I authorize my attorneys to strike the jury for my case (from a procedural perspective) in any manner as they see fit

KE 4 I have received a copy of my written statement and have been advised on numerous occasions by my attorneys to review it thoroughly As I understand I could be questioned at the trial regarding my statement

KE 5 On multiple occasions before I have informed Mr Sumner that I shot the two decedents (Joe Sapinosa and his father) I committed this shooting in the living room of the home and after I had spoken with the hostage negotiator and others on the cell phone I understand fully that admissions by my attorneys can be binding upon me in Court After a full discussion of trial strategy with Mr Sumner I agree for Mr Sumner and Mr Goldsmith to acknowledge my guilt to the jury during the guilt phase of the trial This is a knowing free and voluntary decision made by me and me alone after full consultation regarding trial strategy and potential options which may be available

KE I can read write and I understand the English language

Kamell D Evans 8/5/04
Kamell D Evans Date

3806

9/2/04 client conference
re trial prep / testimony

→ ct there remove present.
really need them

> confined → they don't
want want to leave
the house →

> ff you gave them
2 options

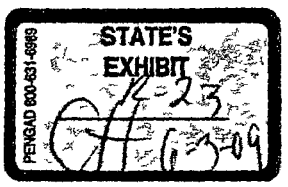
(1) "we all leave
together — out
the door"
or

(2) "you 2 leave
and let cops
come in and
get me"

> disagreement here

> they (Joe + Fabby) don't
don't want to leave
my mom + nephew
upstairs

> this goes back +
forth



> not yelling, but clear dialogue now

> Joe's robot in Hannah's hand, but 2 guns in his sweatshirt, black bag on his r/s shoulder

- Joe's robot in KE's hand

> KE "Now they are getting bolder"
> KE's words here

> KE I am getting weaker

> shell some ordering

> KE places Joe's gun on the table

- KE turns to use, then sees Joe move for robot, then shoots both, reads shoots Joe once while he is on the floor

KE is trying to reload when cops come in

KZ I am sorry

(1) hurt Christina

(2) hurt her whole family

(3 hurt Bebo "Sergio"

> KE wanted to "adopt" and raise him

> KE This never would have happened if he hadn't gotten for the pistol

- I stress don't say that'

- I stress need for fault remorse + forgiveness

> "worst mistake," ek

> We go thru her testimony all the way

> KEY He took his guns because Christina warned him they had guns in the house

NOT that he always had guns w/him

(14) > Again, we go thru this Herb in my competency

> In my opinion, he is not real strong on remorse side He really likes

> He has a noticeable problem to me, articulating his "remorse"

> I work w/him a good deal on that point and stress this heavily w/him

> He wants more medical/psychological evaluation, particularly for depression

> He does not believe this was a hostage situation

> He tells me they were free to leave anytime they wanted To go

Greenville County Department of Public Safety
Criminal Justice Support – Property Report

3810

☒ 1 Greenville SO
☐ 2 Greenville PD
☐ DCS Detention
☐ Other _____

1 Status – Check one only
☒ GS Evidence ☐ MM Evidence ☐ Found ☐ Recovered ☐ Safekeeping ☐ Other _____

2 Case No
1-03-051978

Date and Time Impounded
4/2/03

It is mandatory to submit a laboratory analysis request form for all articles requiring laboratory or forensic processing

P & E use only
167

4 Case Type
DEATH INVESTIGATION

5 Found or Recovered From ☒ Location ☐ Suspect ☐ Complainant ☐ Victim ☐ Person reporting ☐ AKA ☐ Other _____

Name INTERIOR OF RESIDENCE

6 Where property was impounded (Give exact location address)
[redacted]

7 Owner's Name	8 Owner's Address	9 Owner's Phone #

10 Item #	11 Quantity	12 Description (include make model serial numbers and drug weights)	13 NCIC Hit Yes	13 NCIC Hit No
S	1	BLACK NYLON BAG CONTAINING KNIFE (BLACK HANDLE W/8" FIXED BLADE), THREE FULL (20) COUNT BOXES OF 9MM AMMUNITION HEAD STAMPED 'FC 9MM LUGER', THREE FULL (20) COUNT BOXES OF 380 AMMUNITION HEAD STAMPED 'COR BON 380 AUTO', NINE LOOSE ROUNDS OF 9MM AMMUNITION IN A CLEAR BAG HEAD STAMPED 'RP 9MM LUGER', TEN LOOSE ROUNDS OF 380 AMMUNITION IN A CLEAR BAG HEAD STAMPED "COR BON 380 AUTO', AND ONE ROUND OF 9MM AMMUNITION HEAD STAMPED 'ELD 9MM' COLLECTED FROM THE ENTRANCE HALLWAY (0835)		
X	1	'MARIO' CHARACTER TELEPHONE COLLECTED FROM THE END TABLE ON WEST SIDE OF LIVING ROOM (0937)		

Drug weight/grams _____ Officer's initials _____

P & E Use only
Gross weight _____ Evidence clerk's initials _____

14 I hereby acknowledge that the above lists represent all property taken from my possession and that I have received a copy of this report.

Signature _____

15 Impounding Officer (print full name) MIKE PETERSON
16 Star No 8565
17 Unit No 912
18 Signature Mike Peterson
19 Investigating Officer MCNAMARA/612

20 Received by (print name)	21 Signature	22 Reason	23 Date and Time Received
EDDIE HUCKS	Eddie Hucks	STORAGE	4-9-03 1605
James Armstrong	James Armstrong	Lab Item S only	1-14-04 1020
IVA BRACKEN	Iva Bracken	P&E Item S only	3-12-04 1717

AUTHORIZATION FOR DISPOSITION

TYPE OF DISPOSITION.
☐ Cleared for destruction/auction Items _____
☐ Release item #s _____ to

Name _____

Address _____

ID# _____

AUTHORIZED BY

Name (print) _____

Signature _____

Date _____

It is the authorizing officer's responsibility to notify owners to claim property

PENGAD 800-631-6989

STATE'S EXHIBIT
K 23A

ORIGINAL

3811

Greenville County Department of Public Safety
Criminal Justice Support – Property Report

X 1 Greenville SO
] 2 Greenville PD
] DCS Detention
] ○ ber _____

1 Status – Check one only
☒ GS Evidence ☐ MM Evidence ☐ Found ☐ Recovered ☐ Safekeeping ☐ Other _____

2 Case No: 1-03-051978

ate and Time Impounded: 04/02/03(1102-1112)

It is mandatory to submit a laboratory analysis request form for all articles requiring laboratory or forensic processing

P & E use only: 4-1

4 Case Type: DEATH INVESTIGATION

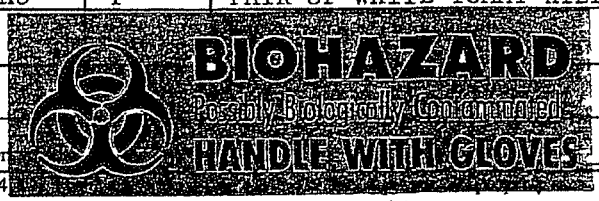
5 Found or Recovered From ☐ Location ☒ Suspect ☐ Complainant ☐ Victim ☐ Person reporting ☐ AKA ☐ Other _____

Name EVANS, KAMELL (B/M) DOB- [redacted]

6 Where property was impounded (Give exact location address)
4 MCGEE STREET (C I D)
GREENVILLE, SC
L E C

7 Owner s Name	8 Owner s Address	9 Owner s Phone #

10 Item #	11 Quantity	12 Description (include make model serial numbers and drug weights)	13 NCIC Hit Yes	13 NCIC Hit No
JH1	1	K-SWISS TENNIS SHOES (WHITE) SIZE 10 WITH SUSPECTED BLOOD STAINS		
JH2	1	BLACK "ROCA WEAR" HOODED SWEATSHIRT (XL)		
JH3	1	BLUE "ROCA WEAR" T-SHIRT, SIZE XXL		
JH4	1	PAIR WHITE SOCKS		
JH5	1	BLACK "ROCA WEAR" BELT, SIZE 32		
JH6	2	BLUE BANDANAS		
JH7	1	BLACK PAIR OF "ROCA WEAR" PANTS, SIZE XL WITH SUSPECTED BLOOD STAINS		
JH8	1	PAIR OF WHITE TOMMY HILFIGER BOXER SHORTS		



Dr

P & E Use only
Gross weight _____ Evidence clerk s initials _____

14 _____ from my possession and that I have received a copy of this report

Signature _____

15 Impounding Officer (print full name): HORNSBY, J A
16 Star No: 8728
17 Unit No: 928
18 Signature: [signature]
19 Investigating Officer: SMITH-621

20 Received by (print name)	21 Signature	22 Reason	23 Date and Time Received
Frances Rice	[signature]	Sealed Storage	4-3-03 18:22
EDDIE HUCKS	[signature]	Storage SEALED	4-4-03 1110
Michael McMahon	[signature]		

AUTHORIZATION FOR DISPOSITION

TYPE OF DISPOSITION.
☐ Cleared for destruction/auction Items _____
☐ Release item #s _____ to

Name _____

Address _____

ID# _____

AUTHORIZED BY

Name (print) _____

Signature _____

Date _____

It is the authorizing officer s responsibility to notify owners to claim property

3812

Greenville County Department of Public Safety
Criminal Justice Support – Property Report

7062

Greenville SO
Greenville FD
DCS Detention
"I" _____

1 Status – Check one only
☒ GS Evidence ☐ MM Evidence ☐ Found ☐ Recovered ☐ Safekeeping ☐ Other _____

2 Case No
1-03-051978

Date and Time Impounded
4/2/03

It is mandatory to submit a laboratory analysis request form for all articles requiring laboratory or forensic processing

P & E use only
ESE

4 Case Type
DEATH INVESTIGATION

5 Found or Recovered From ☒ Location ☐ Suspect ☐ Complainant ☐ Victim ☐ Person reporting ☐ AKA ☐ Other _____

Name INTERIOR OF RESIDENCE

6 Where property was impounded (Give exact location address)
[redacted]

7 Owner's Name	8 Owner's Address	9 Owner's Phone #

10 Item #	11 Quantity	12 Description (include make model serial numbers and drug weights)	13 NCIC Hit Yes	13 NCIC Hit No
J	1	SHELL CASING HEAD STAMPED 'FC 9MM LUGER' COLLECTED FROM THE LIVING ROOM FLOOR (0936)		
P	1	SHELL CASING HEAD STAMPED 'COR BON 380 AUTO' COLLECTED FROM LIVING ROOM FLOOR (0934)		
Y	1	SHELL CASING HEAD STAMPED 'FC 9MM LUGER' COLLECTED FROM THE LIVING ROOM FLOOR (0935)		
AA	1	PROJECTILE COLLECTED FROM BENEATH CARPET IN LIVING ROOM (0926)		
AB	1	PROJECTILE COLLECTED FROM BENEATH CARPET IN LIVING ROOM (0930)		
		********** NOTHING FOLLOWS **********		

Drug weight/grams _____ Officer's initials _____

P & E Use only
Gross weight _____ Evidence clerk's initials _____

14 I hereby acknowledge that the above lists represent all property taken from my possession and that I have received a copy of this report.

Signature _____

15 Impounding Officer (print full name) MIKE PETERSEN
16 Star No 8565
17 Unit No 912
18 Signature Mike Petersen
19 Investigating Officer MCNAMARA/612

20 Received by (print name)	21 Signature	22 Reason	23 Date and Time Received
EDDIE HICKS	Eddie Hicks	Storage SEALED	4-9-03 1605
James Armstrong	James Armstrong	Lab	1-1404 1020
IVA BRACKEN	Iva Bracken	P&E Storage Sealed	3-12-04 1722

AUTHORIZATION FOR DISPOSITION

TYPE OF DISPOSITION
☐ Cleared for destruction/auction Items _____
☐ Release item #s _____ to

Name _____

Address _____

ID# _____

AUTHORIZED BY

Name (print) _____

Signature _____

Date _____

It is the authorizing officer's responsibility to notify owners to claim property

Greenville County Department of Public Safety
Criminal Justice Support – Property Report

✓3813

☐ Greenville SO
☐ Greenville PD
☐ GCS Detention
☐ Other _____

1 Status – Check one only
☒ GS Evidence ☐ MM Evidence ☐ Found ☐ Recovered ☐ Safekeeping ☐ Other _____

2 Case No
I-03-051978

Date and Time Impounded
4/2/03

It is mandatory to submit a laboratory analysis request form for all articles requiring laboratory or forensic processing

P & E use only
ESE

4 Case Type
DEATH INVESTIGATION

5 Found or Recovered From ☒ Location ☐ Suspect ☐ Complainant ☐ Victim ☐ Person reporting ☐ AKA ☐ Other _____

Name INTERIOR OF RESIDENCE

6 Where property was impounded (Give exact location address)
[redacted]

7 Owner's Name	8 Owner's Address	9 Owner's Phone #

10 Item #	11 Quantity	12 Description (include make model serial numbers and drug weights)	13 NCIC Hit Yes	13 NCIC Hit No
D	1	PROJECTILE COLLECTED FROM THE LIVING ROOM FLOOR (0911)		
E	1	SHELL CASING HEAD STAMPED 'FC9MM LUGER' COLLECTED FROM THE		
		LIVING ROOM FLOOR (0912)		
F	1	SHELL CASING HEAD STAMPED 'FC9MM LUGER' COLLECTED FROM THE		
		LIVING ROOM FLOOR (0913)		
G	1	SHELL CASING HEAD STAMPED 'FC9MM LUGER' COLLECTED FROM THE		
		LIVING ROOM FLOOR (0931)		
H	1	SHELLLCASING HEAD STAMPED 'FC9MM LUGER' COLLECTED FROM THE		
		LIVING ROOM FLOOR (0921)		
		********** NOTHING FOLLOWS **********		

Drug weight/grams _____ Officer's initials _____

P & E Use only
Gross weight _____ Evidence clerk's initials _____

14 I hereby acknowledge that the above lists represent all property taken from my possession and that I have received a copy of this report

Signature _____

15 Impounding Officer (print full name) MIKE PETERSEN
16 Star No 8565
17 Unit No 912
18 Signature [signature]
19 Investigating Officer MCNAMARA/612

20 Received by (print name)	21 Signature	22 Reason	23 Date and Time Received
EDDIE HUCKS	Eddie Hucks	STORAGE	4903 1605
James Armstrong	James Armstrong	Lab	1-14-04 1020
IVA BRACKEN	Iva Bracken	P&E Storage sealed	3-12-04 1722

AUTHORIZATION FOR DISPOSITION

TYPE OF DISPOSITION
☐ Cleared for destruction/auction Items _____
☐ Release item #s _____ to

Name _____

Address _____

ID# _____

AUTHORIZED BY

Name (print) _____

Signature _____

Date _____

It is the authorizing officer's responsibility to notify owners to claim property

PROPERTY

- Myers - Scott Peterman

(1) Peterson — Harnell
— jongstyle
— (2K)
— terrible
— box guns in his hands
— Chinese symbols ?

(2) Koca wear hat — found behind the house

(3) Gun in 38c ∴ viewed there

(4) (4) on set items & viewed chain of custody sheets > appear to be in order

(5) Projectiles + shell casings — viewed thru photos

(6) SC ID card — Harnell evans

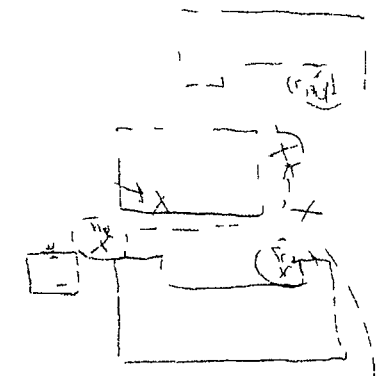
(7) Blood samples, swabbers etc

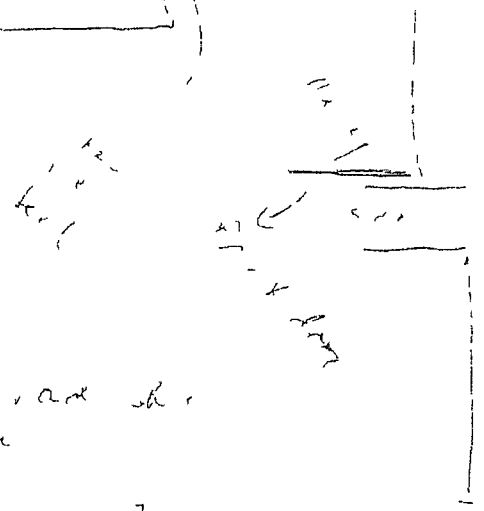
(i) Each ammo bag — 1 ~~bullets~~
> 3 bursts each (3 rounds per burst) 9mm + 280
> knife
> nine bullets
> less than 20 rounds

(ii) projectiles from victim's head
> 4mm, recent hem

(iii) clothing, shoes, etc taken from D
> 4mm, recent hem

(iv) blood swabs off gun





- A [illegible] for the [illegible]
- [illegible] for the [illegible]

[illegible]

[illegible]

[illegible] confirmed

- I heard shots in front
- Impression of 1/2 [illegible] handgun / [illegible] revolver
- rocks fired
- [illegible] 9/2
- Δ — full admission that he pulled the trigger

IHE - Daniel agrees that I don't need to spend time trying to [illegible] more if it is [illegible] (not guilty), & that if I determine family and I/S victim (2 times) & have the [illegible] & [illegible]

STATE'S EXHIBIT K-25 CH 6-3-09
PENGAD 800-631-6989

STATE'S
EXHIBIT

7/2/01

- [illegible] [illegible]

- [illegible] [illegible] [illegible]
  [illegible] [illegible] [illegible]
  [illegible] [illegible]

  - [illegible] [illegible]
    [illegible] [illegible]
    [illegible] [illegible]
    [illegible] [illegible]
    [illegible] [illegible]
    [illegible] [illegible]

  - [illegible] [illegible]

- [illegible] [illegible] [illegible] [illegible]
  [illegible] [illegible] [illegible] [illegible]
  [illegible] [illegible] [illegible] [illegible]
  [illegible] > all in discovery?

  - [illegible]
    - [illegible] [illegible]
      [illegible] [illegible]
      [illegible] [illegible]
      - [illegible] [illegible]
      - [illegible] [illegible]
    - [illegible] [illegible] [illegible]

- [illegible] [illegible] [illegible] [illegible]
  [illegible] [illegible] [illegible]

Robby "Threatening phone calls" incident report of 10/12/02
> seek to admit or introduce this?

> Book 2.

(1) copies of all Orville News, internet articles, press release, etc.

(2) photo log
> mucho photos

Steve Sumner

From Toppgumshu@aol com
Sent Thursday August 26 2004 1 28 PM
To shatimam26@yahoo com
Subject Hi there

Hi Renee
Shatima tells me her 2 grandmothers are coming down around the first of the month and I can t wait to meet them I think I will be waiting for the rest your family to come down before interviewing them--Attorney Steve Sumner and I don't think it s necessary for me to go to Cleveland (although I ve never been there to see Lake Erie) Can you please tell me who on both sides of the family will be down?

Also do you have the address of the apartment where the lead poisoning took place many years ago? The health department needs it to track the info down It s going to take 2 weeks for the medical information to get here so if I have the address it will expedite getting the info

Hope all is well with you I saw Kamell yesterday and I saw Shatima on Sunday They are both holding up as well as can be expected Look forward to hearing from you

Lenora Topp
828/273-8996

Re Reg -

(1) Had D, as a result of mental disease or defect, lack capacity to distinguish moral or legal right from moral or legal wrong or to recognize murder, armed robbery and kidnapping as morally or legally wrong (all at time of the offense)

(2) And the D have the power to distinguish right from wrong in the acts themselves) — to recognize the acts complained of

STATE'S EXHIBIT R-28 CH 6-3-09
PENGAD 800-631-6989

(1) The defendant has no significant history of prior criminal conviction involving the use of violence against another person

(4) (2) The murder was committed while the defendant was under the influence of mental or emotional disturbance

(3) The victim was a participant in the defendant's conduct or consented to the act

(4) The defendant was an accomplice in the murder committed by another person and his participation was relatively minor

(5) The defendant acted under duress or under the domination of another person

(5) (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired

(6) (7) The age or mentality of the defendant at the time of the crime

(8) The defendant was provoked by the victim into committing the murder

(9) The defendant was below the age of eighteen at the time of the crime

(7) (10) The defendant had mental retardation at the time of the crime Mental retardation means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation The jury if its verdict is a recommendation of death shall designate in writing and signed by all members of the jury the statutory aggravating circumstance or circumstances which it found beyond a reasonable doubt The jury if it does not recommend death after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt shall designate in writing and signed by all members of the jury the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt In nonjury cases the judge shall make the designation of the statutory aggravating circumstance or circumstances Unless at least one of the statutory aggravating circumstances enumerated in this section is found the death penalty must not be imposed

Where a statutory aggravating circumstance is found and a recommendation of death is made the trial judge shall sentence the defendant to death The trial judge before imposing the death penalty shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice passion or any other arbitrary factor Where a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury the trial judge shall sentence the defendant to life imprisonment as provided in subsection (A) Before dismissing the jury the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt it shall not make a sentencing recommendation Where a statutory aggravating circumstance is found the trial judge shall sentence the defendant to either life imprisonment

No person

[illegible] 5/15/14

[illegible]

(1 [illegible] Test Scale (WISC-)

> scored in low average range

> I & ⟶ 94
> low average
> 35th percentile
(65/100 do better)

> on sub tests
> most the same performance
> did well on comprehension & above average

(2 [illegible] Reading Achievement Test

> word recognition
> reading comprehension

(x > performed at 8th grade level

STATE'S EXHIBIT
R-29
CH-6-3-09

- ... mid sum - computation
- 7th grade level

(+) Day Tan Battery

- ... battery of tests
- designed to show brain damage / brain dysfunction

> did well on some subtests

did poorly on some

> exhibited cognitive impairment to some degree

- Trail making — did poorly
- Tactual performance test — did poorly
  - slower - some left hemisphere dysfunction

- [illegible] on other [illegible]
[illegible]

(#) - [illegible] = ?
[illegible]
dysfunction

(€) ~~IBS text~~
IVH text

> zone radiating
spread + response

(¥) > [illegible] suggested
moderate AFD
(not def disorder)

> also showed
zone dysregulation

(@) [illegible] text wording text
- [illegible] up track
reading text

- [illegible]

[illegible]
learning disability

- will [illegible] right ear
- [illegible] worked [illegible]

> [illegible] can't care [illegible] (w)
[illegible] know, but, [illegible]
heart [illegible]

(-) [illegible] heat

- [illegible] decreased communication skills

> may [illegible] some type of [illegible] or brain dysfunction

> [illegible] deaf of high frequency [illegible] → [illegible] "motor running high" [illegible]

Leading Factors

- Primal → emotional importance
  - Yes
- Capacity of Δ
  - > diminished capacity to alter or come up with alternative ways to deal
  - agency / inc flexibility
  - > Probably across bkt thinking
  - > more / none than average for given judgment
- 5 NOT DIRECTLY FIT AHEAD

STEVEN W SUMNER, LLC
ATTORNEY AT LAW
114 MANLY STREET
GREENVILLE, SOUTH CAROLINA 29601

TELEPHONE
(864) 235 3834

TELEFAX
(864) 233 8781

August 5, 2004

VIA FACSIMILE ONLY - (864) 467-8610

Ms Betty Strom
Solicitor's Office
Greenville County Courthouse
305 East North Street, Suite 325
Greenville, South Carolina 29601

Re State of South Carolina vs Kamell Evans

Dear Betty

I am writing as a follow up to our conversation of Wednesday regarding preliminary psychological testing which has been conducted on the Defendant along with anticipated follow up psychiatric testing While neither Skip Goldsmith nor myself currently have a formal report or result of tests or examinations conducted upon the Defendant, I wanted to advise you of the information which I have to date regarding the potential preliminary results of this testing I have spoken with a neuro-psychologist who has examined the Defendant, and below I will relate to you the initial and preliminary findings which he relayed to me Tuesday I am sending you this letter in the spirit of complete reciprocal discovery under South Carolina Rule of Criminal Procedure 5 and in consideration that the trial is scheduled to begin in approximately six (6) weeks I will, of course, forward you copies of any and all reports when I receive them

Please keep in mind that I have not yet received any formal reports and cannot state that the information contained in this letter is completely accurate as it is being taken from notes which I made from my conversation with the neuro-psychologist With that caveat in mind, it is my information that the Defendant has an IQ in the range of 94 His word recognition skills and reading recognition skills are at the eighth grade level and his arithmetic computation skills are at the seventh grade level The neuro-psychologist anticipates that the formal test results will show that the Defendant suffers from a condition labeled as "Cognitive Rigidity" Furthermore, that tests show some degree of 'Left Hemisphere Brain Dysfunction" The Defendant does exhibit mild brain dysfunction and a potentially mild learning disability He also exhibits some moderate attention deficit disorder and depression As noted herein, there is some suggestion of a learning disability A different test indicates some potential degree of brain injury and/or brain dysfunction I do anticipate a probable psychiatric examination in the near future on Mr Evans

STATE'S EXHIBIT
1-30
LH 6-3-09

Please be advised that pursuant to South Carolina Code Section 16-3-20 (b) that the Defendant will most likely present evidence during the sentencing phase (assuming his sentencing phase occurs) of the following mitigating circumstances

1 That the Defendant has no significant history of prior criminal conviction involving the use of violence against another person,

2 The murder was committed while the Defendant was under the influence of mental or emotional disturbance,

7 The age or mentality of the Defendant at the time of the crime, and possibly, depending upon the results of further testing (6) the capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired

Betty, should any type of insanity and/or guilty but mentally ill defense become a real possibility at the trial, I will notify you immediately However, based on the information contained in this letter and information known to me to date, I do not anticipate either of those defenses Again, if this changes I will let you know immediately

If you have any questions or comments concerning this letter, please do not hesitate to contact me

With kind regards, I am

Yours very truly,

Steve W. Sumner

SWS/bb

8/10/04
- interview w/ Evans

Rh Resp - Evans

(1) Did Δ, as a result of mental disease or defect, lack capacity to distinguish moral or legal right from moral or legal wrong or to recognize murder, armed robbery and kidnapping as morally or legally wrong (all at time of the offense)
> Δ knew right from wrong
> no issue here
> Δ 'knew' at time of offense

(2) Did the Δ have the power to distinguish right from wrong in the acts themselves) — to recognize the acts complained of as either morally or legally wrong. — Yes, he had the capacity at time of offense

(3) Was the Δ, at time of crimes, under a mental disease or defect wherein he lacked sufficient capacity to conform his conduct to the requirements of the law —
> NO

(4)
> Rh Evans says no issues here re insanity or competency

STATE'S EXHIBIT
R-31
CH-6'03
PENGAD 800-631-6989

(1) The defendant has no significant history of prior criminal conviction involving the use of violence against another person

(4) (2) The murder was committed while the defendant was under the influence of mental or emotional disturbance yes

(3) The victim was a participant in the defendant's conduct or consented to the act

(4) The defendant was an accomplice in the murder committed by another person and his participation was relatively minor

(5) The defendant acted under duress or under the domination of another person

(5) (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired > ; knew right from wrong

(6) (7) The age or mentality of the defendant at the time of the crime

(8) The defendant was provoked by the victim into committing the murder

(9) The defendant was below the age of eighteen at the time of the crime

(7) (10) The defendant had mental retardation at the time of the crime Mental retardation means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period > NC

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation The jury if its verdict is a recommendation of death shall designate in writing and signed by all members of the jury the statutory aggravating circumstance or circumstances which it found beyond a reasonable doubt The jury if it does not recommend death after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt shall designate in writing and signed by all members of the jury the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt In nonjury cases the judge shall make the designation of the statutory aggravating circumstance or circumstances Unless at least one of the statutory aggravating circumstances enumerated in this section is found the death penalty must not be imposed

Where a statutory aggravating circumstance is found and a recommendation of death is made the trial judge shall sentence the defendant to death The trial judge before imposing the death penalty shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice passion or any other arbitrary factor Where a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury the trial judge shall sentence the defendant to life imprisonment as provided in subsection (A) Before dismissing the jury the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt it shall not make a sentencing recommendation Where a statutory aggravating circumstance is not found the trial judge shall sentence the defendant to either life imprisonment or a mandatory minimum term of imprisonment for thirty years No person sentenced to life imprisonment or a mandatory minimum term of imprisonment for

to conform his conduct to the requirements of the law —

(4) Evans does believe C under some type of emotional or mental disturbance, But that was not at the time

Court conf 9/14/14

- reviewed jury struck process, full input from client Jim

We review the jury struck sheet Kamel approves the jurors he wants struck and has full agreement is signified by his initials and signature

Kamel Evans

> talked about his testimony

> things present

> went thru his testimony completely again

> stressed remorse angle, many many mistakes, OK

> went thru probable cross questions

STATE'S EXHIBIT
K-32
CH 6-3-17
PENGAD 800-631-6989

9/6/01

> client conf

> detailed explanation of insanity vs m/e disturbance testimony and the law here

> what it means

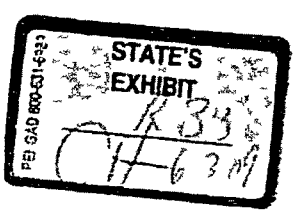
> extensive discussion about his testimony
> pros vs cons

> practiced a "jury address" statement

> he does better this time than last week

> his attitude is better

> States he was happy, very happy w/ me. upset about lack of activity prior to my involvement



Witness Notes

- w/ Det G, received disc

> blood screen >: Δ negative for alcohol and any drugs

> Tonya Lee's Code 5 —
  > front porch here
  > he hears shouting + talking about her past problems + fear of the Δ

> Δ's statement

> Investigator notes — illegible

> Δ's NCIC record

> numerous Code 5's from SWAT officers, etc

> chain of custody forms

> Investigator notes — Subpoena

> UPS records

> house lease

> Bell South records

> GH> subpoena for victim info

3841

Morgan v Illinois

w/ Witherspoon

John Marsden

(1) ~~Ensure fair process and due process~~

~~(2) Impact of~~ life, juror questions

~~(3) Impact of~~ death, juror questions

(4) Put D up in guilt phase not phase

(5) How far can ct have go w/ victim impact evidence

~~(6) Can ct ban case~~

Steve Sumner

From Toppgumshu@aol com
Sent Thursday, August 26 2004 1 35 PM
To stevesumner@bellsouth net
Subject Records research

Steve
FYI--unless all school records from Ohio were sent to Greer when K moved we won t get any According to the secretary of the former Kirk Jr High all records were destroyed with the building 3 years ago because of so much mold in the basement She is sending me a letter to verify that

Mental Health records might not be available--the policy in G ville Co is to send them to Columbia and after 10 years they are destroyed I hope they were put on micro fiche--I can't imagine just destroying those documents Do you have Greer Middle School s records? According to Dale's table (not graph-hahaha) she sent clear copies to your office I just don t want to duplicate things

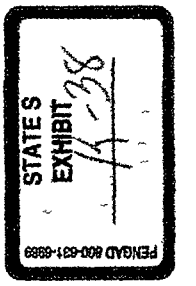
It takes 2 weeks to get medical records from Kaiser I was told that the address Dale used doesn t even exist but I m sure she didn't make it up I requested all the records again

Am going to get the transcript again from N Greenville

thanks
Lenora

PENGAD 800-631-6989
STATE'S
EXHIBIT
K 87
CH

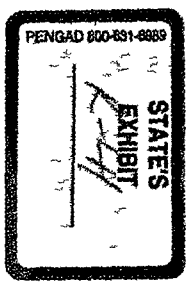
ABFO No. 2

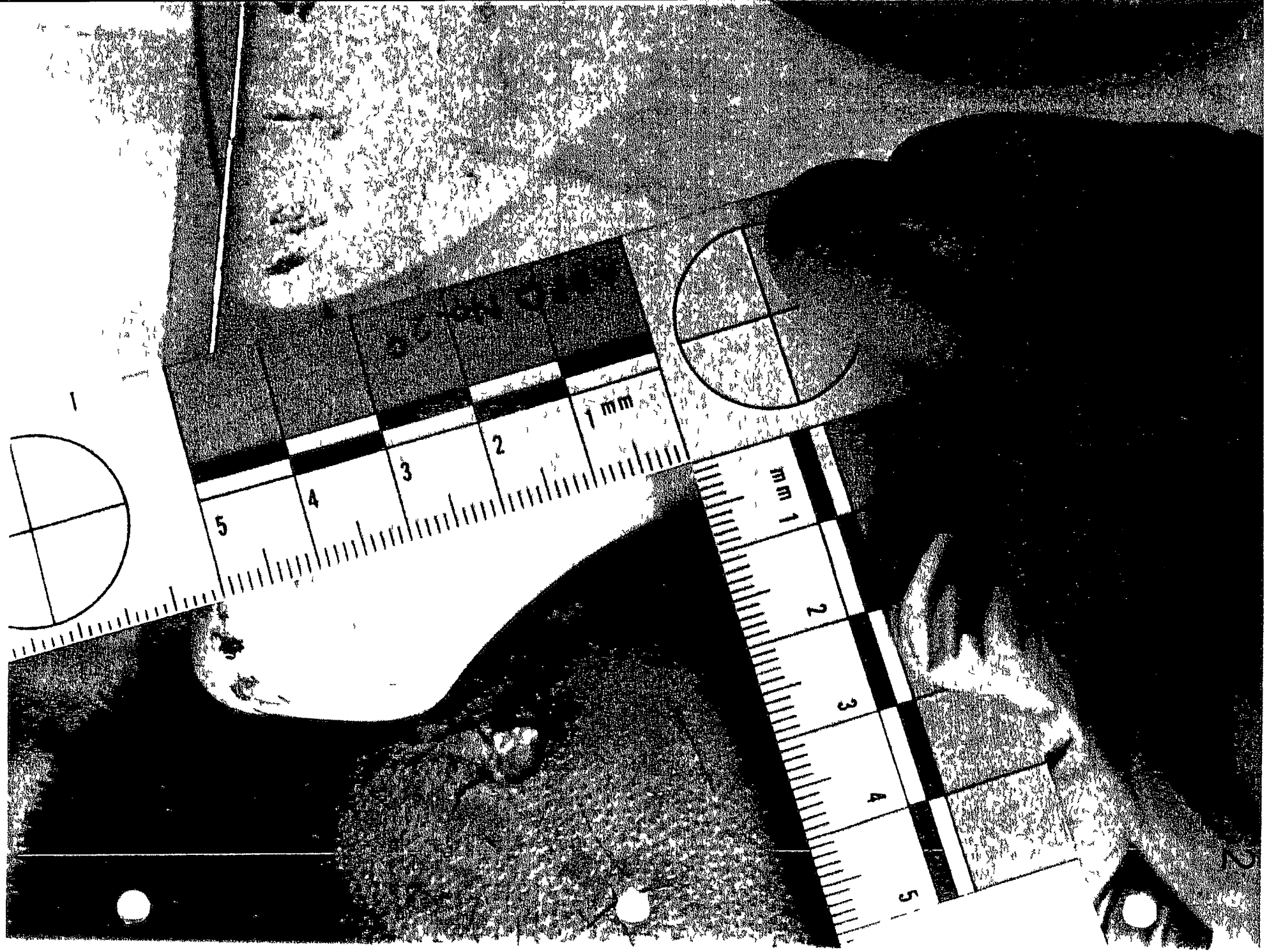

STATE'S
EXHIBIT
14-38
PENGAD 800-631-6989

Getty Images

STATE'S
EXHIBIT
13-39

3848


PENGAD 800-631-6989
STATE'S
EXHIBIT


1
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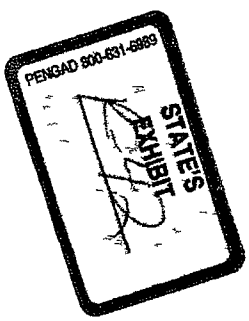
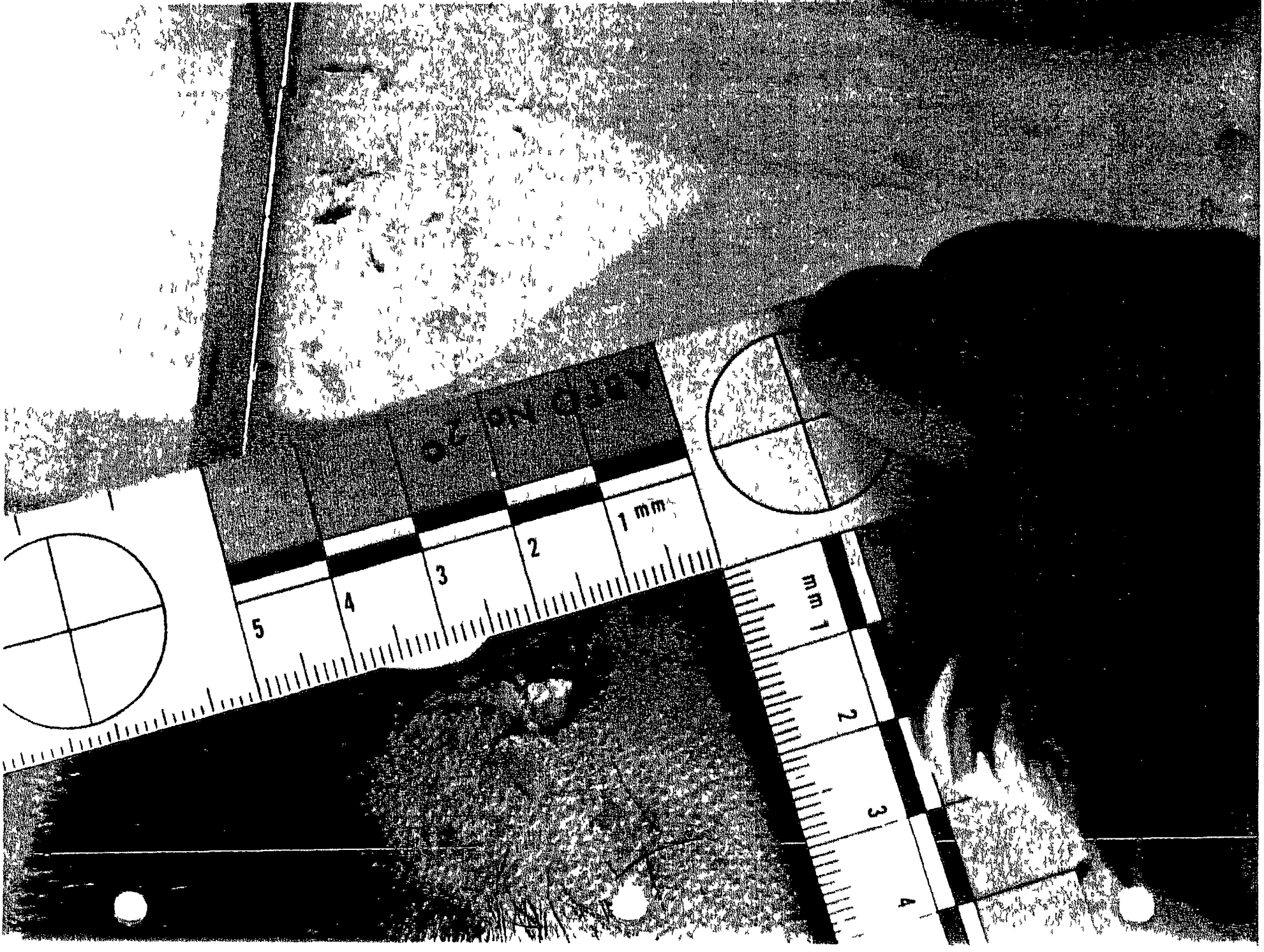

PENGAD 800-631-6989
STATE'S
EXHIBIT


1 mm
2
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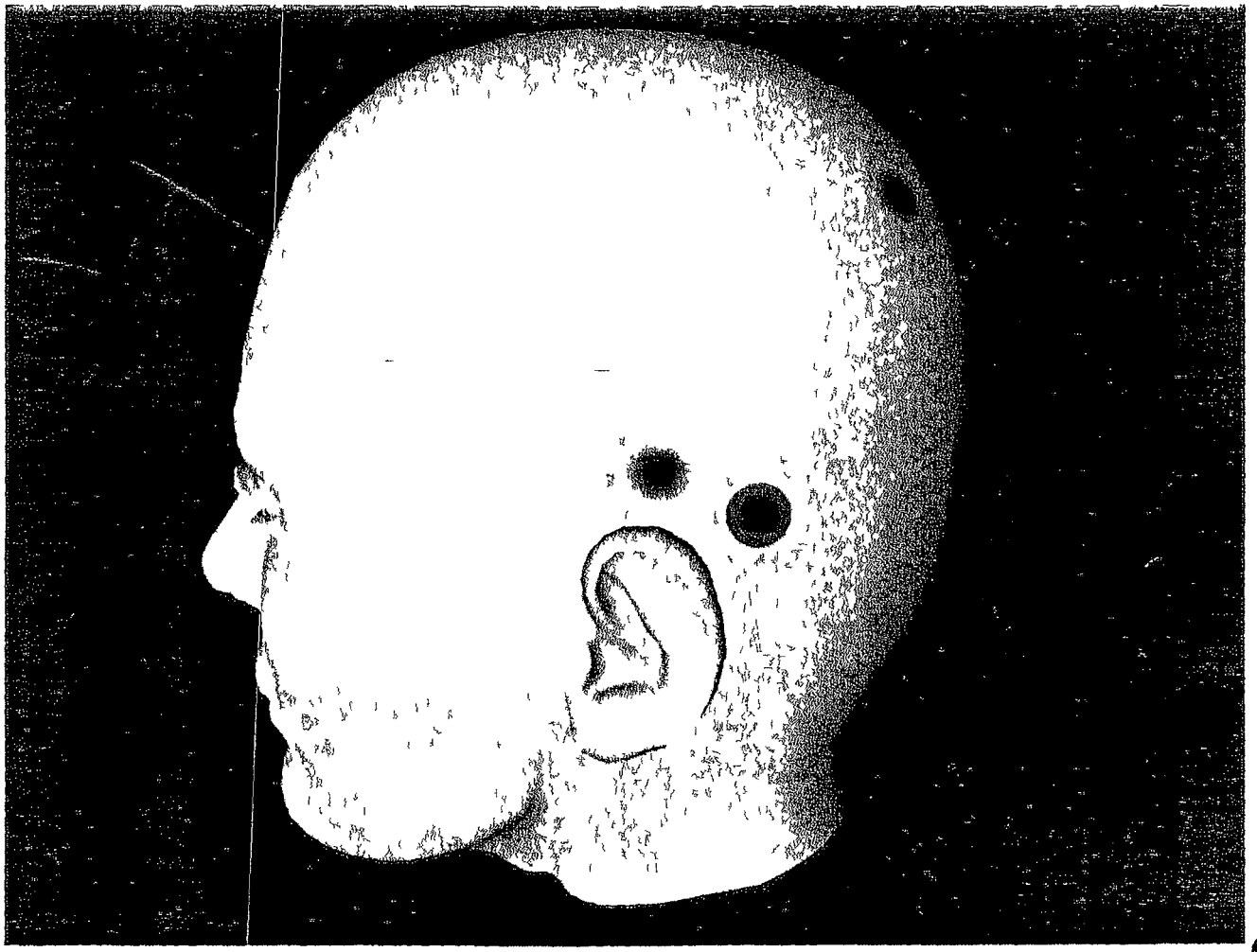
4
5
mm 1
2
3
4

Left View of Head of Antonio Jose Sapinoso
Entrance Wound #4



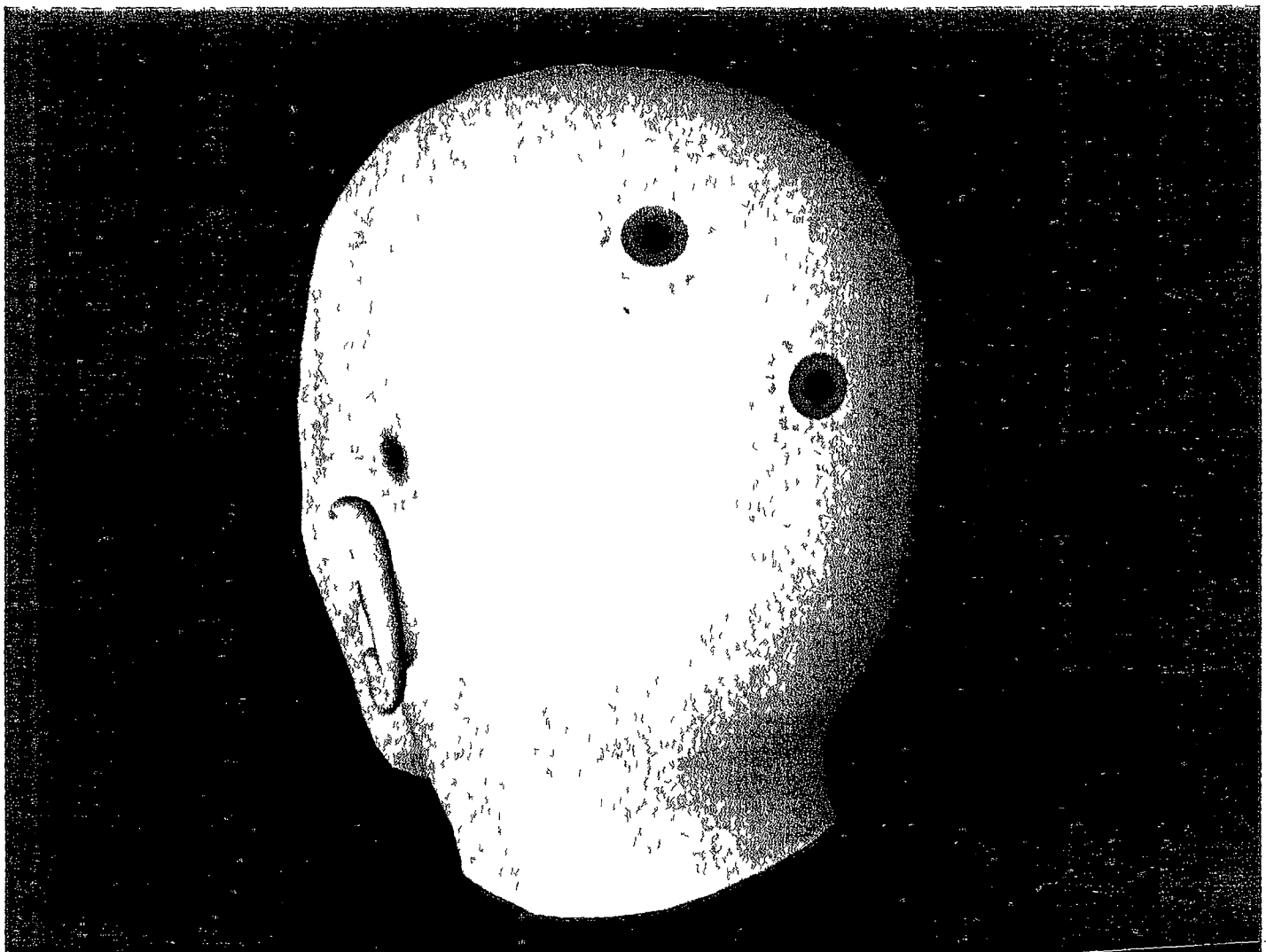
State's Exhibit # 48 1

3855

STATE'S EXHIBIT
A-43

PENGAD 800-631-6989

Left Rear View of Head of Antonio Jose Sapinoso
Entrance Wound # 3



State's Exhibit # 48-h

STATE'S EXHIBIT
L-44
PENGAD 800-631-6989

3857

State v. Kamell Evans

Dr. Michael Ward
Demonstrative Aid

State's Exhibit # 48

3858

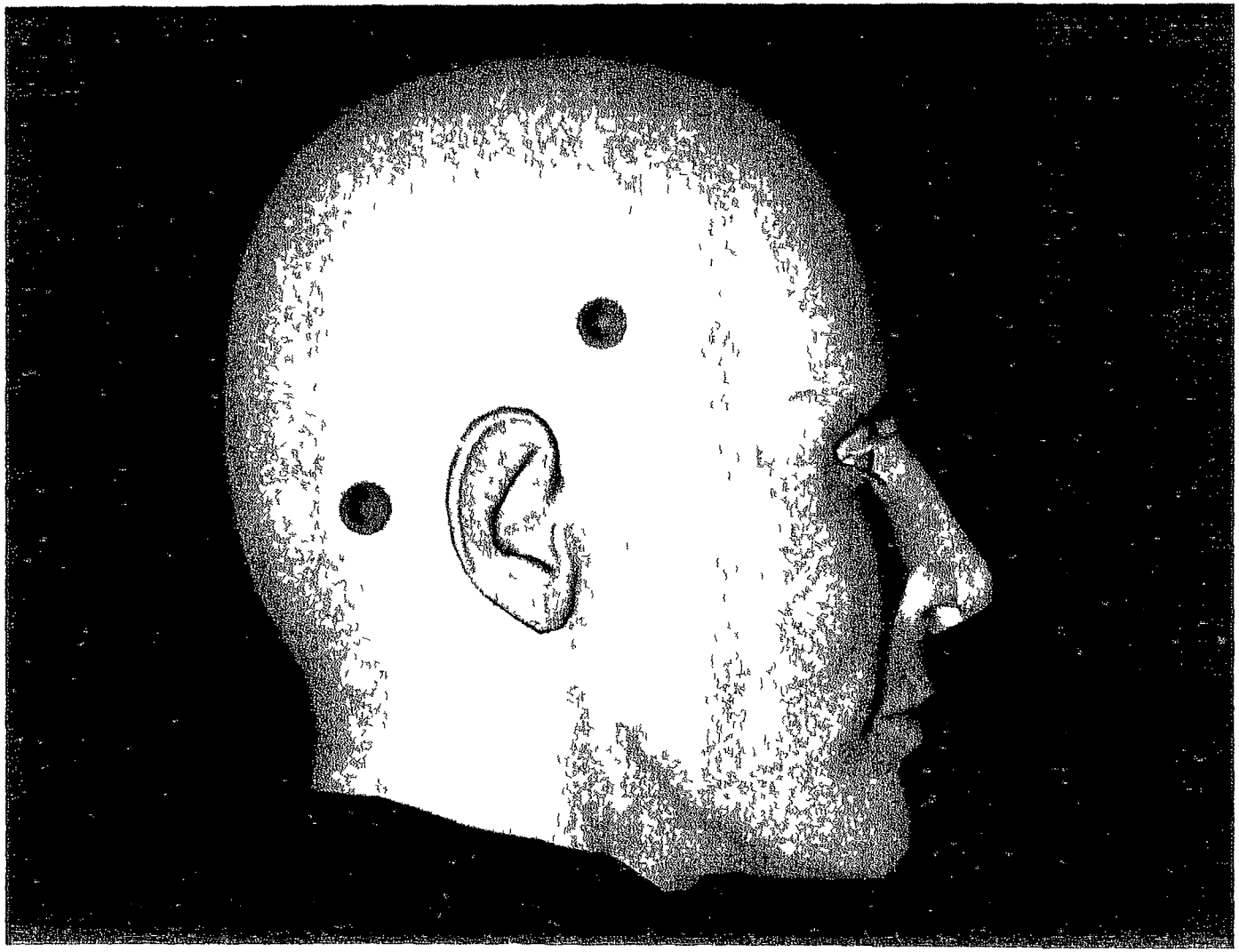
Antonio Locsin Sapinoso

D.O.B. - [redacted]

State's Exhibit # 48 a

3859

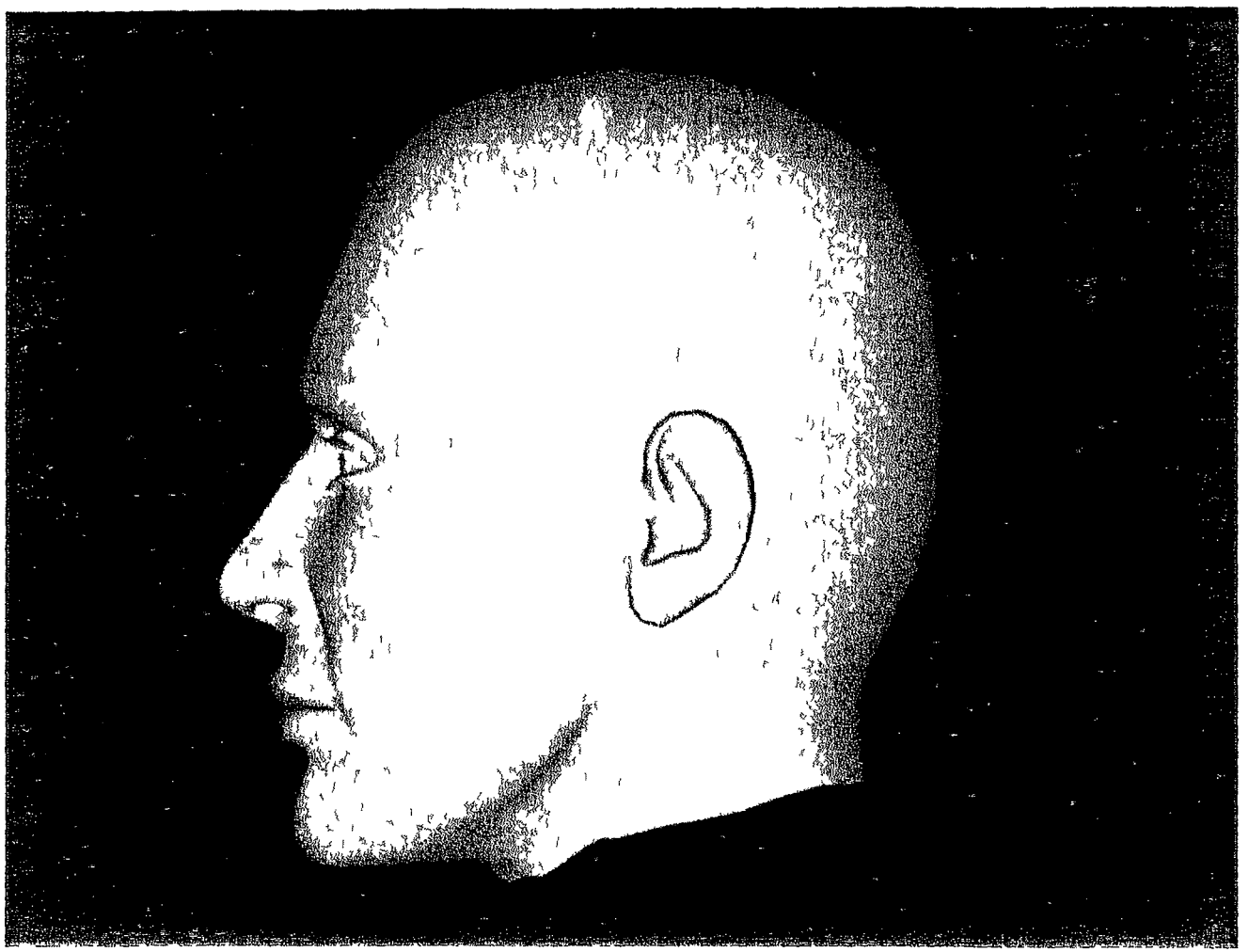
Right Side View of Head of Antonio Locsin Sapinoso
Entrance Wounds



State s Exhibit #48 b

3860

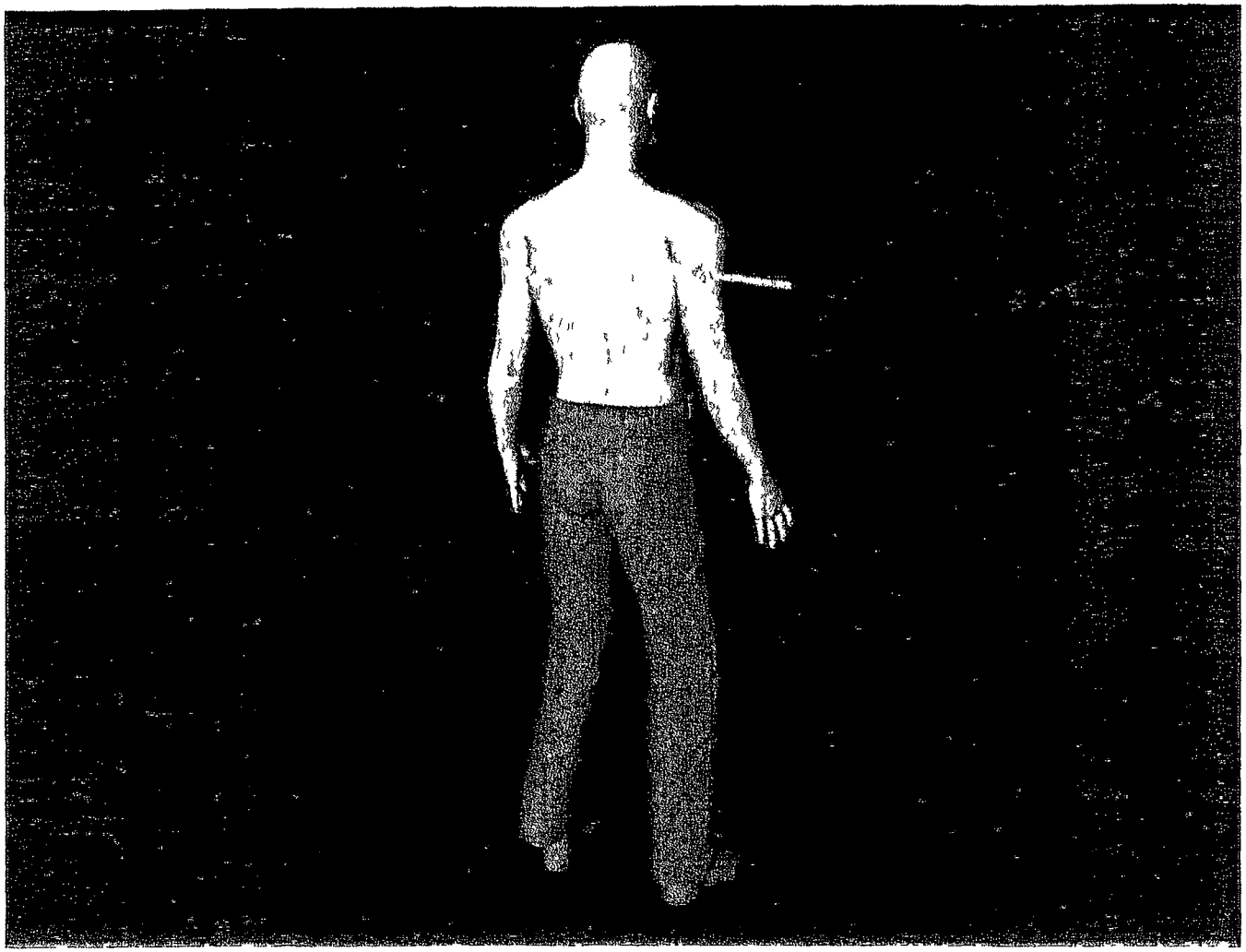
Left Side View of Head of Antonio Locsin Sapinoso
Recovered Projectiles



State s Exhibit # 48 c

3861

Rear Full Body View of Antonio Locsin Sapinoso
Trajectory of Right Arm Wound



State s Exhibit # 48 d

3862

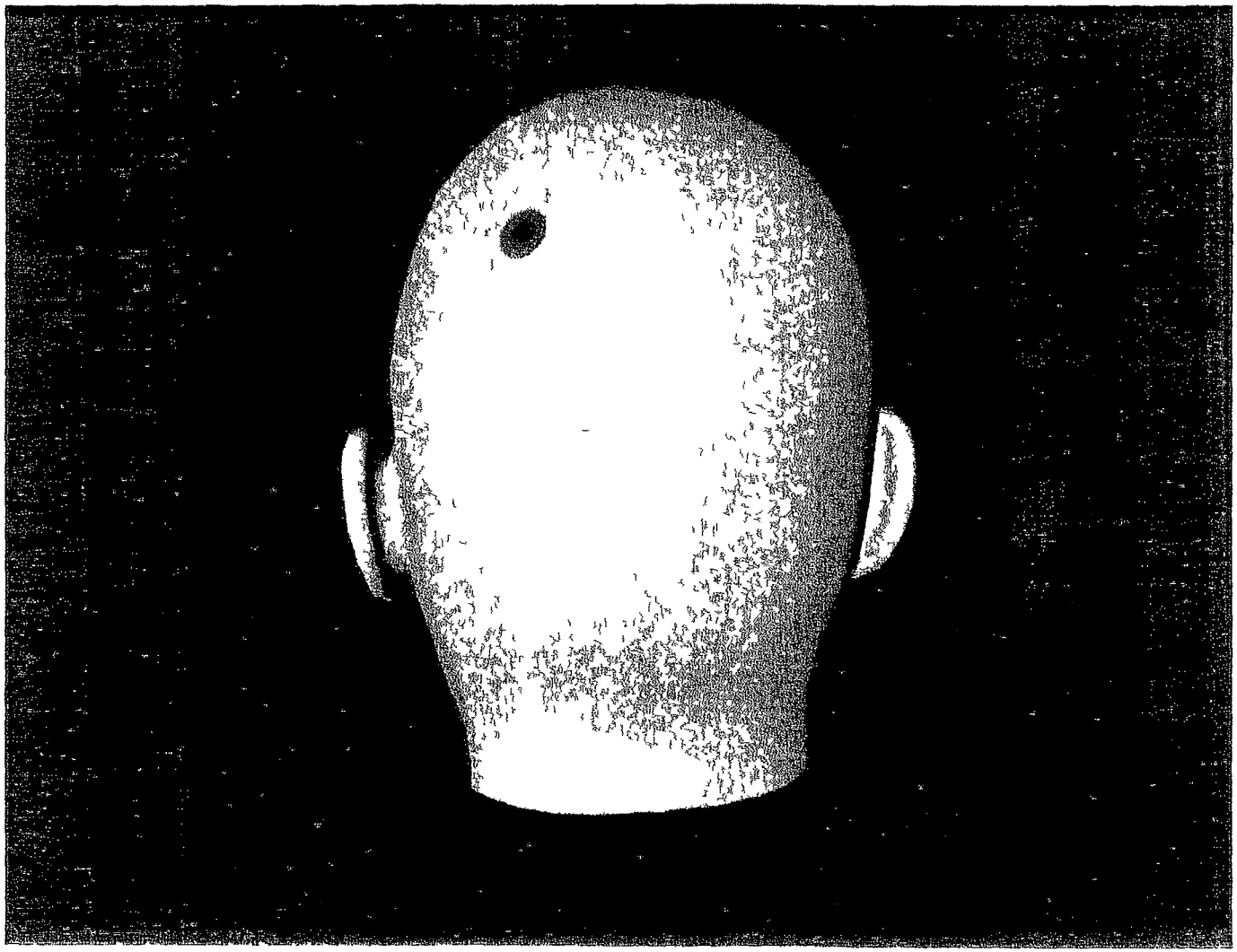
Antonio Jose Sapinoso

D.O.B. - [redacted]

State s Exhibit # 48 e

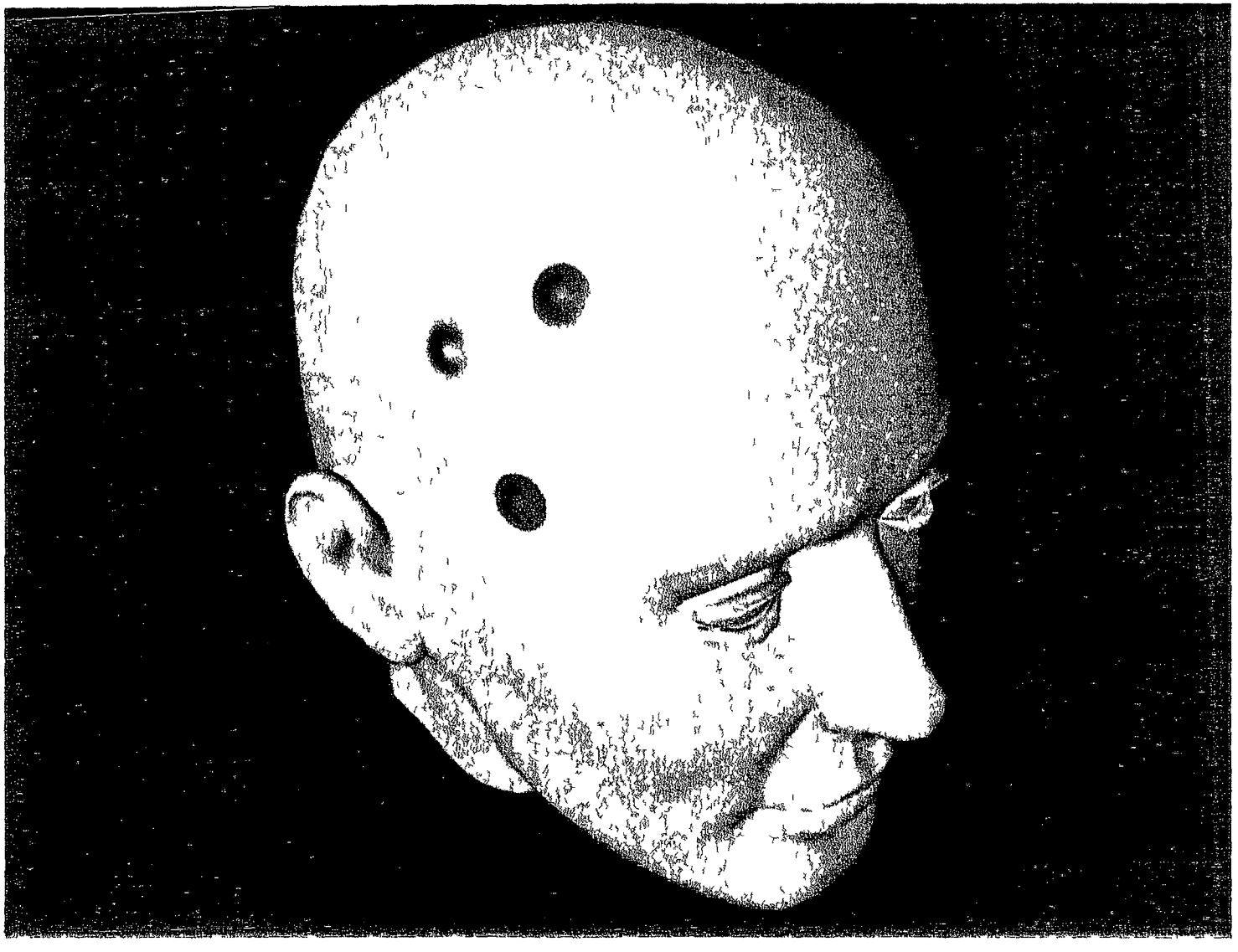
3863

Rear View of Head of Antonio Jose Sapinoso
Entrance Wound # 1



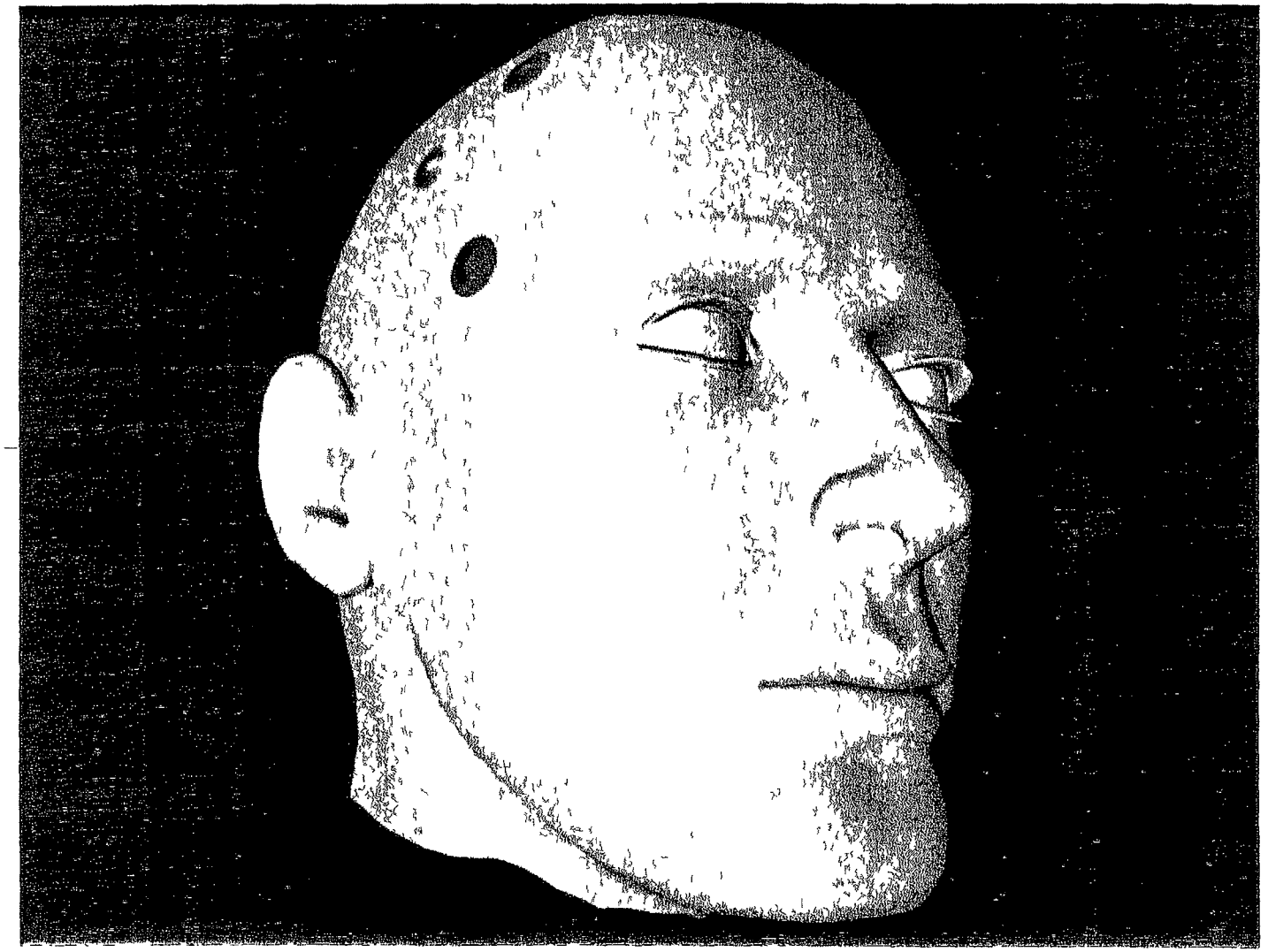
State s Exhibit # 48 f

Right Front View of Head of Antonio Jose Sapinoso
Exit of Wound # 1, 2, & 3



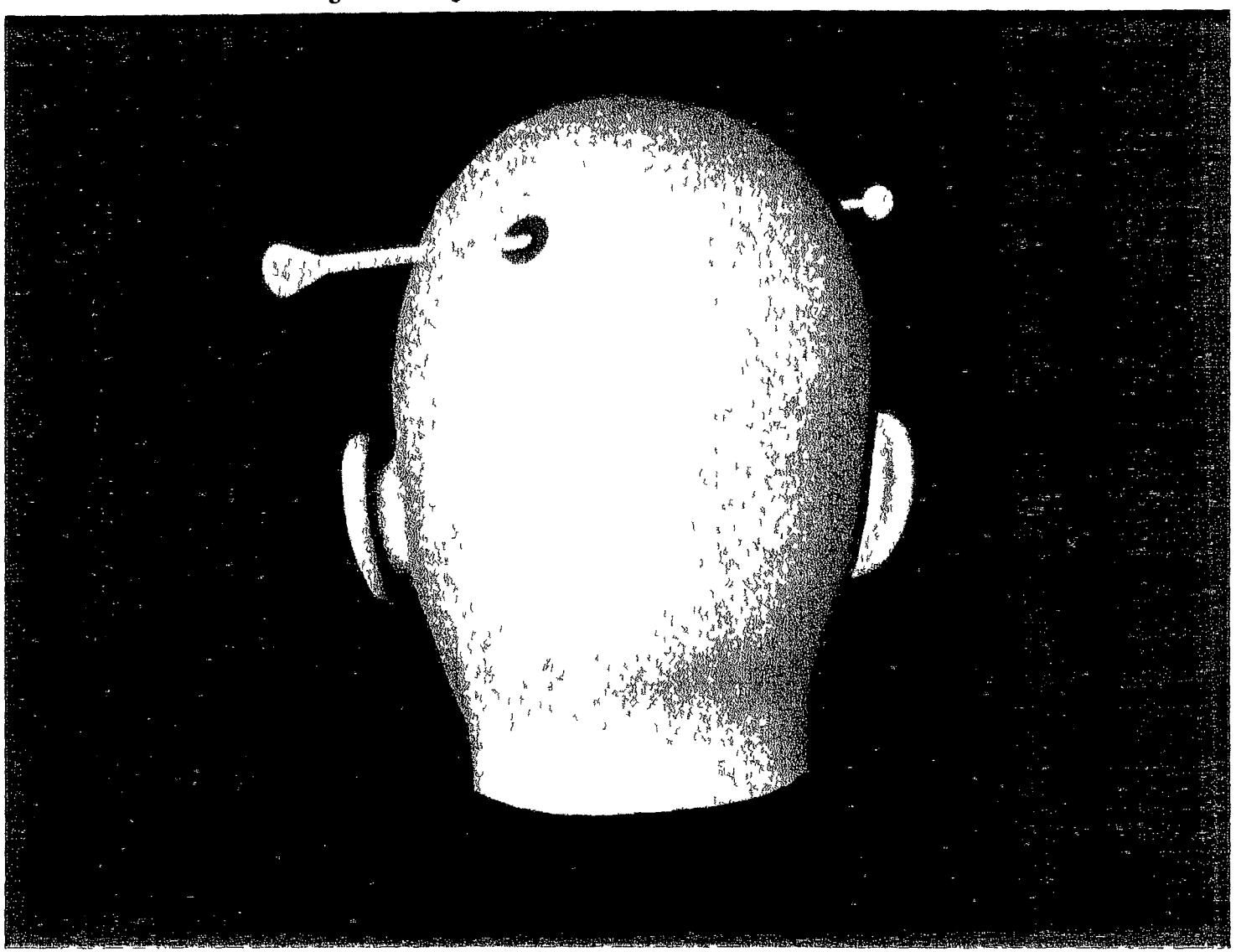
State's Exhibit # 48 J

Front View of Head of Antonio Jose Sapinoso
Recovered Projectile from Wound Tract # 4



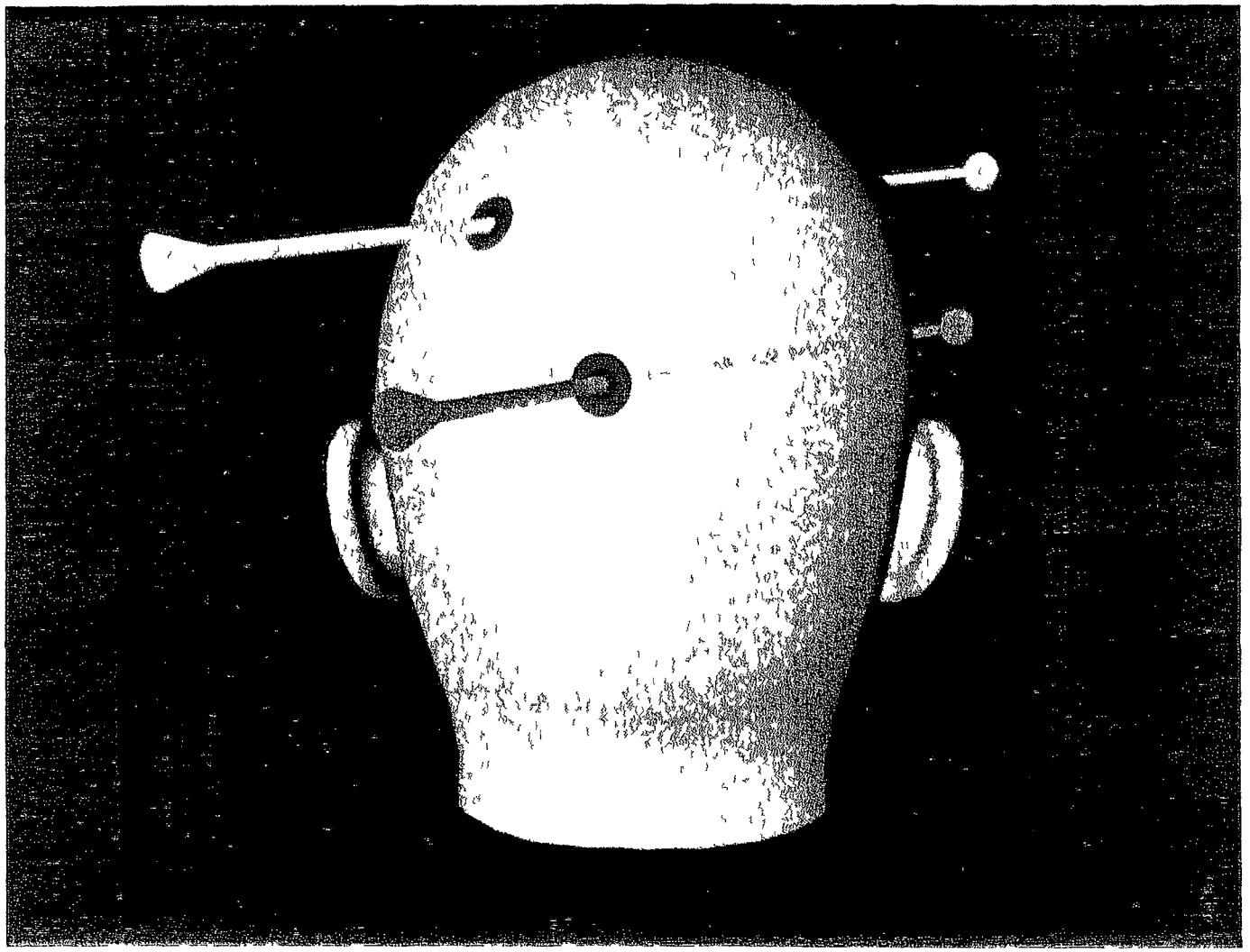
State s Exhibit #48 k

Rear View of Head of Antonio Jose Sapinoso
Trajectory of Entrance Wound # 1



State s Exhibit # 48 1

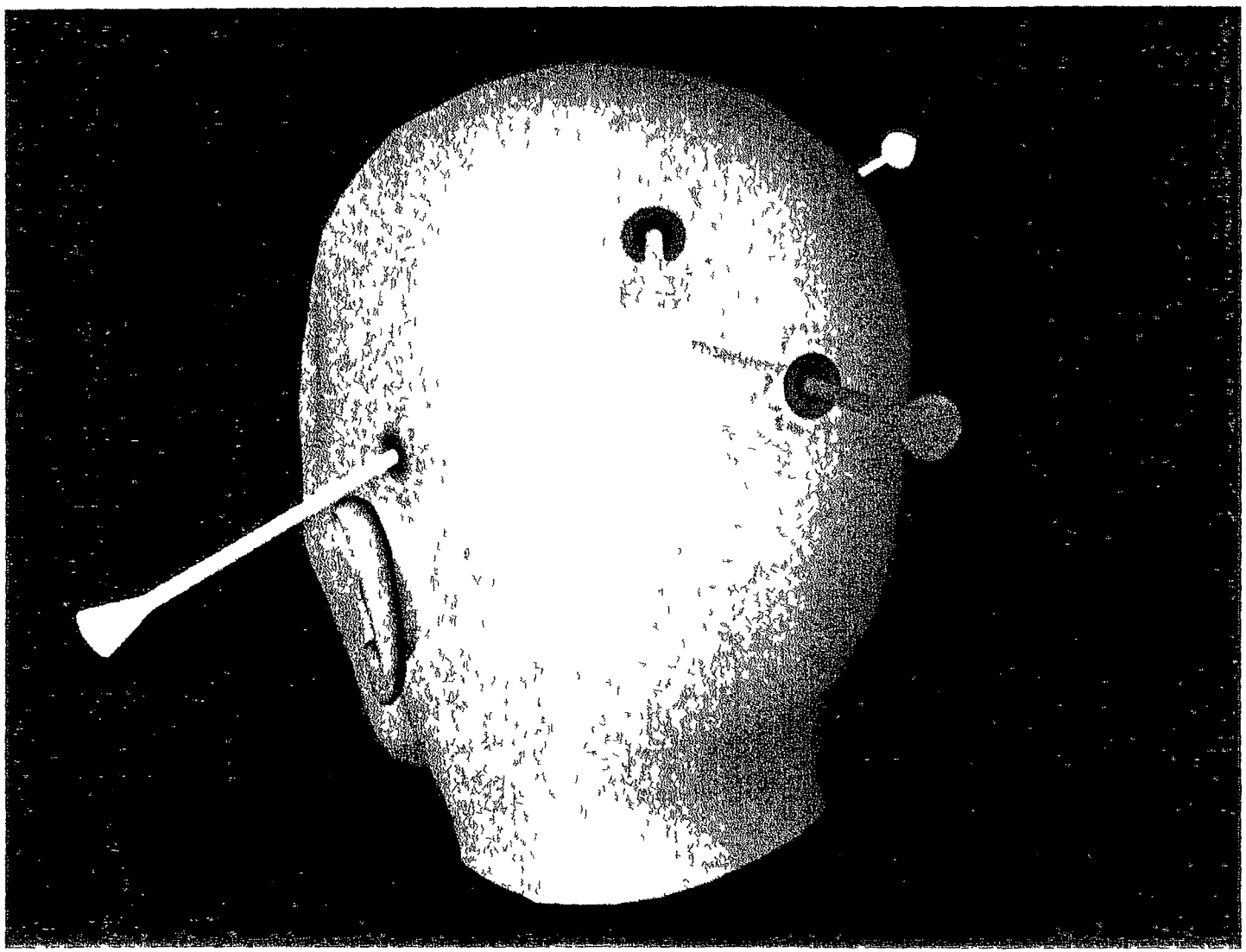
Rear View of Head of Antonio Jose Sapinoso
Trajectory of Entrance Wound # 2



State s Exhibit # 48 m

3868

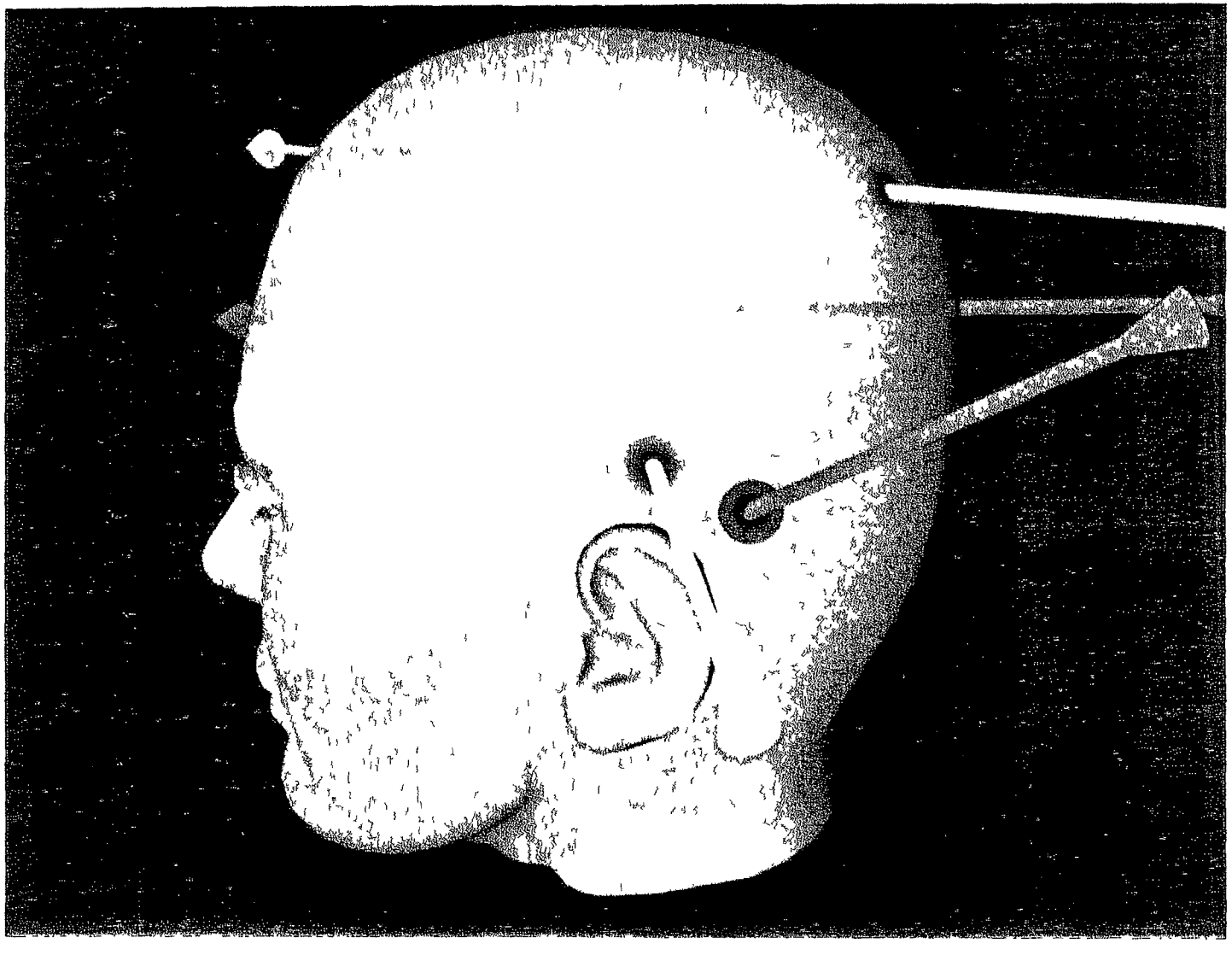
Left Rear View of Head of Antonio Jose Sapinoso
Trajectory of Entrance Wound # 3



State s Exhibit #48 n

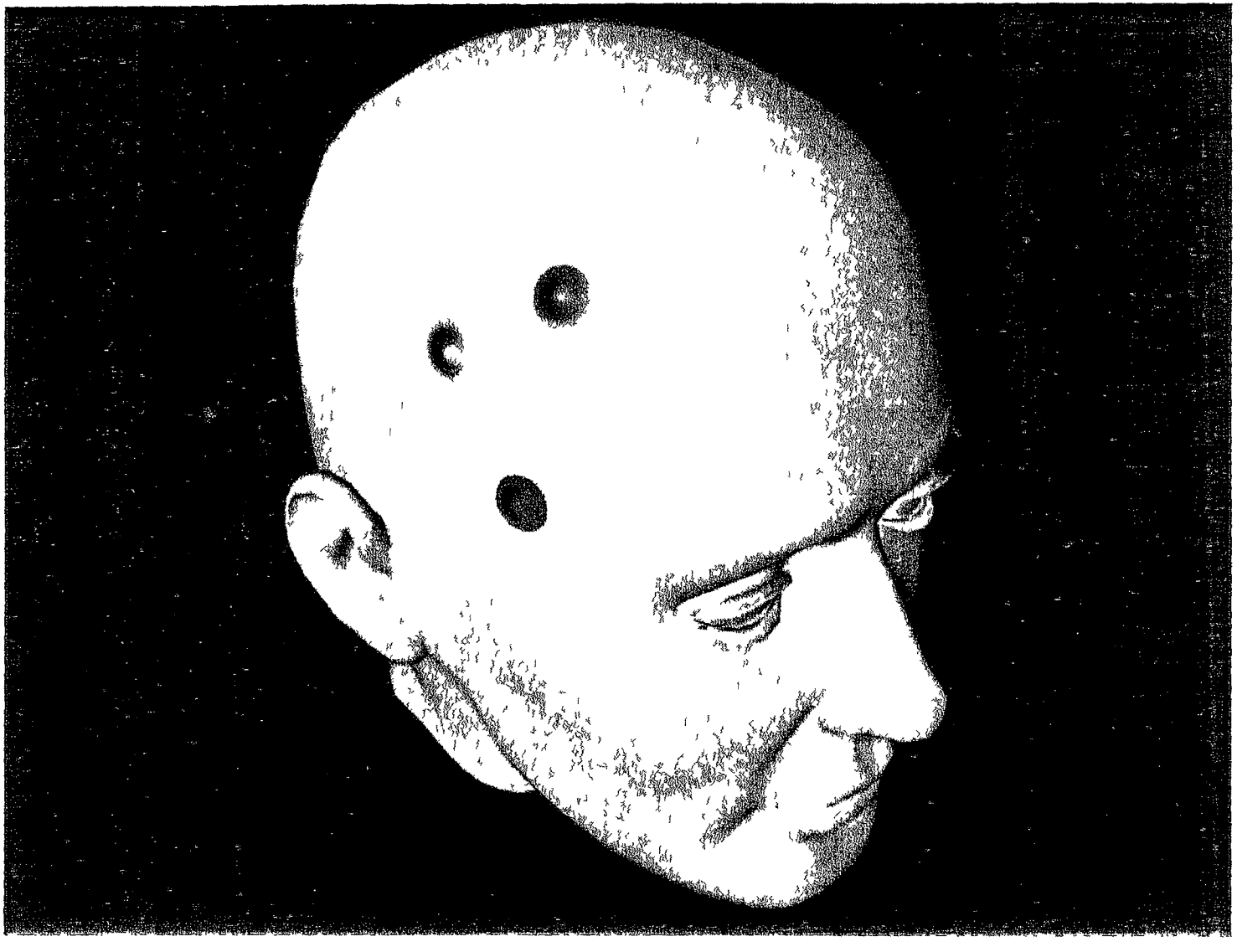
3869

Left View of Head of Antonio Jose Sapinoso
Trajectory of Entrance Wound # 4



State's Exhibit # 48 o

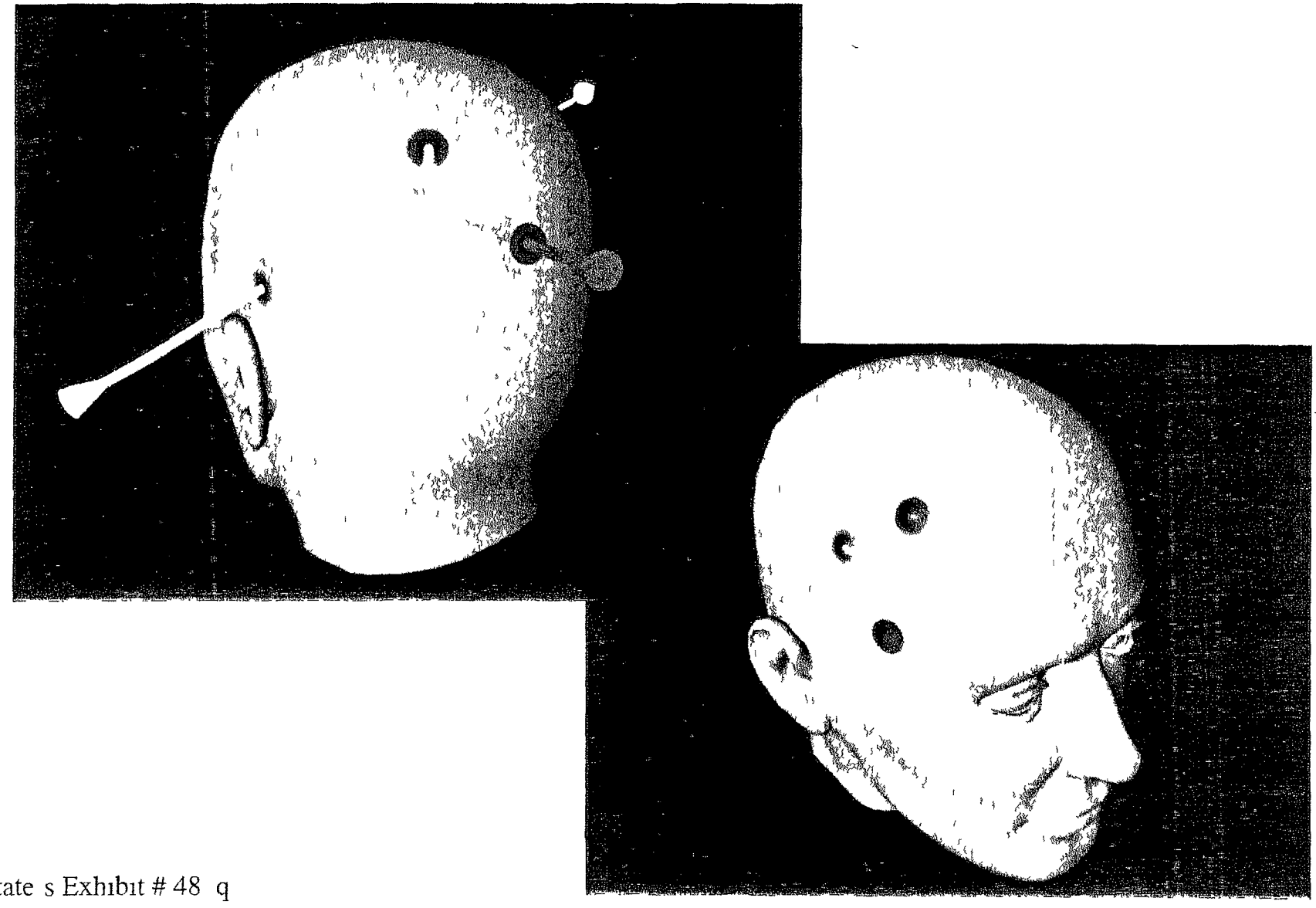
Right Front View of Head of Antonio Jose Sapinoso
Exit of Wound # 1, 2 & 3



State's Exhibit # 48 p

3871

Right Front View of Head of Antonio Jose Sapinoso
Trajectory and Exit Analysis



State s Exhibit # 48 q

Dale M. Davis
Criminal Mitigation Services

P O Box 50944
Summerville SC 29485
Phone 843-871 6176
Fax 843-875 6626
e-mail dalemdavis@bellsouth net

August 11, 2004

Steve W Sumner, Esquire
114 Manly St
Greenville, SC 29601

RE State v Kamel Evans

Dear Steve

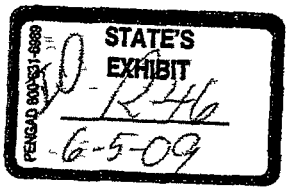
Please find enclosed documents faxed to me by Kamell's mother The birth certificate is not legible and I asked that she make a copy and mail it to me The transcript from Greenville College is enclosed as well I have not received any of the other records I have requested but will forward them to you when they arrive

I will e-mail you the form I used for tracking releases, the listed items with no date are needed but have not yet been requested As records are identified that should be obtained as part of the investigation I add them to the list so that they are not forgotten later

Sincerely,

Dale M Davis
Capital Mitigation Specialist

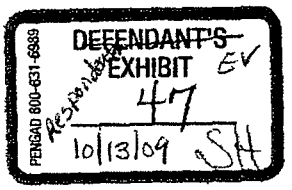
Enclosures as stated above



Radiology Results

Date Printed 06/01/09

Name EVANS, KAMEI L ID 1674796 SEX M AGE 32



09/12/08 07 25am
MRI BRAIN W/WO CONTRAST

Accession number 5354936

EXAMINATION BRAIN MRI 09/12/08 07 25 00

ACCESSION NUMBER 5354936

INDICATION LEGAL CASE SIGNIFICANT LEARNING DISABILITY WITH KNOWN EXPOSURE TO LEAD

COMPARISON None available

TECHNIQUE Multiplanar multisequence MRI of the brain without and with intravenous administration of 20 ml of Multihance contrast agent

FINDINGS Diffusion imaging shows no evidence of acute infarction or other acute abnormality The pituitary gland vermis corpus callosum and other midline structures are well developed The supra and infratentorial brain is of normal morphology and signal characteristics The ventricles and other CSF spaces are symmetrical and appropriate There is no evidence of intracranial blood products There is no abnormal intra or extra-axial post contrast enhancement The visualized vascular structures are unremarkable There is no evidence of osseus lesions

IMPRESSION

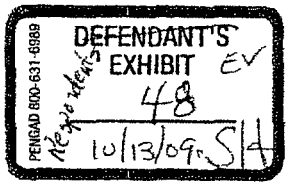
Normal brain MRI

VOICE DICTATED BY Dr Amit Agarwal
I have reviewed the images and agree with the findings in this report

AUTHENTICATING RADIOLOGIST AQUILLA TURK III

MRI BRAIN MERRY 2-3224*** INMATE**** no data
LEGAL CASE SIGNIFICANT LEARNING DISABILITY WITH KNOWN EXPOSURE TO LEAD AS CHILD HX OF CONCU SSION IN PAST RELATED TO FO

Thursday October 08 2009



Re KAMELL EVANS (001674796)
DOB [redacted] Sex M SSN [redacted]

LIEBER CORRECTIONAL INSTI PO BOX 205
RIDGEVILLE SC 29472

Procedure(s) MRHEAD (Site1)
Accession(s) 5437173
Date of exam 11/24/08 15 46 00

EXAMINATION BRAIN MRI 11/24/08 07 44 00

ACCESSION NUMBER 5437173

INDICATION Legal case significant learning disability with known exposure to lead as child

COMPARISON Brain MRI 9/12/08

TECHNIQUE Multiplanar multisequence brain MRI per seizure protocol without IV contrast

FINDINGS Diffusion imaging shows no evidence of acute infarction or other acute abnormality There is no evidence of intracranial blood products The supra and infratentorial brain is of normal morphology and signal characteristics with no evidence of brain atrophy or microhemorrhages The ventricles and other CSF spaces are symmetrical and appropriate Gray matter/white matter contrast is appropriate throughout the brain There is no evidence of abnormal parenchymal mineralization The visualized vasculature is unremarkable

IMPRESSION

Unremarkable MRI of the brain

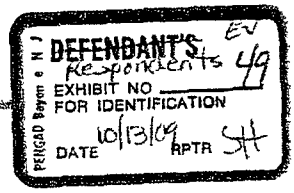
VOICE DICTATED BY Dr Amit Agarwal
I have reviewed the images and agree with the findings in this report

Addendum(F)

Attending radiologist Dr M VITTORIA SPAMPINATO Date Thursday May 28 2009
Resident radiologist(s) Dr AMIT AGARWAL

Addenda

3875



Anthony Mabry - Kamell Evans v State

From Anthony Mabry
To ghillj@sccourts org, ghillcl@sccourts org, hank@ehlieslaw com, bill@saundersnettles com
Date 5/27/2009 3 52 PM
Subject Kamell Evans v State
Attachments

Dear Judge Hill

We anticipate we will need an additional 5 minutes at tomorrow s hearing to resolve the attached motion if it is not resolved by counsel before the hearing I apologize for any inconvenience

Sincerely,

Anthony Mabry

Anthony Mabry - Dear Hank

From Anthony Mabry
To hank@ehlieslaw com
Date 5/27/2009 4 17 PM
Subject Dear Hank
Attachments

Dear Hank

I just e-mailed Judge Hill, you, Bill Nettles, and the Judge's law clerk my Motion, the HIPAA letter, and subpoena duces tecum regarding Kamell Evans medical records from MUSC Please forgive me, I'm rather new at sending the same e-mail to several individuals at the same time I wanted to make sure you received the e-mail and attachments If you can agree to the requested disclosure, please let me know Otherwise, I will make our motion before Judge Hill tomorrow Thank you for your assistance in this matter

Anthony

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS
Kamell Delshawn Evans, #6016 Applicant, v State of South Carolina Respondent	C/A No 2006-CP-23-7719 (Capital PCR) **MOTION FOR COURT ORDER FOR MEDICAL RECORDS OF THE APPLICANT**

COMES NOW THE RESPONDENT by and through the undersigned attorneys who moves this Honorable Court for an Order directing the Medical University of South Carolina (MUSC), located in Charleston, South Carolina, to produce any and all medical records of Applicant solely for the purposes of this capital PCR merits hearing

Applicant Kamell Delshawn Evans, has filed a PCR Application and an Amended PCR Application alleging among other things, ineffective assistance of counsel in failing to investigate mitigation evidence This matter is proceeding to a merits hearing on June 1, 2009 On information and belief, in September and/or November of 2008, Applicant was transported to the Medical University of South Carolina (MUSC) for the purpose of an M R I test or tests The test results were forwarded to a psychologist in Pennsylvania for his own examination of the M R I test results Respondent is informed and believes that Petitioner will call this psychologist as a witness at the PCR merits hearing

Prior to the date of the filing of this Motion, Applicant has not produced to the State copies of any of Applicant's medical records from MUSC including copies of the M R I test(s) Respondent is informed and believes that the medical records of Applicant in possession of the

Medical University of South Carolina (MUSC) are relevant to Applicant's claim Respondent is also informed and believes that the M R I test or tests would have been reviewed by a radiologist at MUSC and an opinion rendered regarding that radiologists findings To this date, Respondent has not been provided with any radiologist interpretation of Applicant's M R I at the Medical University of South Carolina

Therefore, Respondent moves this Honorable Court to issue an Order directing the Medical University of South Carolina (MUSC) in Charleston, South Carolina, to release and provide a copy of any and all medical records regarding the Applicant, Kamell Deshawn Evans, to the Office of the South Carolina Attorney General solely for the purposes of this PCR merits hearing Due to the impending nature of this hearing, a Court Order is necessary so that the Medical University of South Carolina may properly and lawfully release these records under HIPAA and 45 F F R 164 152(e)

RESPONDENT SO MOVES

Respectfully submitted,

Henry Dargan McMaster
Attorney General

John W McIntosh
Chief Deputy Attorney General

Donald J Zelenka
Assistant Deputy Attorney General

Melody Brown
Assistant Attorney General

Anthony Mabry
Assistant Attorney General

By: Anthony Mabry
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-3665

May 27, 2009

HENRY MCMASTER
ATTORNEY GENERAL

May 27, 2009

William "Hank" Ehlies, Esquire
310 Mills Avenue
Building A, Suite 201
Greenville, SC 29603

Re *Kamell Evans v South Carolina* (Capital PCR)
06-CP-23-7719

NOTICE OF REQUEST FOR PROTECTED HEALTH INFORMATION

Dear Hank

Pursuant to 45 C F R § 164 512(e) of the regulations promulgated under the Health Insurance Portability and Accountability Act ("HIPAA"), I am providing you and your client with notice that we intend to subpoena Protected Health Information ("PHI") about your client solely for the purposes of this proceeding More specifically, we are requesting any and all medical records or reports regarding your client from the Medical University of South Carolina (MUSC) in Charleston, S C

The HIPAA regulations require that the party requesting the information make a good faith effort or attempt to provide written notice to the individual As the attorney for **(Kamell Evans)**, please provide him with a copy of this letter and communicate to me or Melody Brown any objections that you or he may have with respect to this subpoena This information is being subpoenaed with regard to the above-mentioned matter

Enclosed is a copy of the subpoena Normally, if you or your client objects to the subpoena(s), then you must file a Motion to Quash or similar objection with the court, within fourteen (14) days hereof If you do not file such an objection on or before (14 days from date of letter), then we will serve the subpoena(s) on the health care provider(s) with copies to you Due

STATE OF SOUTH CAROLINA

ISSUED BY THE COURTOF COMMON PLEAS COURT IN THE COUNTY OF GREENVILLE

KAMELL D EVANS Plaintiff

SUBPOENA DUCES TECUM

STATE OF SOUTH CAROLINA Defendant

Case Number 2006-CP 23-7719

Pending in GREENVILLE County

TO Dr Kenneth McCrae Spicer

Department of Radiology Medical University of South Carolina 179 Ashley Avenue Charleston SC 29425

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case

PLACE OF TESTIMONY	COURTROOM

☐ YOU ARE COMMANDED to appear at the place date and time specified below to testify at the taking of a deposition in the above case

PLACE OF DEPOSITION	DATE AND TIME

☐YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession custody or control at the place, date and time specified below (list documents of objects

Any and all documents reports, hospital and medical records reviews, scans, opinions films testing, notes, etc regarding Kamell D Evans

PLACE	DATE AND TIME
Department of Radiology, MUSC	June 10, 2009

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below

PREMISES	DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6) SOUTH CAROLINA RULES OF CIVIL PROCEDURE TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS DIRECTORS OR MANAGING AGENTS OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF SHALL SET FORTH FOR EACH PERSON DESIGNATED THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES

May 27, 2009 — DATE

Attorney/ Issuing Officer s Signature

Attorney for Defendant/Respondent

SCCA 254 (10/04)

(See Rule 45 South Carolina Rules of Civil Procedure Parts (c) & (d) on next page)

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct

Executed on___

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45 South Carolina Rules of Civil Procedures Parts (c) and (d)

(c) Protection of Persons Subject to Subpoenas

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include but is not limited to lost earnings and a reasonable attorney's fee

(2) (A) A person commanded to produce and permit inspection and copying of designated books papers documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition hearing or trial A party or an attorney responsible for the issuance and service of a subpoena for production of books papers and documents without a deposition shall provide to another party copies of documents so produced upon written request The party requesting copies shall pay the reasonable costs of reproduction

(B) Subject to paragraph (d) (2) of this rule a person commanded to produce and permit inspection and copying may within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises If objection is made the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued If objection has been made the party serving the subpoena may upon notice to the person commanded to produce move at any time in the court that issued the subpoena for an order to compel the production Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded

(3) (A) On timely motion the court by which a subpoena was issued or regarding a subpoena commanding appearance at a deposition or production or inspection directed to a non party the court in the county where the non-party resides is employed or regularly transacts business in person shall quash or modify the subpoena if it

i fails to allow reasonable time for compliance or

ii requires a person who is not a party nor an officer director or managing agent of a party nor a general partner of a partnership that is a party to travel more than 50 miles from the county where that person resides is employed or regularly transacts business in person except that subject to the provisions of clause (c)(3)(B)(iii) of this rule such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or

iii requires disclosure of privileged or otherwise protected matter and no exception or waiver applies or

iv subjects a person to undue burden

(B) If a subpoena

i requires disclosure of a trade secret or other confidential research development or commercial information or

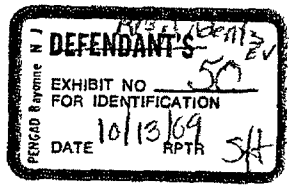
ii requires disclosure of an unretained expert s opinion or information not describing specific events or occurrences in dispute and resulting from the expert s study made not at the request of any party or

iii requires a person who is not a party nor an officer director or managing agent of a party nor a general partner of a partnership that is a party to incur substantial expense to travel from the county where that person resides is employed or regularly transacts business in person

(See Rule 45 South Carolina Rules of Civil Procedure Parts (c) & (d) on next page)

Radiology Consultation

Rutledge Tower Ambulatory Care Center



atient Name EVANS KAMELL D

OB [redacted] Sex M Patient Status O Patient Type O
isit # OTX 492393798 Patient Location ANC
ccession 5437173 Completed 11/24/2008 7 44 AM
kam (RT) MRHEAD MRI BRAIN W/O CONTRAST

Requesting Provider BACHMAN DAVID L, (A)

Attending Provider BACHMAN DAVID (A)
309 CLINICAL SCIENCE BLDG
CHARLESTON SC 29425

MRN 001674796

Signs & Symptoms Legal case significant learning disability with known exposure to lead as child Also has history of concussion in past related to football injury

History 31 year old male with see above

Addendum Begins

The case was reviewed per request of Dr Bachman on 5/27/2009 There is mild diffuse volume loss given the patient's age

Addendum Ends

Addendum Begins

There is mild diffuse volume loss with prominent ventricles and CSF spaces

Addendum Ends

EXAMINATION BRAIN MRI 11/24/08 07 44 00

ACCESSION NUMBER 5437173

INDICATION Legal case significant learning disability with known exposure to lead as child

COMPARISON Brain MRI 9/12/08

TECHNIQUE Multiplanar multisequence brain MRI per seizure protocol without IV contrast

FINDINGS Diffusion imaging shows no evidence of acute infarction or other acute abnormality There is no evidence of intracranial blood products The supra and infratentorial brain is of normal morphology and signal characteristics with no evidence of brain atrophy or microhemorrhages The ventricles and other CSF spaces are symmetrical and appropriate Gray matter/white matter contrast is appropriate throughout the brain There is no evidence of abnormal parenchymal mineralization The visualized vasculature is unremarkable

IMPRESSION

tient Name EVANS KAMELL D

DB [redacted] **Sex** M **Patient Status** O **Patient Type** O

rt # OTX 492393798 **Patient Location** ANC

cession 5437173 **Completed** 11/24/2008 7 44 AM

am (RT) MRHEAD MRI BRAIN W/O CONTRAST

Unremarkable MRI of the brain

VOICE DICTATED BY Dr Amit Agarwal

I have reviewed the images and agree with the findings in this report

I have reviewed the images and agree with the findings in this report

I have reviewed the images and agree with the findings in this report

nd of diagnostic report for accession 5437173

ranscribed By	IntTalk Tech	11/24/2008 10 42 AM
dited By	AGARWAL, AMIT	11/24/2008 10 42 AM
igned By	AGARWAL AMIT	11/24/2008 10 42 AM
ranscribed By	IntTalk Tech	11/24/2008 3 46 PM
dited By	AGARWAL, AMIT	11/24/2008 3 46 PM
igned By	AGARWAL, AMIT	11/24/2008 3 46 PM
dited By	SPAMPINATO M VITTORIA	11/24/2008 3 46 PM
igned By	SPAMPINATO M VITTORIA	11/24/2008 3 46 PM
uthenticated By	SPAMPINATO, M VITTORIA	11/24/2008 3 46 PM
ddended By	IntTalk, Tech	05/28/2009 11 37 AM
ddended By	AGARWAL AMIT	05/28/2009 11 37 AM
igned By	AGARWAL AMIT	05/28/2009 11 37 AM
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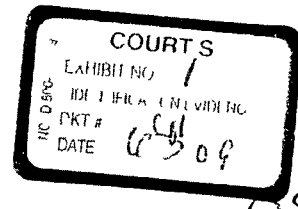
3885



GREENVILLE HOSPITAL SYSTEM
EMERGENCY DEPARTMENT

DATE 8-1-98

ALLERGIES Ø

ACUITY LEVEL III

08-8057270
99945554

EVAB Kemell

VITAL SIGNS							OTHER			VITAL SIGNS							OTHER		
TIME	T	P	R	BP	Sa-O_2	CRT	TRAUMA SCORE			TIME	T	P	R	BP	Sa-O_2	CRT	TRAUMA SCORE		

TIME	MD / NURSES NOTES IMPLEMENTATION	INITIALS
0830	Placed in MC #4A See page 2. Call placed to Dr Milling	
0845	Dr Milling called & states to call Dr Rudisill. That he is on call today.	
0920	MD Dan states - DC Anderson a BS	
0900	Dr Rudisill @ BS.	
1030	Waiting to go to OR. All Valuables with girlfriend.	
1100	Taken to OR	

EVALUATION OUTCOMES MET ☐YES ☐NO EXPLAIN

DISCHARGE TIME _____ TO ☐HOME ☐OTHER _____ BY ☐STRETCHER ☐W/C ☐AMBULATORY ☐CARRIED
ACCOMPANIED BY ☐FAMILY ☐SELF ☐EMS ☐OTHER _____ TIME OF DEATH _____
ED DISCHARGE SHEET ☐COMPLETED AND ☐SIGNED CORONER CALLED ☐YES ☐NO TIME _____

ADMITTED TIME 1100 ☐TO ROOM _____ ☐TO OR
TRANSFERRED TO HOSPITAL _____ TRANSFER FORM DONE ☐YES
REPORT CALLED TO _____ BY _____ MD
TRANSPORTED BY ☐STRETCHER ☐W/C ☐EMS ☐IHT ☐POV
TRANSPORTED ON ☐CARDIAC MONITOR ☐PULSE OX ☐O_2 (O_2 LITERS_____) ☐PATENT IV SITE ☐OTHER
OLD RECORDS TRANSFERRED WITH PATIENT ☐YES ☐NO ☐N/A BELONGINGS SENT WITH PATIENT ☐YES ☐NO EXPLAIN Given to girlfriend

NURSING ASSESSMENT

TIME _____

NEURO

APPEARANCE ☒ CLEAN ☐ UNKEMPT ☐ OTHER _____

BEHAVIOR: ☒ COOPERATIVE ☐ AGITATED ☐ RESTLESS ☐ HOSTILE ☐ CONFUSED ☐ OTHER _____

ORIENTATION ☒ PERSON ☒ PLACE ☒ TIME

SPEECH ☒ CLEAR ☐ APPROPRIATE ☐ INAPPROPRIATE ☐ SLURRED ☐ APHASIC

SENSORY ☒ NO DEFICIT ☐ NUMBNESS ☐ TINGLING LOCATION _____

HEARING ☒ NO DIFFICULTY ☐ LIMITED ☐ DEAF R L BOTH

RESPONSE TO STIMULUS ☒ SPONTANEOUSLY ☐ TO SOUND ☐ TO SHAKE ☐ TO PAIN ☐ NO RESPONSE

EXTREMITY MOVEMENT RUE _____ RLE _____ LUE _____ LLE _____

PUPILS L WNL R _____

RESPIRATORY

AIRWAY ☒ CLEAR ☐ OBSTRUCTED ☐ ORAL ☐ ET ☐ TRACH SaO_2 _____

RESPIRATIONS ☐ SPONTANEOUS ☐ LABORED ☐ ASSIST ☐ O_2 _____ ☐ ABSENT ☐ HYPERVENTILATION ☐ SHALLOW ☐ RETRACTIONS ☐ FLARING

BREATH SOUNDS ☒ CLEAR ☐ RALES _____ ☐ RHONCHI _____ ☐ WHEEZES _____ ☐ DECREASED _____ ☐ ABSENT _____

COUGH ☐ PRODUCTIVE ☐ UNPRODUCTIVE ☐ SPUTUM _____ ☐ NASAL CONGESTION

CARDIOVASCULAR

RHYTHM: ☒ REGULAR ☐ IRREGULAR ☐ PACEMAKER

CAP REFILL ☒ < 3 SECS ☐ > 3 SECS HEART SOUNDS _____

NECK VEINS ☐ FLAT ☐ DISTENDED

EDEMA ☐ ABSENT ☐ SLIGHT ☐ MILD ☐ MODERATE ☐ SEVERE

LOCATIONS _____

PULSE RADIAL R (+) L (+) DP R _____ L _____

OTHER _____ R _____ L _____

MONITOR _____

GASTROINTESTINAL

☒ NO COMPLAINT

BOWEL SOUNDS ☐ PRESENT ☐ ABSENT ☐ HYPOACTIVE ☐ HYPERACTIVE

ABDOMEN ☐ SOFT ☐ TENDER ☐ FLAT ☐ DISTENDED

☐ NAUSEA ☐ VOMITING ☐ DIARRHEA ☐ CONSTIPATED

LAST BM: _____ ☐ DIFFICULTY SWALLOWING

WEIGHT _____ HEIGHT _____

UNINTENTIONAL WEIGHT LOSS POUNDS _____ IN 6 MONTHS

GENITOURINARY

LMP N/A PREGNANT ☐ YES ☐ NO ☐ UNCERTAIN

URINARY ☒ NO PROBLEM ☐ FREQUENCY ☐ URGENCY ☐ BURNING ☐ HEMATURIA ☐ PRESSURE VAG BLEED AMT _____

DIAPERS ☐ NORMAL ☐ DECREASED URINE OUTPUT # DIAPERS _____

DISCHARGE ☐ VAGINAL ☐ PENILE COLOR _____

INTEGUMENTARY

SKIN ☒ ELASTIC ☐ TENTING ☐ DRY ☐ WET

INJURY ☐ LACERATION ☐ ABRASION ☐ BURN ☐ RASH ☐ ULCER

AREA _____

BLEEDING ☐ CONTROLLED ☐ CONTINUING

TEMPERATURE ☐ NORMAL ☐ WARM ☐ COLD ☐ HOT ☐ PALE ☐ CYANOTIC ☐ FLUSHED ☐ JAUNDICED

MUSCULOSKELETAL

INTACT ☒

INJURY ☐ DEFORMITY LOCATION _____

☐ POSSIBLE OPEN FX LOCATION _____

☐ DECREASED ROM LOCATION _____

TRAUMA ☐ BLUNT LOCATION _____

☐ GSW _____ ☐ STAB _____

SOCIAL HISTORY

SPIRITUAL NEEDS _____

SMOKING HISTORY ☐ YES ☒ NO PACK PER DAY _____ YEAR SMOKING _____ WHEN QUIT _____

ALCOHOL HISTORY ☒ YES ☐ NO FREQUENCY 3 times LAST DRINK _____

SPECIAL DIET ☐ NONE ☐ YES SPECIFY _____ LAST MEAL a month ago

APPETITE ☐ POOR ☐ FAIR ☐ GOOD

SLEEPING HABITS _____ # PILLOWS

PSYCHO-SOCIAL HISTORY _____

WE ARE ROUTINELY SCREENING FOR DOMESTIC VIOLENCE HAVE YOU BEEN HIT KICKED VERBALLY OR SEXUALLY ABUSED BY A FAMILY MEMBER OR SIGNIFICANT OTHER? ☐ YES ☒ NO

DO YOU WANT HELP WITH THIS TODAY? ☐ YES ☐ NO

TRIAGE PROTOCOLS

XRAYS _____

LABS CBC BETA HCG CV PANEL UA FSBG _____

TX ICE WOUND DRESSING SPINAL IMMOBILIZATION

MEDS _____

MULTIDISCIPLINARY PROBLEMS LIST

PROBLEM	SIGNATURE
1	
2	
3	

EDUCATIONAL NEEDS ASSESSMENT

EDUCATION YEARS 12 (+) ☐ ABLE TO ☐ READ ☐ WRITE ☐ SPEAK ENGLISH ☐ OTHER _____

COMMUNICATION DEFICITS ☐ NONE ☐ BLIND ☐ DEAF ☐ NEEDS INTERPRETER ☐ OTHER _____

WHAT QUESTIONS/CONCERNS DO YOU HAVE ABOUT YOUR ILLNESS? _____

POTENTIAL INSTRUCTION NEEDED ☐ NONE IDENTIFIED ☐ MEDS ☐ DIET ☐ DISEASE PROCESS ☐ EQUIPMENT ☐ PRE-OP/PROCEDURE INSTRUCTION ☐ POST-OP SELF-CARE ☐ OTHER _____

ACTIVITIES OF DAILY LIVING

FEEDING _____ BATHING _____

DRESSING _____ TOILETING _____

AMBULATING WNL

DISCHARGE ASSESSMENT/POTENTIAL NEEDS

(Complete for patients staying > 24 hours)

☐ 1 Assistance with ADL
☒ 2 Dressing/Treatments (Home Bound)
☐ 3 History of non-compliance
☐ 4 Crisis Intervention (Psychiatrist/Drug Referred)
☐ 5 Abuse/Neglect
☐ 6 Home Environment Assessment
☐ 7 Psycho-social Assessment
☐ 8 Socio-economic Assistance
☐ 9 Financial Assistance
☐ 10 Medication Assistance
☐ 11 Meals on Wheels
☐ 12 Medical equipment/Supplies
☐ 13 Home Health/Hospice
☐ 14 Private duty (RN, LPN, Aide)
☐ 15 Nursing Home Placement
☐ 16 Transfer to Specialty Hospital
☐ 17 Mental Health/State Hospital
☐ 18 Other Placement Needs
☐ 19 Other Community Agency
☐ 20 Other _____
☐ 21 None identified at this time
☐ 120 Social Services notified by _____

KEY

MOTOR N=NORMAL W=WEAK F=FLACCID P=PURPPOSEFUL NP=NONPURPOSEFUL DT=DECORTICATE DB=DECEREBRATE

PULSE A=ABSENT 1+=WEAK 2+=NORMAL 3+=STRONG 4+=BOUNDING D=DOPPLER

PUPIL REACTION B=BRISK S=SLUGGISH H=HIPPUS N=NONE

TRIAGE RN Una L Jones RN

ADMITTING RN _____

GREENVILLE SPITAL SERVICE
Greenville SC 29605
EMERGENCY DEPARTMENT PAGE 2

NURSING ASSESSMENT

04-9009348 879-00-0804
KANELL EVANS
08-01-98 DR BOURDER

TIME

PROBLEM HSW

VALUABLES
- [x] NONE
- [ ] PATIENT DESIRES TO KEEP
- [ ] GIVEN TO FAMILY/SIGNIFICANT OTHER
- [ ] CHECKED/ENVELOPE #

NURSE KRJ TIME 0624

IMPLEMENTATION NOTES

TIMES

0624 [illegible] — KRJ
0625 [illegible] — KRJ
0626 [illegible] — KRJ
0627 [illegible] — KRJ
0628 [illegible] — KRJ
0629 [illegible] — KRJ
0630 [illegible] — KRJ
0631 [illegible] — KRJ

VITAL SIGNS

TIME	B/P	PULSE	RESP	TEMP	GCS	RTS
0735	174/63	101	18	99		

MEDICATIONS

TIME	MEDICATIONS	INITIAL SIGNED	INITIAL	RESPONSE
0624	dT 5ml IM (R) deltoid			
0626	Cipro 400mg IV PB		KRJ	

NURSES SIGNATURE(S) Kelli Lundgren (RN) Diana Dabney

EVALUATION [illegible]

DISPOSITION [illegible]

REPORT CALLED TO

TIME 0745 DISCHARGE NURSE [illegible]

PHYSICIAN S COPY

TIME	TREATMENTS	BY WHOM
	ROOM NUMBER	
	FAMILY AT BEDSIDE	
	O_2 LPM	
	ABG	
	AIRWAY ☐ NASAL ☐ ORAL	
	VENT SETTINGS	
	NG TUBE #	
	FOLEY # /CATH	
	DESCRIPTION	
	DIP UA. ☐ POS ☐ NEG	
	HEME STOOL ☐ POS ☐ NEG	
	LAB TIME REPORTED	
	BLOOD DRAWN	
	X RAY TO FROM	
	EKG	
	MONITOR	
	PT UNDRESSED ☐ CHECKLIST COMPLETED	
	SIDE RAILS UP	
	CALL BELL IN REACH	
	SOFT RESTRAINTS	
	EMOTIONAL SUPPORT (DOCUMENT)	
	THERMAL MEASURES	
	ICE	
	ELEVATION	
	SLING / SPLINT	
	WOUND CARE	
	IV SITE GAUGE	
	FLUID RATE	
	IV SITE GAUGE	
	FLUID RATE	
	SPINAL PRECATIONS REMOVED	
	SPLINT REMOVED	
	VALUABLES ☐ CHECKLIST COMPLETED ☐ LOCKED IN SAFE	

INTAKE					OUTPUT				
TIME	PO	IV	BLOOD	NG	URINE	EMESIS	NG	STOOL	OTHER
TOTAL									

GCS

		TIME								
EYES	Spontaneous									
	Voice									
	Pain									
	None									
VERBAL	Oriented									
	Confused									
	Inappropriate									
	Sounds									
	None									
MOTOR	Command									
	Localizes									
	Withdrawal									
	Flexion									
	Extension									
	None									
	Grips R/L									
	Plantar Flexion R/L									
	Pupils R/L									

MEDICATIONS

TIME	DRUG DOSE / ROUTE / SITE	INITIALS	PATIENT RESPONSE	TIME	DRUG DOSE / ROUTE / SITE	INITIALS	PATIENT RESPONSE

NAME AND TITLE	INITIALS	NAME AND TITLE	INITIALS
Lisa L Jones RN	LJ		

3889

GHS
EMERGENCY DEPARTMENT
Point of Entry History

NAME Evans Kenell AGE 21 SEX M
ARRIVAL DATE 8-1-98 TIME 0830 WT PEDS
MODE OF ARRIVAL ☒EMS ☒STRETCHER ☐WALKED ☐CARRIED ☐W/C
VS TEMP 98.6 PULSE 86 RR 18 BP 118/
PRIMARY CARE PROVIDER Ø CONTACTED ☐YES ☐NO ER TO TREAT ☐YES ☐NO

TRIAGED TIME 0830 TRIAGE LEVEL II TRIAGED TO ☐CC ☐IMC ROOM #
CHIEF COMPLAINT/HPI GSW (L) hand Splint O2 Sat ☐TRAUMA ☒PEDS ☐OTHER
from MSH per Dr Milton Was given 1st x Brief @ MSH
PAIN N/A LOCATION ONSET DURATION CHARACTER QUALITY (0 5)
PPMH / SURGERIES Ø

MEDICATIONS Ø Injury 6AM

IMMUNIZATIONS UP TO DATE TETANUS <5 YRS >5 YRS N/A OTHER

ALLERGIES MEDICATIONS Ø FOOD LATEX ☐YES ☒NO
(KIWI BANANAS, SHELL FISH) (ANY SENSITIVITY TO RUBBER PRODUCTS OR HISTORY OF SPINA BIFIDA)

PHYSICIAN ASSESSMENT DICTATION TIME

TIME

See dictated H+P

Robert Cook

PHYSICIAN'S ORDERS REFERRAL/NAME Dr Rudisill Call Ortho Dr Anderson on call ORTHO RECEIPT TIME M D SIGNATURE

✓	TIME	INT	TEST	RESULTS	✓	TIME	INT	TEST	RESULTS
			CBC					CC U/A	
								CATH U/A	
			LYTES					DIP U/A	
								C & S U/A	
			BUN					BHCG	
			BS					TRAUMA PROFILE	
			CREATININE					OLD RECORDS	
			AMYLASE					EKG	
			PT/PTT					ABG	
			CARDIAC PROFILE						

ORDERS/MEDICATIONS/TREATMENTS — HUC/TIME

XRay/TIME Permit I+D, ORIF VS
Ext fix (L) hand - Radisill
MEDS/TIME. to OR
IV/TIME. Take films to OR
Dr Rudisill has x-rays
RESPIRATORY TREATMENT/TIME

PROVISIONAL DIAGNOSIS GSW (L) Hand

DISPOSITION ☐DISCHARGE ☐HOME ☐OTHER ☐ADMIT ROOM NO ADMIT TO M.D
VIA ☐AMBULATORY ☐WHEELCHAIR ☐STRETCHER CONDITION AT DISCHARGE
TRANSFERRED TO SEND COPY ☐ ED ATTENDING SIGNATURE
REFERRED TO ADMIT M.D SIGNATURE
PATIENT INSTRUCTIONS ☐RX

GREENVILLE HOSPITAL SYSTEM
MEDICAL RECORD

NAME Evans, Camil
PATIENT NO 000-999-45-5594

TOURNIQUET TIME 102 minutes

INDICATIONS FOR THE PROCEDURE
This is a 21-year-old male who sustained a gunshot wound to his hand with an extremely comminuted fracture involving the proximal phalanx of the ring finger and articular surface of the metacarpophalangeal joint of the long finger On the long finger, there was damage to both the metacarpal head as well as the articular surface of the proximal phalanx The collateral ligament on the radial side of the ring finger was essentially gone as well as the collateral ligament on the ulnar side of the long

PROCEDURE IN DETAIL
On 8/1/98, the patient was taken to the Operating Room After adequate general endotracheal anesthesia was obtained, the left upper extremity was prepped and draped in the usual sterile fashion The tourniquet was inflated to 250 mmHg pressure after the extremity was elevated The patient had an entrance wound over the metacarpophalangeal joint of the index finger and an exit over the metacarpophalangeal area of the little A skin incision was then made transversely to connect these Using blunt and sharp dissection, the subcutaneous tissues were divided Hemostasis was obtained with the Bovie cautery The extensor tendons of the long and ring fingers were intact as were the ones to the index and the little It was seen that the sagittal fibers of the ulnar side of the long finger and both sides of the ring were severely damaged There was significant bony comminution involving both areas This was debrided There was some damage to the intrinsics again on the ulnar side of the long and both sides of the ring This was debrided The wound was then thoroughly irrigated with the Pulsavac Again, the articular surface of the base of the proximal phalanx of the long finger was visualized There was a fracture here This was stabilized with a single 3 5 K-wire This was somewhat tenuous due to the very thin nature of the fragments The head of the long finger metacarpal was significantly depressed Some of the bone that had been previously removed was then ronguered into small pieces and packed up under the osteochondral flaps of the metacarpal head to make it as round as possible Attention was then turned to the ring finger The articular surface was in three separate pieces Again, these were extremely thin with only a small amount of bone distally However, we were able to secure these with a single 2 7 K-wire The shaft fragment of the

CHART COPY

GREENVILLE HOSPITAL SYSTEM
MEDICAL RECORD

NAME Evans, Camil
PATIENT NO 000-999-45-5594

proximal phalanx was then reduced A 3 5 K-wire was drilled across two of the major fragments volarly A 26-gauge wire was passed through this The largest fragment along the ulnar aspect was then also drilled A wire was passed through here to secure some bone length and stabilization The remaining defect was then packed with Allograft bone chips The wound was again irrigated The incision was closed using 5-0 nylon The entrance and exit wounds were left open A dry, sterile bulky dressing and splint was applied The tourniquet was deflated and all digits pinked up quickly The patient tolerated the procedure well with no complications

L Edwin Rudisill, Jr, MD

cc L Edwin Rudisill, Jr, MD

D 08/01/98 T 08/04/98 10 54 P zdv 335594

CHART COPY

GREENVILLE HOSPITAL SYSTEM
MEDICAL RECORD

NAME Evans, Camıl
PATIENT NO 000-999-45-5594

DATE		8/1/98
PREOPERATIVE DIAGNOSIS	1	Gunshot wound, left hand with severely comminuted fractures involving the metacarpophalangeal joints of the long and ring fingers
	2	Extremely comminuted fracture of the proximal phalanx, ring
POSTOPERATIVE DIAGNOSIS	1	Gunshot wound, left hand with severely comminuted fractures involving the metacarpophalangeal joints of the long and ring fingers
	2	Extremely comminuted fracture of the proximal phalanx, ring
PROCEDURE	1	Irrigation and debridement with exploration of wound
	2	Open reduction, internal fixation of articular surface of the long finger, metacarpal head
	3	Open reduction, internal fixation of long finger, proximal phalanx, articular surface
	4	Open reduction, internal fixation of comminuted intra-articular fracture of the ring finger proximal phalanx with Allograft bone graft
SURGEON		L Edwin Rudisill, Jr , M D
ASSISTANT		Randall M Anderson, M D
ANESTHESIA		General endotracheal
COMPLICATIONS		None

CHART COPY

3893

ORTHOPEDIC DISCHARGE PLANNING GUIDE/Page 2

TREATMENTS

A Incision Care Staples/Sutures removed Yes _____ No ✓

Dressing No _____ Yes ✓ Type Bulky surgery dressing + ace wrap

Drainage No ✓ Yes _____ Type dressing dry & intact

Skin Assessment Broken Areas No ✓ Yes ___

Specify _____

Location _____

Size _____

Signs and Symptoms to report to Doctor

Elevated temperature Take temperature 3 to 4 times a day call Dr Rudisill if temp 7 101° Increased Pain ✓

Unsual drainage ✓ Odor ✓

Numbness/Tingling ✓ Swelling _____

Instructions: Do not remove dressing - Keep ® hand elevated - Check temp 3-4 times a day - Take antibiotic until completely finished!!

Heparin Well Removed Yes ✓ No _____ N/A _____

Appearance of Site No redness or swelling at IV site ® arm.

Health Teaching _____

Education Materials Given (List) _____

Special Instructions (Tube Feedings Catheter Care, etc)

The above instructions have been explained to me I have no further questions

Vernell Evans
Patient/Significant Other

Joyce Sullivan RN
Nurse Signature

8-2-98.
Date

Monday Am call Dr. Rudisill's office for an appointment to see him on Tuesday or Wednesday

Forms/002
9/93

ORTHOPEDIC DISCHARGE PLANNING GUIDE
(Original in Record/Copy to Patient)

DISCHARGE T 99⁴ P 91 R 16 B/P 154/70

Valuables Returned to Patient Yes_____ No_____ NA ✓

DISCHARGE TO Home ✓ Other Facility_____
If Yes, Where?_____

ASSISTANCE AVAILABLE _____

Accompanied By _____

Mode of Discharge Ambulatory ___ W/C _____ Stretcher_____

Status of Problem(s) at Discharge (Refer to Care Plan)

Irrigation and debridment and open reduction internal fixation left hand -

EQUIPMENT Walker, Crutches, Hospital Bed, Wheelchair, Elevated Commode Seat

Agency _____ Available at Discharge: Yes_____ No___

Phone Number _____ Delivery Date _____

Contact Person _____

Safety Teaching Stand up slowly to get steady on feet and to avoid dizziness

WALKER

1 When standing from sitting position push up with arms to standing position Do not pull up on walker, it will tip over

2 When ambulating make sure all four (4) points (legs) of the walker are on the floor

3 When sitting from a standing position reach back and steady self with hands Do not hold on to walker when sitting down, it will tip over

CRUTCHES

1 Watch for anything that you could slip on or trip over such as,
   a Water on floor or oil film on garage floor
   b Family pets
   c Throw rugs
   d Sock or pieces of paper or cellphane on floor
   c Electrical cords, furniture

2 Keep areas well lighted when walking in that area

3 Check crutch tips for wear or rubber tips

INSERT FORM IN CHART HOLDER UP TO THIS LINE ▼

DRUG ALLERGIES

PATIENT IDENTIFICATION

DIAGNOSIS

GSW L Hand

YEAR 19__	HEIGHT	WEIGHT	ORDER NUMBER

ORDERED MONTH	DAY	TIME	DATE AND TIME OF PHYSICIAN DISCHARGE ORDER MUST BE DOCUMENTED
8/2			**PATIENT DISCHARGE INSTRUCTIONS**
		(1)	Discharge Patient — Discharge Time
		(2)	DIET Regular ✓ Calorie ADA Low Salt Low Cholesterol Other
		(3)	LEVEL OF ACTIVITY Unrestricted Bedrest Other
			Elevate L Hand Check temp 3-4 x/day + call if >101°
		(4)	FOLLOW UP INTERVAL Tue or Wed - 242-4263
			HOME HEALTH NURSING Yes No
		(5)	MEDICATIONS (List all medications to be taken after discharge including previous medications to be continued after discharge and non prescriptions Meds)
			Tylox #30 1-2 po q 4h prn pain
			Keflex 500 mg # 15 1 po TID
			Tramy Patom US 0935

Physician's Signature _____

This form is part of the Physician's Discharge Summary

029gp

3896

☐ RESPITE ☐ INPATIENT

☑ OUTPATIENT OBSERVATION (mls) ☐ OUTPATIENT

Medical Record

Admitted	Discharged	LOS
8/11/96	8/12/96	1

Reason for Admission GSW @ Hand

Final Diagnosis Explaining Admission	Code
Lac	815.10
	816 11
	E965 4
Additional Diagnosis	E849 9

Operations and Procedures		
I+D, ORIF @ Index, Ring, MCP Jt	79 33	26615 X
	7963	11012
	78.04	26989
	7934	

I certify that the narrative descriptions of the principal and secondary diagnoses and the major procedures performed are accurate and complete to the best of my knowledge

Attending Physician's Signature _____ Date _____

Resident Physician's Signature _____ Date 11/17/96

Co-ordinator's Signature _____ Title _____ Date _____

Date H&P Dictated _____

Date Op Note Dictated _____

Date Discharge Summary Dictated _____

A23819 (10/9

GREENVILLE HOSPITAL SYSTEM

Yellow

AUTHORIZATION TO RELEASE MEDICAL INFORMATION

I hereby authorize and request Greenville Hospital System
(Organization to release information)

To furnish my attorneys Steve Sumner & Agents, 114 Manly St. Greenville SC
(Attorney s name address zip code and phone/fax)

Regarding Kamell Evans [redacted]
(Patient name) (DOB)

[redacted]
(Address) (Social Security Number)

All medical information of every kind and nature including information received from health care providers correspondence consultation lab results and any and all material concerning any history examination treatment evaluation and/or hospitalizations for the periods from
1986 - Present
(Dates of service)

I have been fully advised of my rights under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and I intend for this authorization to satisfy the requirements of HIPPA and the rules and regulations thereof In that regard I certify that I consent to the release of my records to my Attorneys for the purpose of Criminal Court Trial 09/13/04 and that the release of my entire medical record is the minimum disclosure authorized by this request

I Kamell Evans , have read the above and do authorize and consent for Greenville Hospital System to disclose the said information I understand that this consent may be withdrawn by me ant any time except to the extent that action has been taken in reliance upon it or as otherwise specified by law No individual has coerced me into signing this authorization and I am providing this authorization of my own free will I understand that once this information is received by the authorized individual/organization then this information may be subject to re-disclosure and no longer protected by federal privacy laws I acknowledge that I have the right to revoke this authorization in writing by contacting the above named healthcare provider

8/11/04 Kamell Evans
(DATE) (SIGNATURE OF PATIENT OR LEGAL REPRESENTATIVE)

Unless otherwise revoked this authorization will expire on the following date event or condition August 10, 2008
If no date is specified this authorization will expire in six months

Steve Sumner
114 Manly Street
Greenville, SC 29601
Telephone 235-3834

August 18, 2004

RE 000999455594 Evans, Kamell Delshaun

Your request for medical information on the above named patient from the Greenville Hospital System has been received However, payment for copies must be received prior to your request being processed

The cost for processing your request is

( ) Entire Chart $ 49 85 ( ) Abstract $ ~~29 54~~ $22 80

CK # 5538 KM

Please indicate your choice and return this ~~letter~~ with your check made payable to

Refund $ 5 79

()GMH 455-7896	()MCC 455-8864	()MIP 455-7806	
ADDRESS	701 Grove	Greenville S C	29605
()ABMH 848-8188	313 Memorial Dr	Greer, S C	29651
()HH	729 S E Main St	Simpsonville, S C	29681

PREPAYS NOT RECEIVED WITHIN 6 MONTHS WILL BE REMOVED FROM OUR REQUEST FILE

( ) PLEASE SEE ATTACHED CORRESPONDENCE

Sincerely

Medical Information Department

( ) GMH (864) 455-7896 ( ) MCC (864) 455-8864
( ) ABH (864) 848-8177 ( ) HH (864) 967-6186
( ) MIPH (864) 455-7806 ( ) AUX _____

GREENVILLE MEMORIAL HOSPITAL
701 Grove Road, Greenville, SC 29605
DIRECTOR JESSE R STAFFORD, MD, GHS LABORATORIES
JESSE R STAFFORD,MD(GMH) PHILIP C VAN HALE,MD(ETC)
C MICHAEL WOLFF,MD(NICU)

NAME EVANS,KAMELL DELSHAUN ACCT 080008132065
HOSP# EWH-999455594 LOC EWH ROOM AGE 23Y SEX M
ATTENDING PHYSICIAN OWENS MD,LYNN S ADMITTED 06/01/2000
SSN [redacted] DISCHARGED

********** URINE DRUG SCREENING **********

06/01/00
1550 ABUSE OF SUBSTANCES

CANNABINOIDS	Neg			
COCAINE METABOLITE	Neg			
OPIATES	Neg			
PHENCYCLIDINE	Neg			
SYMPATH AMINES	Neg			
URINE CREAT CONC	428		mg/dl	
PH URINE	5 5	{4 5-9 0}		
CUTOFF LEVELS	CANNABINOIDS	CUTOFF LEVEL	50	ng/ml
	COCAINE METAB	CUTOFF LEVEL	300	ng/ml
	OPIATES	CUTOFF LEVEL	2000	ng/ml
	PHENCYCLIDINE	CUTOFF LEVEL	25	ng/ml
	AMPHETAMINE	CUTOFF LEVEL	1000	ng/ml
	METAMPHETAMINE	CUTOFF LEVEL	1000	ng/ml

END OF REPORT

COURT EXHIBIT NO 3900
IDENTIFICATION/EVIDENCE
DKT # 06-SP-33-7719
DATE 10/13/09
PENGAD 800-631-6989

Sheriff

Steve Loftis
Greenville County Sheriff's Office

Affidavit

State of South Carolina
County of Greenville

June 1, 2009

I have been employed by the Greenville County Sheriff's Office since 1992 and currently serve as the Public Information Officer I have served in this position since November of 2003 I was employed by the Sheriff's Office when Deputy Antonio Sapinoso was murdered

I am aware of the facts concerning the murder of Deputy Sapinoso and his father I am aware of the proceedings that took place against Kamell Delshawn Evans in regards to this case I am aware that it was determined that Deputy Sapinoso was on duty when he was shot and killed I know that line of duty death benefits were applied for, approved and received by Deputy Sapinoso's family These benefits were provided by the U S Department of Justice, the South Carolina State Sheriff's Association and other organizations

It is the policy of the Greenville County Sheriff's Office that anyone driving a Sheriff's Office vehicle, whether on-duty or off-duty, is expected to be "in-service" and ready to respond to any call or address any crime that they see being committed

Lieutenant Shea Smith

Notary
MICHAEL HILDEBRAND
Print Name
JUNE 1, 2009
Date
MY COMMISSION EXPIRES
APRIL 30, 2012

GO - 201

GREENVILLE COUNTY SHERIFF'S OFFICE

GENERAL ORDERS

SHERIFF'S OFFICE VEHICLES

PURPOSE

Sheriff's Office vehicles are used for **official business only**

VEHICLE USE

Anyone driving a Sheriff's Office vehicle during off-duty hours is expected to be "in-service" and ready to respond to any call Except for official business private citizens and family members are not to be transported in Sheriff's Office vehicles

Deputies attending school in Greenville County are permitted to use Sheriff's Office vehicles, provided they are in-service and available for emergency dispatch Travel outside Greenville County will be conducted only as a result of official business

If a deputy is absent from duty for any reason for a period of more than **three consecutive days,** his or her vehicle is to be made available for operational use by other Sheriff's Office personnel Division Commanders determine temporary use and assignment of vehicles

VEHICLE OPERATION AND UPKEEP

No item that may be used as a weapon will be left loose or unsecured in a Sheriff's Office vehicle Traffic laws and speed limits are to be observed at all times except when responding to emergency calls see General Order 202 Emergency Vehicle Operations Drivers and passengers are to wear seatbelts

All deputies are to take pride in the upkeep of their respective vehicles Accordingly vehicles will be kept clean and properly maintained at all times In that regard, all employees are expected to drive with care and to avoid abusive driving habits Smoking in vehicles is prohibited

Deputies who live out of the County will pay mileage at the prevailing rate for the distance traveled to and from their home to the county line

As a safety precaution, Sheriff's Office vehicles operate with **headlights activated at all times** The only exceptions will be vehicles operated in an undercover capacity or situations where the use of lights is impractical as in a covert approach to a possible crime-in-progress

COUNTY EXHIBIT NO. 3902
IDENTIFICATION EVIDENCE
DATE 10/13/09

Sheriff

Steve Loftis
Greenville County Sheriff's Office

Affidavit

State of South Carolina
County of Greenville

June 1, 2009

I have been employed by the Greenville County Sheriff's Office since 1977 and was elected Sheriff on January 7, 2003 I currently serve as the Sheriff of Greenville County and was serving as Sheriff when Deputy Antonio J Sapinoso was killed in the line of duty on April 2, 2003

I am aware of the facts concerning the murder of Deputy Sapinoso and his father since I was on the scene when the shootings took place I am aware of the proceedings that took place against Kamell Delshawn Evans in regards to this case I made the determination that Deputy Sapinoso was on duty when he was shot and killed I applied for line of duty death benefits for the Sapinoso family from the U S Department of Justice and the South Carolina State Sheriff's Association These benefits were approved by each agency and provided to the Sapinoso family As Sheriff, I applied to have Deputy Antonio Sapinoso s name added to the Law Enforcement Memorial in Washington, D C and my application was approved and his name was added to the memorial

It is the policy of the Greenville County Sheriff's Office that anyone driving a Sheriff's Office vehicle whether on-duty or off-duty, is expected to be 'in-service' and ready to respond to any call or address any crime that they see being committed

Steve Loftis
Sheriff Steve Loftis

Notary
MICHAEL HILDEBRAND
Print Name
JUNE 1, 2009
Date
MY COMMISSION EXPIRES
APRIL 30, 2012

An Accredited Law Enforcement Agency
4 McGee Street Greenville SC 29601 / (864) 467-5280 / Fax (864) 467 5299 Email sloftis@greenvillecounty org

GO - 201

GREENVILLE COUNTY SHERIFF'S OFFICE

GENERAL ORDERS

SHERIFF'S OFFICE VEHICLES

PURPOSE

Sheriff's Office vehicles are used for **official business only**

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EXHIBIT NO 1
IDENTIFICATION/EVIDENCE
DKT # ae-0823-7719
DATE 10/13/09
PENGAD 800-631-6989

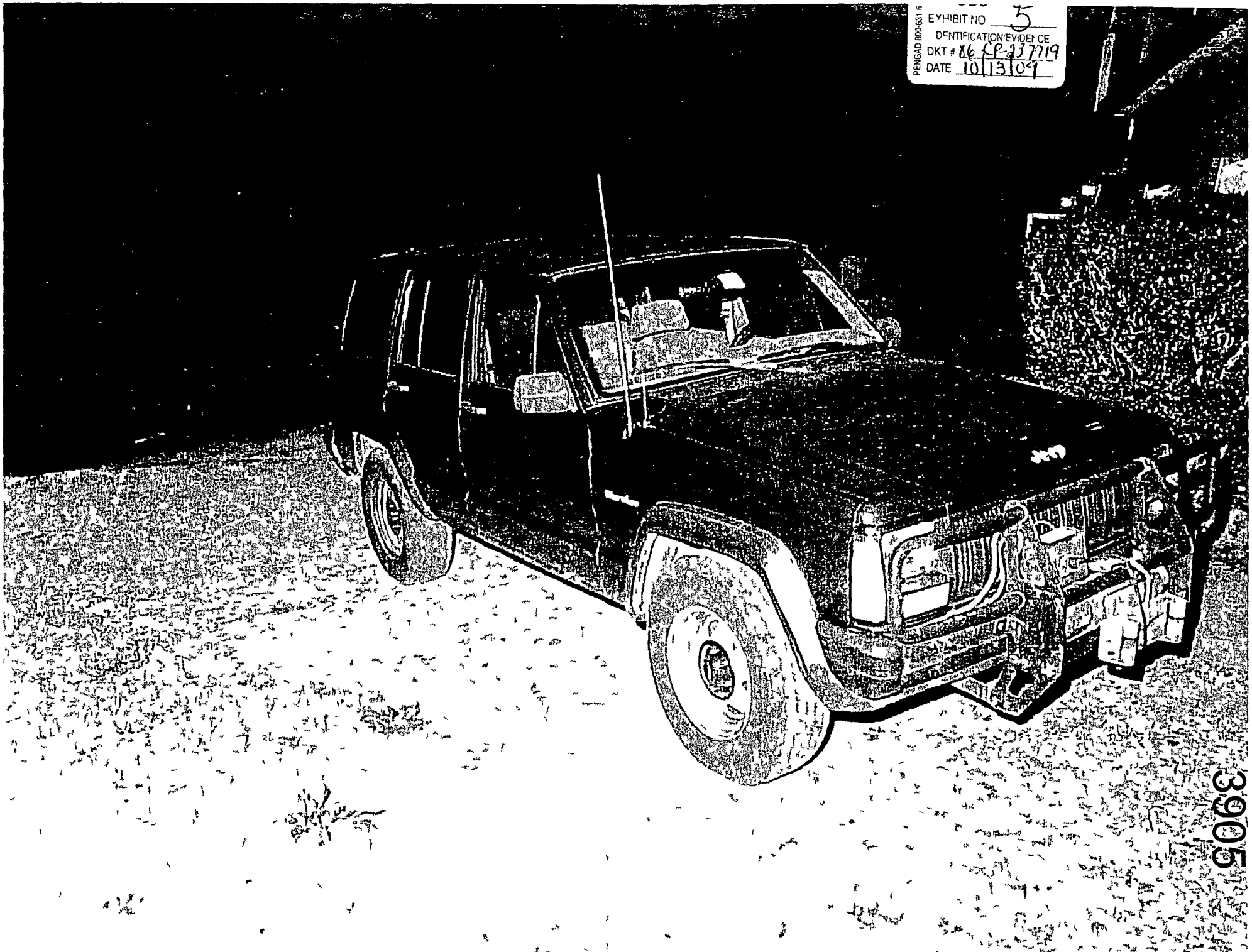

EXHIBIT NO. 5
IDENTIFICATION/EVIDENCE
DKT # 86-CP-237719
DATE 10/13/09

PENGAD 800-631-6

3905

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

Kamell Delshawn Evans,

Applicant,

vs

CA No 06 CP 23 7719

State of South Carolina,

Respondent

APPLICANT'S POST TRIAL BRIEF

WILLIAM H EHLIES, II
CHRISTOPHER SEEDS
ATTORNEYS FOR THE APPLICANT
Building A, Suite 201
310 Mills Avenue
Greenville, South Carolina 29605
864-232-3503
hank@ehlieslaw com

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Conover v State, 933 P 2d 904 (Okla Crim App 1997) 91

Council v State, 380 S C 159, 670 S E 2d 356 (2008) 46 47, 49, 52 55, 56, 57, 66

Darden v Wainwright, 477 U S 168 (1986) 167

Daubert v Merrell Dow Pharmaceuticals Inc , 509 U S 579 (1993) 131

Dawson v Delaware 503 U S 159 (1992) 133-134

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Donnelly v DeChristoforo, 416 U S 637 (1974) 167

Draughon v Dretke, 427 F 3d 286 (5th Cir 2005) 163, 164 165

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Evitts v Lucey, 469 U S 387 (1985) 177

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Gardner v Florida, 430 U S 349 (1977) 168

Giglio v United States, 405 U S 150 (1972) 175

Gray v Branker, 529 F 3d 220 (4th Cir 2008) 47, 52, 66, 137

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Gregg v Georgia, 428 U S 153 (1976) 80

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Humphries v State, 351 S C 362, 570 S E 2d 160 (2002) 167

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Kumho Tire Co Inc v Carmichael, 526 U S 137 (1999) 131

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Morgan v Illinois, 504 U S 719 (1992) 97-109

Napue v Illinois, 360 U S 264 (1959) 175

Oken v Corcoran 220 F 3d 259 (4th Cir 2000) 106

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Payne v Tennessee 501 U S 808 (1991) 88, 90-96

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Richter v Harrington, 578 F 3d 944 (9th Cir 2009) cert granted *Harrington v Richter*, 130 S Ct 1506 (2010) 164

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Sockwell v State, 675 So 2d 4 (Ala 1994) 84

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State v Ford 301 S C 485 392 S E 2d 781 (1990) 37

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State v Sloan, 278 S C 435, 298 S E 2d 92 (1982) 153

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State v Torrence 305 S C 45 406 S E 2d 315 (1991) 69

State v Tucker, 324 S C 155, 478 S E 2d 260 (1996) 152

State v White 246 S C 502, 144 S E 2d 481 (1965) 69, 172

State v White 382 S C 265, 676 S E 2d 684 (2009) 131

State v White 142 A 2d 65 (N J 1958) 150

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State v Woomer, 277 S C 170, 284 S E 2d 357 (1981) 168, 169

State v Yager 85 P 3d 656 (Idaho 2004) 81 82

State v Young, 196 S W 3d 85 (Tenn 2006) 91 92

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Thompson v Aiken, 281 S C 239, 315 S E 2d 110 (1984) 168

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United States v Agurs, 427 U S 97 (1976) 175

United States v Battle 173 F 3d 1343 (11th Cir 1999) 93

United States v Cisneros, 363 F Supp 2d 827 (D V A 2005) 133

United States v Johnson, __ F Supp 2d __, 2010 WL 2010476 (E D La 2010) 96, 171

United States v Johnson, 362 F Supp 2d 1043 (N D Iowa 2005) 96

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United States v Wilson, 493 F Supp 2d 364 (E D N Y 2006) 93

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Williams v Taylor 529 U S 362 (2000) 46, 47, 48, 53, 57

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S C Code Ann § 16-3-25(C) *passim*

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Other Authorities

ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, 31 Hofstra L Rev 913 (2003) 47

OVERVIEW OF THE CASE

Kamell Evans and Christina Rodriguez met in 1999 R 1419[1] They began a relationship and moved in together R 1420 They had an emotionally charged, on-and-off romantic relationship Eventually, Kamell became distrustful of Christina because she was not honest R 1421-22, R 1423 ("It was just a lot of games because in the plan I couldn't figure out why because I had tried to help [her] And it just, it just played a lot of emotional parts on me") Kamell's confusion reached a high point in late March of 2003 He missed work and was distraught, missing work was simply out-of-character for Kamell, as noted by his closest friend R 1424 On the night of April 1, 2003, Kamell, after trying unsuccessfully to contact Christina, feeling alone and seeking answers "to how I felt inside," went to the residence of Christina's family, the Sapinosos R 1423 In his testimony to the jury at trial, Kamell explained that he decided to talk to the Sapinosos because they were the only people that could answer my questions about their daughter because basically she did the same things to them as she did to me" R 1425 Kamell arrived at the Sapinoso's just as Christina's brother Joseph returned home from work

Kamell testified that he and Joe talked outside Kamell, who was carrying two guns, asked Joe for his Joe suggested they go inside so the neighbors wouldn t hear them R 1428 Kamell was crying R 1428 Antonio, Christina's father, answered the door and they went inside the house R 1429 Once inside, they called Christina Joe asked her to come over, he told her that Kamell had a gun, but also told her not to call the police Christina called 911, and afterward more than a dozen SWAT officers, including two deployed as snipers, as well as

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[1] Applicant cites the Record on Appeal (R) and the transcript of the postconviction hearing which took place before this Court on June 1 to 5 2009 (PCR) and October 12 to 14 2009 (PCR II)

the fire department and a negotiator responded to the scene R 1093 Kamell said when he looked outside and saw police cars, he was scared, and scared to leave R 1231, R 1430-31

Over the next four hours, the SWAT team surrounded the house, as family and friends of Kamell gathered and called trying to persuade him to come out R 1121, R 1231 Throughout, a negotiator (Lee) had phone contact with Kamell At one point, Lee asked to talk to Joe, Joe got on the phone, and Lee said that Joe said he was fine' R 1123 Kamell told Lee that the root of the problem was his relationship Christina, R 1129, and that the problems had nothing to do with her family R 1130, see R 1134, 1435, 1442-43 ("It was the whole relationship, our whole relationship") Kamell and Christina talked about their problems on the phone R 1133 From Lee's perspective the conversation went well R 1133 When Lee and Kamell last spoke, Kamell said he would call back Lee told the officers surrounding the house that Kamell was coming out in a few minutes R 1101, 1146 When shots suddenly rang out, Lee, along with everyone else, was "shocked" R 1134

In Kamell's statement to law enforcement shortly afterward, he explained that he had decided to go outside Joe said he would walk out with him So Kamell put Joe s gun on the coffee table in the living room" R 1432 Kamell put his two handguns in his sweatshirt Suddenly, Kamell perceived that Joe, who was sitting on a couch next to the coffee table, reached for his gun R 1432 Kamell shot him once and then "two or three more times" R 1443 He shot Antonio Sapinoso who was seated on a couch three times Kamell stated that immediately afterward "I thought about killing myself, but then I decided to let the police come in and shoot me" "Everything was under control," Kamell said, "if I just kept all the guns on me" Confused by his own actions, Kamell said, 'I am sorry for what I did," "[s]ometimes I don't think straight" R 1234 The investigator who took the statement

testified that he thought Kamell was credible and honest during the statement R 1247, 1254, see R 1427 When asked on cross why, if there was no animosity between he and Joe, he would be concerned when Joe reached for the gun, Kamell said, "because I was scared and confused" R 1439-40

The State sought the death penalty against Kamell, alleging that the deaths of Joseph and Antonio Sapinoso Sr were committed while in the commission of the crime or act of kidnapping and the act of burglary in the first degree, that two or more persons were murdered by the defendant pursuant to one act or one scheme or course of conduct, and that Joseph Sapinoso, a law enforcement officer, was killed during or because of the performance of his official duties S C Code Ann §§ 16-3-20(C)(a)(1)(b), (c), 16-3-20(C)(a)(7), (9) [2] At the sentencing phase of Evans's trial, the prosecution—aided by trial counsel's failure to object to or challenge the State's law enforcement aggravator or any aggravating evidence—portrayed this domestic tragedy as a premeditated gang-motivated killing of an officer and his father, and characterized Evans as a gang member who would pose a future danger in what the State described as the comfortable "little city" environment of the general prison population

Counsel's failure to subject the State s evidence in aggravation to meaningful adversarial testing paralleled a failure to investigate and present the individual circumstances of the defendant's background and character that merit a life sentence Disregarding significant leads to which they were alerted prior to trial, counsel decided to keep it simple Counsel did not investigate Kamell's childhood, and made matters worse by presenting

[2] Mr Evans was indicted in Greenville County on June 24 2003 (Indictment Nos 2003 GS 23 4083 2003 GS 23 4083) He was tried by jury beginning September 13 2004 was convicted as charged and sentenced to death on September 21 2004 On November 6 2006 the South Carolina Supreme Court affirmed Mr Evans s convictions and death sentence *State v Evans* 371 S C 27 637 S E 2d 313 (S C 2006) (No 26220)

conflicting accounts by experts on whether Kamell exhibited neuropsychological symptoms that may have helped explain Kamell and aspects of the tragic deaths of Joe and Antonio Sapinoso These decisions, borne of a hasty and self-imposed trial date, resulted in the jury deliberating on Kamell's fate without the physical, emotional, educational, and familial life history that created the unique characteristics that came to be Kamell Counsel also permitted the court to charge the jurors that they could not consider mercy, which decimated counsel's mitigation theory and the little mitigating evidence they did present

Trial counsel's ineffectiveness runs much deeper, however, in the unique circumstances of this case Counsel failed to challenge the trial venue, which was in the very courtroom where the victim worked and where his coworkers served the personal and security needs of the jury that was sitting in deliberation on Kamell s life Without objection from trial counsel, or a request to review the testimony out of the jury's presence, a Sheriff and Sheriff's Deputy took the witness stand and gave testimony beyond any fair interpretation of the outer limits of victim impact evidence, that identified the courtroom in which they were seated as Joe Sapinoso's workplace, one witness said she could not perform her courtroom duties as a result of the death of her best friend Trial counsel during the *voir dire* did not inquire into this unique venue issue so no record exists from which meaningful review could be made

The following pages address the legal errors that arose as this case played out based on the testimony presented at the postconviction hearing, which took place before this Court in Spartanburg, South Carolina, in two parts on June 1 to 5 and October 12 to 14, 2009

SUMMARY OF ARGUMENT

The legal claims that follow are organized in three parts Part A concerns counsel's failure to adequately investigate and present a case in mitigation and the resultant incomplete and incoherent view that the jury received of Kamell Evans This addresses counsel's failure to investigate and present evidence in mitigation (Point I) and counsel's failure to object to a sentencing charge that eliminated mercy—the crux of the defense s sentencing case—from jury consideration (Point II)

Part B concerns counsel's complete failure to respond to the unique challenges that this case posed with respect to the setting and staging of the trial—specifically, counsel's failure to challenge the State's charge that this offense involved the shooting of a law enforcement officer "during or because of the performance of his official duties ' (Point III), counsel's failure to challenge the setting of trial in the courthouse where the officer worked (Point VI), counsel's failure to seek to exclude or at least limit victim-impact evidence, including testimony by those who worked with one of the victims in the very courtroom in which the jurors heard the case (Point IV), and counsel's failure to take any of this information into account in *voir dire* and selecting a jury (Point V)

Part C concerns counsel's failure to investigate and challenge the State's evidence, including aggravating evidence at the sentencing phase, as well as evidence presented during the guilt-or-innocence trial that made a strong addition to the aggravating evidence against Mr Evans at sentencing This includes counsel's failure to object to unreliable and irrelevant testimony by a Security Threat Group coordinator on gangs (Point VI) and general prison conditions (Point VII), counsel's failure to examine the forensic evidence and challenge the description of the cause and manner of death the State presented (Point VIII), and counsel's

failure to object to the Solicitor's sentencing summation, which drew together and exploited all of these errors (Point X) These failures are distinct from the failure to present a case in mitigation, as they represent the other side of the coin, and, while still rooted in a right to a reliable sentencing proceeding, are founded not in the right to present mitigation but in the more general right to a defense The brief concludes with a claim under *Napue v Illinois*, concerning the presentation of false or misleading evidence, and a claim concerning ineffectiveness of appellate counsel

Prejudice evaluated under *Strickland v Washington* is a cumulative measure It takes into account the impact of *all* of counsel's failures, together as they would have affected the trial The prejudice due to counsel s failures in each of the points is addressed throughout, and the prejudice from any individual point, or combination of individual points, is sufficient to warrant a new sentencing trial But it need not In the unique circumstances of this case, in which all of the errors joined, there can be no doubt that counsel's failures and omissions skewed the sentencing case that the jury heard and experienced Taking the cumulative prejudice of the unique combination of counsel's errors in this case, there is a reasonable probability that, without those errors, the outcome of the sentencing proceeding would have been different But for counsel's failures, this case would not have been presented as the killing of an officer during official duties, it would not have been passed to the jury as a gang-style execution, Mr Evans's frailties would have been defined and explained, not ignored or offered in an incoherent package, the jury would have been properly instructed, and all of this could have occurred under circumstances that accounted for the uniquely prejudicial nature of trying the case in one of the victims' workplaces, the Greenville County Courthouse For the reasons that follow, Mr Evans is entitled to a new sentencing trial

PART A

I DEFENSE COUNSEL FAILED TO ADEQUATELY INVESTIGATE, DEVELOP, AND PRESENT AVAILABLE, RELEVANT, AND ADMISSIBLE MITIGATING EVIDENCE THERE IS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S FAILURE, AT LEAST ONE JUROR WOULD HAVE SENTENCED MR EVANS TO A SENTENCE OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE—NOT DEATH

A Relevant Facts in the Record on Appeal

Defense counsel's opening statement at sentencing presented the question before the jury as "whether you will kill or sentence to life imprisonment a fellow human being, granted a human being capable of great evil' R 1525 Informing the jurors that they would introduce a defense focused on Kamell's positive character traits, counsel explained, "[t]here will be no abuse excuse this man comes from a good family[,] he has a good background, he's got a good education" R 1526 Counsel offered the jury this question "[H]ow does someone from a good background for ten seconds of their life just blow it off ?" R 1526

Trial counsel's mitigation presentation consisted primarily of short testimony from family members, coaches, and friends[3] Counsel also called two witnesses who testified that Evans would adjust positively in prison See R 1624 (corrections expert George Martin), R 1615 (Greenville County Detention Center corrections officer John Merkle) Finally, counsel called two mental health experts Dr James Evans, a neuropsychologist who administered a

[3] The presentation began with Mr Evans s high school football coach (R 1651 53) his high school basketball coach (R 1645 47) his community college football coach (R 1648 50) and the high school football team chaplain (R 1642 44) who testified each for less than three transcript pages that Kamell was respectful courteous and a team leader A friend with whom Mr Evans coached little league football testified that Mr Evans developed a positive relationship with he and his son R 1655 58 Another friend who worked with Mr Evans in a youth football and basketball association testified that Evans had been a positive role model for his twenty two year old son R 1660 62 A coworker testified briefly that Mr Evans was a hard worker who had not been involved in problems on the job R 1664-65 Evans s sister said that Kamell was a father figure to her children even in prison (R 1672) and Kamell s father testified in two transcript pages speaking of Kamell s positive attributes and stating that while Kamell s actions caused the family pain he is still my friend he will always be my friend R 1669

test battery and conducted an QEEG of Mr Evans, testified that the results were "indicative of mild brain dysfunction," "some malfunctioning in the brain" R 1696 The "rigidity' of thinking and "poor judgment" that the tests showed would have been exacerbated, Dr Evans said, under the circumstances in which the shootings occurred R 1697-99

Dr Evans's opinion was incomplete While he estimated that the results indicating brain dysfunction were "very likely due to lead poisoning," R 1697, on cross-examination, he admitted that he had no confirmation or proof that Evans suffered lead poisoning as a child R 1702 ("Did you confirm that with any medical records? No, I did not") Further, Dr Evans conceded that he had not "actually seen the [brain] damage," explaining that to know whether Evans suffered from brain damage, more testing and brain imaging would be needed R 1701-02, see R 1684 ("[N]o one knows that someone has brain damage unless they can see it on a CAT scan or MRI or during neurosurgery")

The defense's last witness, Dr Elin Berg, a psychiatrist, testified that Kamell suffered from a major depressive disorder on the day of the shootings, R 1719, and stressed that the relationship between Mr Evans and Christina Rodriguez was the reason for this, the pivot for the shootings R 1717-18 Dr Berg, however, allowed that Kamell, while suffering cognitive dysfunction from major depression, maintained the capacity to conform his conduct to the requirements of the law at the time of the shootings and was not experiencing any psychotic symptoms R 1729 This was not fully consistent with the position of Dr Evans, who found that Kamell had diminished capacity in this regard R 1699 Dr Berg also testified, again contrary to Dr Evans, that Kamell lacked any neuropsychological symptoms that would call for further study of brain abnormality Under cross-examination, it became clear that Dr Berg was not familiar with the facts of the incident in the case See R 1732-34

Capitalizing on Dr Berg's ignorance of the facts set forth at trial and in the defendant s statement, the prosecution discredited her testimony See R 1737 Defense counsel made no attempt to rehabilitate the doctor's testimony with a redirect examination R 1738

In summation, the prosecutor argued that [t]he defense evidence was not mitigation[,] [i]t didn't mitigate anything It was designed to make you feel sorry for him and create sympathy " R 1754 Defense counsel's closing argument attempted to return to the question posed at the opening of the sentencing trial "How does someone from a good background for ten seconds of their life just blow it off ?" R 1526 Counsel James Goldsmith confessed, "I've been unable to really come to grips with it until yesterday and I think I about got it figured out " R 1768 His explanation was simply this

> There are two Kamell Evanses There's the Kamell Evans that we saw up there, gangster, guns, and there's this Kamell Evans There are two Kamell Evanses That's the only way you can explain it R 1769

Ultimately, counsel asked the jury for "mercy ' R 1770

B The Evidence Presented at the Postconviction Hearing about Trial Counsel's Representation

1 A rushed case

a Initial concerns with representation

John Mauldin, the Chief Public Defender of Greenville County, met with Kamell shortly after Kamell was taken into custody on April 3, 2003 Based on Mauldin's relationship with victim Joseph Sapinoso, who worked security at the Greenville County Courthouse, which also houses the Greenville County Public Defender s Office, Mauldin met with Judge Kittredge in chambers on April 7, 2003, and two weeks later sent a letter, seeking

substitute appointment As Mauldin explained during the postconviction proceedings, he had a relationship with Joe

> I saw him every day during the week If he was working like at the front door, when [I] parked my car I went through that area to get over where my office is, so I would pass him or see him there I would see him in the courtroom if we had court going on There was a chance that I would see him every work day

PCR 179, see PCR 182-83, 189, App Exh 9 Joe was in a sense responsible for the security of Mauldin and his office, because Mauldin's office was in the courthouse

> [M]y office staff is dependent upon the security detail during their job with regard to the safety of the workplace, so every day And we get to know those people very well We work with them constantly on the movement of clients back and forth within the courthouse I personally work after hours most every day, and the security detail, on occasion, will come through the courthouse checking on the offices So we see them all the [time] and [are] very dependent upon them to do the job for our safety

PCR 180

On May 20, 2003, with the substitution motion pending, the State served Notice of Intent to Seek the Death Penalty, after which Mauldin filed a motion for substitution of court appointed counsel, asking that the entire Greenville Public Defender's Office be relieved On June 6, 2003, Judge Kittredge relieved the Public Defender's Office from the duty to represent Kamell Evans finding that 'the unique relationship between one of the named victims and the Public Defender's office warrants substitution of counsel" To that date, Mauldin had made no effort to get discovery and had focused entirely on getting his office off the case "I was just not focused on the merits of the preparation" PCR 186 On the same day, the court appointed James L Goldsmith as lead counsel, and Rodney Richey as counsel for Kamell

b A year-long false start

For Goldsmith, who explained that ninety to ninety-five percent of his practice is criminal defense (PCR 197), Kamell's case was his first death penalty case in South Carolina and the first capital case that he took to trial PCR 242 43 While Goldsmith's primary office is in Hendersonville, North Carolina," he is licensed in South Carolina as well and has a "very small office in Greenville" PCR 196, see PCR 197 ("[S]ince I didn't know Mr Sapinoso and was some distance removed although I had some limited practice in Greenville, that's how I got the appointment") It was also Richey's first capital case

Perhaps due to geographical lack of proximity, communication with Goldsmith, for Richey as well as the Evans family, proved limited and incoherent Richey and Goldsmith never had regularly scheduled meetings They never agreed upon a list of things that needed to be done PCR 78 Goldsmith described the relationship as open communication" (PCR 260), but never relayed any information to Richey about his efforts, if any, to find mitigation experts (PCR 79), and described himself as "[s]ometimes out of the loop" (PCR 246) Goldsmith did not keep his own file PCR 247 According to the Greenville County Detention Center Inmate Visitation log, Goldsmith visited Kamell—over a period of fifteen months on the case—only three times for a total of approximately three and a half hours App Exh 32, see PCR 207 Goldsmith's invoice suggests more meetings—twelve meetings for over twenty hours Resp Exh 13 Goldsmith acknowledged that each was accurate at different points in the postconviction hearing, so the records are unreconciled Evans sent a letter of concern to Judge Derham Cole on May 27, 2004 regarding the lack of communication with his defense counsel He noted that Goldsmith had visited him twice—each time in June 2003—between his appointment and May 27, 2004 App Exh 69

As far as duties, Richey testified that he was in charge of preparing the guilt-or-innocence phase and Goldsmith was in charge of the penalty phase PCR 73 Goldsmith agreed that duties were divided, but recalled it in this way "[A]s a matter of convenience it was agreed that Rodney would hit up a lot of the detail work, the building of the evidence and things like that I was involved with it but being 45, 50 miles away was a little more difficult It just seemed to work better if he would do a lot of the day to day work on the thing " PCR 198-99 For this case, both agreed "the guilt phase wasn't the meat and potatoes —mitigation was PCR 73 Nevertheless, approximately a year later when Richey moved to be relieved as counsel, the mitigation, while ' a big deal," "wasn't done " PCR 68 Robyn Evans had met with Richey and expressed concerns about the mitigation preparation PCR 71 ("I think the concern she expressed to me was getting a hold of him --- Mr Goldsmith – and talking to him and that kind of stuff They sounded like they couldn't get a hold of him She didn't feel like he was being responsive to her "), see PCR 903 [4] Her concerns were well founded ' At that point," Goldsmith concurred, "I believe we had worked pretty much exclusively on the guilt phase " PCR 201-02, see PCR 245 Richey testified, "This case wasn't ready for trial I didn't think it was " PCR 67 [5]

Richey's reasons for being relieved as counsel were similar to those that John Mauldin had stated a year earlier Richey found Kamell cooperative," but Richey s relationship with victim Joe Sapinoso posed a conflict

[4] In fact the first time that Barry Evans Kamell s father met with Goldsmith was on the first day of trial in the lobby of the courthouse a few minutes before the trial started Goldsmith did not return Barry s phone calls PCR 636 The family had concerns with Richey too Barry Evans testified that he tried to call Richey I don t know how may times tons of times He never returned my call PCR 635

[5] At that point counsel had filed a handful of motions—including a motion for discovery and inspection motion for production of evidence motion to seal visitor registration log motion to prohibit undercover operative within county detention facility and motion to require solicitor to respond in writing to defense motions)—and had several client meetings App Exh 3

> We wasn't buddy buddy, but I knew the guy The guy would sit behind me in death penalty cases I knew him to that extent Not any kind of social relationship or none of that, but I knew him from that experience And the more Kamell thought about it, the more problems he was having with it And when he got to the point where he was having a real big issue with it, then I just felt like it was time to move on

PCR 76 When Richey moved to be relieved, he had received discovery, but counsel had dispensed no money for experts, retained no experts, and done no mitigation investigation PCR 69, 199, 200 Richey gave no strategic reason for this state of affairs PCR 80

c Race to trial

Steve Sumner was appointed as lead counsel on July 3, 2004 On July 8, 2004, in his first step on the case, Sumner visited Richey's office and picked up the file PCR 66, 263, see App Exh 2 It consisted only of discovery there was nothing in the file that Sumner could remember produced by the defense PCR 264 At the time, he knew that the case was slated for trial on September 13, 2004, just two months away

According to Sumner, he and Goldsmith divided the work Sumner would get experts," "file motions," pick[] investigator,' and research the insanity defense', while Goldsmith would handle *voir dire*, respond to the State's motions, and prepare "mitigation" and 'interview family/character witnesses" Resp Exh 11 Notes indicate that Sumner and Goldsmith put some thought into a defense team—identifying investigators and several experts—but no mitigation investigation had been accomplished before Sumner met with mitigation specialist Dale Davis on July 21 PCR 406, 413-14, see App Exh 44 (C V of Dale Davis)

Davis remembered well the call that she received from Steve Sumner on July 21, 2004 Her first thought was, that given the undeveloped state of the mitigation and that a trial was scheduled for mid-September, a continuance was an absolute necessity She understood

Sumner to be asking her to help him get a continuance by preparing an affidavit (PCR 525, 547) There had been nothing done by way of mitigation, investigation or any kind of preparation for the sentencing I would prepare an affidavit so that he would be allowed to get proper time [roughly six months (PCR 540)] to prepare for sentencing " PCR 525-28

Davis wrote Sumner a letter that evening (PCR 272-73, App Exh 15) and met with Kamell the following day In what she described as a long meeting,' Kamell was very cooperative' and he gave her a lot of information to work with ' From that meeting she "determine[d] a number of issues that would relate to mitigation"

(1) One "was [that] around two years old he had eaten some paint chips and gotten lead poisoning' She described the lead issue, based on traning sessions she had attended related to neurotoxins and the effects that lead can have on children s IQ and development, as 'a big thing because of all the possibilities and effects that lead can have "

(2) Another was "domestic violence between the parents," the 'father was abusive to both [Kamell] and other children' and beat the mom and would turn on the kids when they would intervene

PCR 530, see App Exh 33 (seventeen pages of articles and information on lead poisoning provided by Dale Davis to Sumner) [6] On July 28th, she elaborated on mitigation avenues to investigate in an email to Sumner—these included "abusive father, neglectful mother, poverty, neighborhood conditions, and, of particular interest, the issue of the lead poisoning as a toddler and the treatment he received for it " PCR 277-279 (publishing App Exh 16), see PCR 550-51

[6] Davis began the investigation by calling Renee Evans Kamell s mother whom she also found cooperative She told me that they lived in an apartment when he was two and he tested positive for lead and she was going to get me an address where that was And then on August 5 I got an email from her thanking me for talking to her and she was going to fax a list of family members a number of things PCR 531 see PCR 533 34 551 Ms Evans informed Davis of a hospital that treated Kamell Davis wrote the hospital seeking records PCR 532 App Exh 40 App Exh 41

Davis's fast start—two meetings with Evans in three days (PCR 537), and quickly developing a family genogram (Resp Exh 19) that documented "substance abuse, psychological abuse, former substance abuser, physical abuse, sexual abuse, psychotic behavior, mental illness and neglect" (PCR 541)—quickly gave way to concern that a continuance was not forthcoming See PCR 538 She sent materials to Sumner hoping that he would change his mind and use them to seek a continuance PCR 529, App Exh 43 Sumner told Davis that he was broaching the problem with the prosecution, but never got back to her PCR 283, App Exh 17

At the end of July, Davis withdrew from the case PCR 556 ("It s absolutely my opinion that the attorneys should not have gone forward ") She continued to send Sumner information on lead poisoning thinking "he just doesn't understand what a big issue this is " PCR 541 When she withdrew, Davis had identified several red flags with respect to mitigation, including physical and psychological abuse, substance abuse, and lead poisoning, yet she had never met or spoken with Goldsmith who, at least by the terms of division of responsibilities, was in charge of mitigation and interviewing family PCR 550, see Resp Exh 11 [7]

Nor did Davis ever meet or speak with the mitigation investigator that Sumner hired to replace her PCR 550 With the clock ticking, Sumner hired Lenora Topp, a former police investigator who had worked previously on two capital cases PCR 288, 562, 584 Topp agreed with the perspective espoused by Davis that [i]t is extremely important that a complete history be done for a jury to hear everything[,]" (PCR 564)—that mitigation

[7] Davis also sent an email to John Mauldin expressing her concern about the case which Mauldin forwarded to the Center for Capital Litigation Mauldin wrote I believe it should be seriously considered for someone to intervene on behalf of the client on the grounds that the case is being allowed to proceed without proper preparations App Exh 12

investigators serve multiple roles in collecting records, interviewing, and helping to identify issues for the defense, all of which take time (PCR 564, 599)—but she took the case After a week passed in which Topp met with Sumner and Kamell and did two hours of research, on August 10 (Resp Exh 16), she started calling for records and writing and sending releas[es] on that and interview[ing] persons on the other sheet" PCR 565 She tried to get some Junior High School records from Cleveland that were reported destroyed PCR 586 She wrote to one hospital and had a wrong address—the kind of error that often occurs in tracking down old records and investigation—and then wrote again on August 26, 2004 PCR 599, Resp Exh 36, see PCR 540 (Davis [W]hen you're trying to take records if people send them right back, that's great, but that doesn't always happen particularly when you're dealing with old medical issues or government type issues usually takes a lot of time ') Only in this case, there was no time to correct it

Upon agreeing to work on the case, Topp wrote to Sumner, "a trip to Cleveland must be made" App Exh 18 She explained this statement at the hearing "Part of the defense that needed to be made [was] you need to talk to the person in person and I didn't know [where] that would lead Often that leads to other areas, other records to find He did grow up there His family was there It seemed important to me to visit the home town ' PCR 570-71, App Exh 18 The trip was also necessary to get records pertaining to lead poisoning, which she considered "to be very important ' PCR 569 ('I tried to get information by phone and you never find the right person You need to be there and search through records These clerks in the different places whether it's the health department or courthouses [t]hey don't have the time and the interest") Sumner wouldn't authorize it PCR 571, see PCR 284 (Sumner deferring to Topp's recollection) He told her there was no reason

because Kamell's family was coming to South Carolina for the trial PCR 571, 573, 598, 601 Consequently, nobody from the defense team went to Ohio Topp wrote to Renee Evans on August 26, 2004 "Attorney Steve Sumner and I don t think it's necessary for me to go to Cleveland (although I've never been there to see Lake Erie) ' Resp, Exh 27, see PCR 290-91

Sumner also told Topp not to search for Kamell's friend Nicholas Wideman, who expert George Martin suggested they interview "I got email from George Martin and he said something about Kamell and it hit me that possibly Mr Wideman was not a hostile witness and that he could be helpful certainly because he had known Kamell at the time and known the circumstances He was on the scene " PCR 582, App Exhs 22, 23

Ultimately, Topp ran out of time Topp found herself overly pressed for time even on the ground in South Carolina ' there was so little time to do this background of any kind PCR 580, see PCR 588 ("[H]e was the attorney He told me what he wanted He told me what to do and do the best I can He was going to trial He was not going to ask for a continuance, this was it ") Sumner did not hire a social worker "I know that is done and has been done, it was not done in this case PCR 512-513 Like Davis, Topp never spoke with or met Goldsmith, until the first day of trial PCR 566-67 [8]

Two weeks after the trial Topp received the medical records – from the very place that she said she had the wrong address from PCR 600 They showed that Kamell had poisonous levels of lead

2 Ignored leads and incomplete investigation

a Refusal to go to Cleveland

[8] While Topp found Renee Evans whom she emailed sluggish in her response to help get medical records in Cleveland (PCR 593 601 602) she found the rest of the witnesses friends and family of Kamell many of whom she interviewed for the first time while trial was already underway very cooperative PCR 579 80 Goldsmith had no contact with Topp at all during the investigation and never spoke with Renee Evans PCR 204 205 Renee does not recall being contacted by the trial team for records PCR 881 885

During the postconviction hearing, Sumner and Goldsmith were asked why they did not pursue certain investigative avenues, such as Sumner's refusal to send the mitigation investigator to Cleveland, Evans s childhood home

> Q Do you think it would be a good idea for a mitigation investigator to go to Cleveland, Ohio in anticipation for a capital case assuming the child had lived there through the seventh grade?
> A No
> Q You don't think it'd be a good idea?
> A Would anything be a good idea – could you have done more preparation, yes I did not see any reason, in my representation or inaction with Mr Evans, that that would be necessary to do
> Q What would trigger your thinking it would be necessary?
> A Probably if I'd ha[d] any difficulty communicating with him or if I had been told, I guess, anything that I felt like was significant

PCR 284 Sumner knew from Kamell himself of some information that might have piqued his interest in Cleveland Notes from Sumner's first meeting with Evans on July 9, 2004, read "In Cleveland – D and mom had problems (single mom, sister in college) D 'running the streets [9]

b Tales of lead poisoning

Trial counsel was told by Dale Davis and Lenora Topp of lead poisoning In an email of July 28, Davis, who was informed by Renee of the hospital at which Kamell was treated for lead poisoning, stressed to Sumner that "the exposure in lead in infancy related to children is critical It can relate to many problems There's a mountain of research demonstrating relat[ed] problems " PCR 277-78 Sumner did not forward the email to co-counsel (PCR 278), and this was apparent from Goldsmith s response at the PCR hearing—he seemed unaware of the information that Dale Davis received from Renee and unaware of Topp's efforts "[W]e

[9] The same notes suggested that Kamell had told Sumner that he was involved with a gang in Cleveland This was not investigated either See *infra* Part C Point VII

had no idea, no indication of what, if any, hospital had treated him, what if any doctor had treated him We were unsure as to who to send the releases to at that point " PCR 206

When Lenora Topp subsequently brought the issue of lead poisoning to Sumner's attention again, Sumner did not feel a need to address it PCR 278 Sumner elaborated on his view when asked about how he approached investigating health records in Kamell's case

> Q What [importance], if any, do you assign to a complete set of health records of a[n] individual charged in a capital case?
> A I would say that it is important if a determination or if I have received any indication from health records [would] be important to me when and if I had felt that there were any issue in that area of mental or physical health
> Q Let me make sure I got this straight In your mind what you do is you find out if there are any sort of health issues either mentally or physically, and then once you make a decision that that may or may not be or that may or may not exist, then you go out and get the health records?
> A That would be correct and that would be the way that I approached Mr Evans' case

PCR 268 Along the same lines as his explanation for not going to Cleveland, Sumner stated that because nobody on the defense team had a problem communicating with Kamell, he determined further investigation of lead poisoning wasn't necessary PCR 462, see PCR 461 Goldsmith, though ignorant of much of the correspondence that Sumner had received on lead poisoning, echoed the perspective that there simply wasn't enough evidence to investigate "There was no concrete evidence The only thing we had was a statement by the sister that Kamell may have lived in a house in Cleveland that had lead paint and may have, when he was very young, ingested a flake or two That was all we had and we shared that with everybody in the team " PCR 247-48

In sum, lead poisoning was not something that trial counsel ever researched

> Q What did you do to familiarize yourself with the issue of lead poisoning in preparation for the trial of this case?
> A Nothing
> Q Nothing

A Very minimal If I had done anything, I don't have any recollection of it right now

PCR 367

c A blind eye to abuse

Kamell's parents, Barry and Renee, had an abusive relationship They divorced The trial file contains the divorce decree that cites "extreme cruelty" as a ground and evidence of the violence App Exh 35 Goldsmith testified that counsel did not obtain the divorce record PCR 211-12 He also stated that had he received evidence of domestic violence, he and Sumner "absolutely" would have explored it "We weren't going to foreclose any avenue of looking into what may explain some of his behavior be that domestic violence or mental illness or drug abuse or whatever " PCR 217

Sumner initially also did not recall having obtained the divorce decree, but, after discovering it in his file at the PCR hearing, explained that the decree s finding of extreme cruelty was of little importance "Well, I knew – I believe there had been allegations of abuse I knew that he had moved down with his father when he was 11 or 12 years old I think this occurred when he was I want to say 21 or 22 years old So I don't think it had a lot of importance to me ' PCR 393 Sumner later added, ' [The abuse] was so far removed that I felt it would run a credibility gap with the jury about, you know, they're trying to blame something from 10, 12 years before this, and I felt we would lose credibility ' PCR 427

Rather than follow up, counsel simply left the issue alone Goldsmith suggested that it was not something he would have asked about I m not sure that Barry and I talked about that I'm not sure In hindsight, it was probably something he would have to bring up"

Q You would have never brought it up?

> A Unless I had some indication there was a problem there, and there was certainly no indication it was a serious problem I knew they were divorced so I assumed it wasn't necessarily a happy marriage

PCR 212 The result was that no effort was made to interview the principal victim of the abuse, Renee, prior to trial Indeed, it was late before Lenora Topp interviewed Kamell's family members in South Carolina But when she did, Barry Evans and Shatima Evans, Kamell's sister, both revealed the abusive environment in the Evans household in Cleveland where Kamell and Shatima witnessed Barry's violence upon Renee, and Kamell fell victim to it as well Topp's interview with Shatima on September 7, 2004 (App Exh 26), reported physical and verbal abuse with detail (PCR 311-312), which Barry at one point said he would corroborate (PCR 313) When shown Topp's interview notes with Barry Evans (also of September 7, 2004), in which Topp had underlined "He will testify in court that there was physical violence between them [he and Renee]" (PCR 307, App Exh 25), Goldsmith doubted that he had ever seen the document (PCR 249) Sumner wrote back to Topp in an email on September 9, 2004, asking whether they should call Barry as witness Resp Exh 20 Topp responded in the affirmative App Exh 28 [10]

Topp then sent an email to Sumner on the second day of trial about a three-hour interview (the first and only) with Renee and Georgia Cargile, her mother App Exhs 29, 30 Renee told Topp how abusive Barry was In fact, she brought a document that she had drafted on September 28, 2003, entitled "Bad temper, my husband has a bad temper," which recalled abuse that she had suffered at Barry's hands when Kamell was young PCR 870, App Exh 67 It told in some detail of several incidents of abuse, and stated that she "fear[ed] for [her] life on several occasions, but [] also tried her best to shelter [her] children " PCR 871, App

[10] Sumner testified that he and Barry talked between September 5 and 10 and that Barry denied abuse See PCR 314 343 (discussing App Exh 27)

Exh 67 Topp said to Sumner, "We're going to have to put them on the stand because they had so much interaction with Kamell when he was small," and asked, ' aren't you going to get into the family abuse?' Overall, Topp thought Renee would do fine on the stand PCR 342, App Exh 29 Neither Sumner nor Goldsmith ever interviewed Renee prior to trial and Sumner did not recall speaking to her during the course of the trial Renee, Kamell's mother, the victim of abuse in his childhood home, paid her own way to the trial She wasn't called as a witness She came on her own PCR 346-47

Sumner offered several rationales for not putting Renee (or her mother) on the stand One was that Kamell was ambivalent about abuse PCR 310, 426-27 Another was that his relatives might talk too much ' about themselves

> A So I was reluctant, really in terms of putting – Judge – in terms of putting them on the stand, I took the whole body of email into account in terms of apparently the mother and grandmother going on and on about themselves So I was a little bit concerned with putting them on the stand if they might not take an hour or so to talk about themselves which I felt would probably alienate the jury [] I just didn't have much interaction with her

PCR 348-49 A third was that he and Goldsmith had already made their minds up about the "strategy" they would employ before Renee and her mother were interviewed PCR 353 ('I made a determination, I guess just from a litigation point of view, the allegations of abuse is just not the direction we wanted to take ") Four days before he or anyone else on the defense team had asked Renee about domestic abuse (PCR 354), Sumner memorialized the defense ' strategy' on the abuse evidence in a "Trial Strategy" memo, without ever mentioning abuse of Renee

> During the past few weeks, Skip and I have talked about the various angles that we could take the jury in our presentation regarding this case, specifically, in the anticipated mitigation phase of this trial We have received conflicting information from Kamell and others regarding potential physical abuse which he endured as a child and as an adolescent Barry Evans denied to me and Skip

> any physical abuse Kamell has given conflicting information on this point There have been interviews where he said he feels like he was abused and other interviews where he indicated it was more of strong discipline but short of abuse I notice in Dr Berg's report that he denied any physical abuse to her in his interview with Dr Berg Some members of the family feel like there was abuse Skip and I decided that there just is not enough hard proof on this point to try to use physical abuse as in his childhood in the mitigation phase of the trial

App Exh 27

3 A premature mitigation theory and under-informed expert testimony

Sumner's "Trial Strategy' memo covered both the guilt and penalty phases PCR 330 After explaining why they would present no evidence that Kamell was physically abused as a child, he summarized their proposed approach

> Skip and I believe that the best angle is to show that Kamell came from a solid family in the Greer area, worked two jobs several years after college, etc , and that this was a one-day "melt down" which occurred Skip and I fully explained to Kamell that we feel the best way to handle the case is to put up a good number of solid character witnesses for him (several close friends, old high school and college football coaches, etc) and stress to the jury that he was a quality student, ball player and friend all of his life and that this incident was again a one day "melt down" which occurred because of a bad relationship with Christina

App Exh 27 Goldsmith testified, "We didn't have a lot of evidence that there were bad things that happened to him, that he had kind of gone off the deep end in his early life " PCR 224 He suggested that he was primarily responsible for the theory

> Our theory of the case, and this is where I did most of the work, was that Kamell lived a very good middle-class life, was successful in some things He won a state championship in basketball and maybe football, but he was very successful, and I developed the strategy of the case that there were two Kamell's You had the Kamell posing for this picture of this gang member, but you also had the Kamell in his basketball jersey holding his little sister after they won the state championship And my argument to the jury was, consistent with the theory, you want to kill this guy with the gang, but if you do, you kill this other guy as well Our strategy was to say there's something redeemable about this guy and you don't have to give him the death penalty to punish him

PCR 223-24

The other aspect of trial counsel s mitigation presentation took the form of testimony by two experts Dr Berg, a psychiatrist, and Dr Evans, a neuropsychologist Goldsmith pointed to these experts' opinions as an additional reason they did not investigate abuse or lead poisoning Asked why he didn't further investigate domestic violence, he stated,

> I didn't see from my own personal interaction with Kamell and I'm certain Dr Berg and Dr Evans didn't see in their evaluation of him, any indication that he was suffering from any effects of domestic violence or whatever And so it did not seem to me, and we rely on our experts, that there was no manifestation in his life later that he had been exposed to anything that would cause problems So relying on our expert and relying on my perception I didn't see that that was an issue or a problem

PCR 213-14 Goldsmith's recollection with respect to lead poisoning was similar '[W]e had Dr Berg and Dr Evans as our experts assisting us, conducting tests to see if they found anything that would indicate a problem They did not find anything or certainly didn't indicate to us, hey, there's a problem with some possible lead poisoning We weren't able to get any records and so we didn't pursue that avenue " PCR 204

Sumner was later asked about how lead poisoning or possible brain damage factored into their strategy

> Q In this as detailed a [trial strategy] memorandum as you could put together, where did you document what your strategy was to deal with the issue of lead paint poisoning?
> A It was not an issue The reason it's not addressed in this memorandum because it was not a part of our trial strategy at all
> Q In this as detailed a memorandum [as] you could put together, where did you document what would you do about brain damage?
> A The words 'brain damage,' are not in this memorandum I was unaware of any brain damage issue

PCR 329 Sumner's notes show that Dr Evans reported to Sumner, as of August 3, 2004, that Kamell suffered from cognitive rigidity, was prone to poor judgment, had mild learning

disability, and "some potential degree of brain injury and/or brain dysfunction" Resp Exh 29, 30 Dr Evans also suggested, and Sumner wrote in his notes, that based on what he saw Kamell may have suffered from lead poisoning See Resp Exh 29 (page 4)

4 Diving in

Eventually, counsel did ask for a continuance, but transparently in a motion designed to fail, as Sumner conceded to the court on the opening day of trial "As an officer of the Court, I cannot tell you that I'm not ready to proceed I cannot tell you that Mr Goldsmith would say that either I did file the [continuance] motion and I did want to bring it to the Court's attention Mr Evans did ask if I filed it and I did" PCR 281 The court asked, [You're] representing to the Court that you have done all the preliminary investigation and preparation that you need to do and you are prepared?" Sumner answered, "Yes, sir" See PCR 283 The court then denied the motion

C The Evidence Presented at the Postconviction Hearing About Kamell

1 Cleveland lead poisoning, learning disability, violence and neglect

The testimony at PCR provided a picture of life in Cleveland much more nuanced and complex than the one-dimensional "lived a very good middle-class life" and "very successful" picture that Goldsmith tooled into his "two Kamell Evans" closing argument In reality, Kamell's life growing up in East Cleveland was one of a physically and psychologically violent home tempered by a supportive community of sports mentors but hampered at school by learning problems and brain damage caused in part by toxic exposure to lead

a Family violence and neglect in Cleveland

Witnesses at the PCR hearing gave voice to the incidents of violence and abuse recorded in Lenora Topp's interview notes Kamell's mother, Renee Evans, who did not

testify at trial, gave a first person account of her victimization, and her sister, Virginia Golden, provided a corroborating account Barry Evans, Kamell's father, and Shatima Evans, Kamell's sister, also testified In contrast to their trial testimony, which was limited to their love for Kamell, their sorrow for the Sapinosos, and Kamell's positive attributes, they divulged a tumultuous and traumatic history, which Barry left Ohio to escape

Barry testified that he left Ohio when Kamell was in elementary school to get away from the 'pain of his relationship with Renee "A lot of physical anger It wasn't a good family relationship for my kids, abuse in the family" PCR 633 By "physical anger" Barry explained that he was referring to "physical violence against my wife, things I'm not proud of and it was not getting better The effect it had on those guys, my kids, myself I felt I was losing control so I had to give it up" PCR 634 He was the aggressor "[T]he truth was I was physically abusive" PCR 635, 638

Kamell was born into the abuse, which began approximately five years earlier when Renee became pregnant with Shatima, Kamell s older sister Barry "lashed out" at her PCR 861, see PCR 142 (testimony of Virginia Golden) Shortly after Shatima was born, Renee's family sent her to New York to get away from Barry, but she came home for visits and eventually they reunited and married PCR 862 Renee described the years before Kamell was born as unhappy and violent "[I]t was very physical He was very abusive physically and verbally '

> I was beaten almost daily I was not allowed finances or to leave the house I had to make sure everything was done inside the home and his meals had to be done If he come to the house and I've already eaten and my daughter, and if he comes in and there's nothing out, then he would get angry and he takes it out on me He gets to screaming and hollering first and then he hits me like I'm a man He punches me

PCR 863-64 At that point in the relationship, Renee explained, she did not call the police "[O]ne, if I did that, the repercussions would be twice as bad Two, I didn't let a lot of people know what was going on in the household [because] [i]t's belittling You lose your self-control and your self-esteem and you become null and void as an individual ' PCR 864 The abuse did not stop, however, after Kamell was born, and the presence of Shatima and Kamell during Barry's attacks upon Renee only escalated the circumstances

> When they tried to stop their dad, the anger he turned and he would throw them across the room, and then he would tell them to get out of there, but they were children Kamell would withdraw and my daughter, she tries to do a little bit more and then she tries to protect him while they're trying to protect me

PCR 865

Virginia Golden, Renee's sister who lived with Renee when Renee and Barry started dating at Shaw High School in East Cleveland and nearby when Renee and Barry moved to Cleveland Heights when Kamell was about four and Shatima about eight, recalled an increase in Barry's drinking (he was frequently at a bar called the Master Plan after work (PCR 142)) and, in turn a series of violent incidents after which Renee would leave the home with the kids and return days later PCR 144 ("They would have a fight, Barry would beat her and then she would call us to come rescue her), see PCR II 29, 34 (testimony of Shatima Evans)

This was the case during a particular beating that resounds in the mind of Kamell's sister When she was thirteen, she, her mother and Kamell moved out after a beating Barry gave Renee in the kitchen that precipitated the move out Shatima recalls that she heard yelling and told Kamell to go upstairs She went to the kitchen Barry was "beating [Renee] on the kitchen floor with his knees in her back and he pulled on her hair And there was a big old chunk [of hair] on the floor Shatima jumped on her dad, who pushed her against the refrigerator Kamell had come downstairs and he was staring at them, frozen Shatima told

him to call 911 but he didn't Shatima then called her grandmother, who called 911 They moved to the grandmother's house and didn't move back until Barry had moved out PCR II 20-24 "My dad was hitting with a closed fist and had his knees in her back My mom was laying like this trying to protect herself" PCR II 23 Shatima was pushed against the refrigerator really hard PCR II 24 And Kamell was "facing what was going on" PCR II 24 Of Kamell, Shatima said, "I just tried to protect him" PCR II 23

On one occasion Barry pushed Renee into the panes of the sun porch with such force that it broke the glass PCR II 28-30 Another incident involved Barry's gun, which he shot in anger during an argument with Renee The children were in the house PCR 866-67 Shatima heard arguing and ran downstairs As she reached the stairs, the gun went off PCR II 31 Renee grabbed her and took her upstairs (and grabbed Kamell who was also heading down) and they shut the bedroom door and put stuff in front of it and 'barricaded" it Kamell was about seven or eight and in elementary school PCR II 32 [11] Shatima recalled that Barry and Renee "argued all the time" and physical violence followed by a 911 call by Shatima, was a "common event" PCR II 28-30 So was moving out and coming back home again after several days Shatima testified that it was "scary" and 'felt unsafe" to go back ''because you never know when it's going to happen again, and then you never know when we're going to get it" PCR II 29 Shatima had clear memories of the tension when her father came home it's like it just happened yesterday" PCR II 34 [12]

[11] At the postconviction hearing Renee read the document that she had shown to Lenora Topp on the eve of trial which provided a montage of abusive incidents If dosed with hyperbole and at times slightly different than her testimony under oath—for instance the letter claims three shots were fired but she testified like Barry that only one shot was fired (Shatima testified to two shots)—it recalls with certainty that the incident occurred and reflects on a history of abuse to which Kamell was witness

[12] The violence was not only at home Virginia witnessed Barry hitting Renee at the Cincinnati Jazz Festival (PCR 140) at a cabaret event (PCR 145) at a cookout and at a Christmas party (PCR 146) If Barry beating

Kamell was a direct victim too Shatima saw welts and bruises on Kamell after a whipping by his father Barry beat Kamell for apparently trivial reasons like not eating his eggs for breakfast or not knowing his spelling words PCR II 25-26 The whipping instrument was "a black belt with holes in it a black leather belt" PCR II 27 Kamell tried to learn spelling but he was a slow learner Shatima tried to help him by making flash cards on index cards When father gave Kamell a verbal practice test upon returning home and Kamell didn't do well Barry would "get frustrated and beat him" PCR II 27

Eventually Renee sought a divorce because of Barry's anger and "the abuse that [she] was going through PCR 867 Barry moved out and then it was just Shatima, Renee, and Kamell From Shatima's view, mom was working most of the time, so Shatima was, in effect, "raising" Kamell, even though she was only about four years older PCR II 37 John Landingham, a friend of Kamell's in seventh grade was a frequent companion spending time "mostly at [Kamell's] house after school" PCR 131, 137 During that time, though, Kamell also had the support of uncles and athletic coaches like Bruce Coffee, who coached football and worked security at the Junior High School—at thirteen and beginning seventh grade, Kamell was with Coffee at practice until seven o clock every weeknight of football season (August to November) PCR 109, 112 And like Robert Nance, Kamell s uncle and godfather, who ran an inner city basketball league and provided support for Kamell After meeting Kamell in 1986, Nance spent many afternoons with Kamell and his son, who was about Kamell's age PCR 120 ('I usually get off around 3 00, 3 30 and I go by and see him and I make sure he done his homework pick him up or stay in the yard, dribble with him, play catch with him")

Renee was a common occurrence according to Virginia so was Barry calling Renee stupid and dumb in front of the children PCR 161

b Lead poisoning

1 Kamell's ingestion of toxic doses of lead as a child

Shatima recalled Kamell eating lead paint in the Taylor Street apartment the family lived in after Kamell was born Playing by the window, Shatima would use the paint as fingernail polish, peel it and put it on her fingertips Kamell would eat the paint chips His parents would try to rinse it from his mouth—they discouraged it, but often discovered it too late She also saw Kamell put Hotwheels cars in his mouth (as well as crayons and coloring books) PCR II 15-18

At the PCR hearing, Dr Richard Canfield, a Ph D in Developmental Psychology and a Professor at Cornell University who specializes in childhood lead exposure and its effects on later intellectual and neuropsychological function, defined "lead poisoning" and explained scientific findings of both the observable and insidious effects of lead exposure, even at very low concentrations of lead in the blood Lead, when ingested or inhaled—be it through "dust in the home that is contaminated with lead" or children putting toys in their mouths or eating lead paint chips (see PCR 822)—enters the blood stream and eventually "becomes primarily deposited in bone " PCR 823, see App Exh 66 Lead mirrors other chemicals and blocks the interaction of cells with chemicals the body needs, such as calcium This inhibits development and causes "brain damage in terms of both the cells being damaged or [dying], and also for nerve transmission to be interrupted or disorganized " PCR 832

An amount of lead in blood that raises a cause of concern is what we regularly refer to as lead poisoning Dr Canfield explained that today the Centers for Disease Control defines that level as 10 micrograms per deciliter PCR 824 In the mid-to-late 1970's, when

Kamell was a child, the concentration considered to be toxic was 40 and then 30 micrograms per deciliter PCR 825, 826

Dr Canfield reviewed medical records from Kamell's childhood and school records from Cleveland and South Carolina PCR 820 21, see App Exh 48 This included a medical record from the Kaiser Permanente Medical Group dated December 6, 1978 App Exh 48 It shows that Kamell Evans was screened for lead poisoning on November 9, 1978, when he was one year and approximately eleven months old The result confirmed lead poisoning, reporting a blood lead level of 34 micrograms per deciliter (mcg/dL), which was 4 mcg/dL above the level of concern at that time and approximately 20 mcg/dL above the national average blood level among children [13] Canfield also examined a medical record from the Kaiser Permanente Medical Group dated December 3, 1981 which showed the result of blood lead level testing of Kamell Evans from a sample taken on November 19, 1981, when Kamell was nearly five years old App Exh 48 The record reports a blood lead level, also very high, of 30 micrograms per deciliter PCR 828

These levels are very high —three times higher than what we consider safe today and at a level that was also considered toxic at the time PCR 829, see App Exh 66 (slide 3) Comparing Kamell s blood-lead concentration to data from a study done in the 1990's that "profiled lead exposure across the child's development beginning at birth and going until six months of age to five years [of age]" (PCR 831, 841), Canfield recognized that the first blood lead test of 34 micrograms per deciliter was "off the charts " PCR 831

ii The behavioral effects of toxic lead exposure on Kamell

[13] The record also reports the result of a Zinc Protoporphyrin test—the reported ZnP level was 84 mcg/dL another method of long term exposure that is not used any more because it s considered less reliable than the direct lead level itself PCR 827

Dr Canfield testified that identified effects of lead on children exposed over a period of years (e g , a Rochester study of 150 children over a period of six years), include decreased mental flexibility (ie , the ability to change response mode), difficulty in planning and problem solving, and impaired short-term memory "[T]here would be damage, physical damage to areas especially in the frontal cortex in the brain and also disrupted neurotransmitter function PCR 832 Canfield testified to a reasonable degree of medical certainty that the reported levels would have such effects on Mr Evans's development and functioning Behaviorally this would result in

> A [R]educed intelligence in school performance [and] characteristic types of behaviors that are reflective of frontal lobe damage, and that would include a number of processes such as reduced ability to plan, reduced ability to inhibit behaviors that are inappropriate You would see a difficulty with self monitoring, that is to recognize the contextual appropriateness of your behavior whether the goal that you're planning for if you're moving towards that goal appropriately or getting off track You would see working memory deficits in terms of being able to keep in mind several alternatives and to [be] able to choose rationally among them "
> Q You're talking about the exposure that s established by these medical records for Mr Evans?
> A Actually I'm talking about much lower levels of exposure, so I m talking about exposure more typically in the 10 microgram per deciliter range[] So I expect the[re] to be substantially more damage at three times that level

PCR 833-34 [14]

Finally, Canfield referred to a volumetric analysis of Kamell's MRI App Exh 66 (slide 7), App Exh 52 (report of Dr Ruben Gur) In the areas of the brain in which, based on previous studies, one would expect to find differences associated with childhood lead exposure, all but one showed deficits in volume of more than two standard deviations below

[14] Canfield showed data of the effects of lead on brain volume MRI scans showed a decline in the volume of certain areas of the brain He also showed results of functional MRI data showing decreased blood flow and activation intensity in regions of the brain due to the effects of toxic lead exposure PCR 837 (discussing App Exh 66 (slides 5 and 6))

the mean for healthy adult men PCR 840 Canfield explained that "with respect to the frontal cortex functions and the executive functions of the cortex executive functioning ability is only as strong as your weakest link So at times if you re situational demands draw more on one kind of cognitive function and you have a weakness there, then you would show much greater functional deficit But even if you have a deficit in another area, it could put you at risk for making various kinds of executive or engaging in dis-executive behavior" PCR 839-40 In short, the volume decreases shown in the volumetric analysis in Kamell's brain are consistent with decreases found in studies of the brains of other adult men exposed to toxic levels of lead either prenatally or in infancy or childhood PCR 846 And these effects, Canfield concluded, are not something that is cured later in life PCR 841 In short, the deficits are permanent and incurable

iii Evidence of lead poisoning in learning disability

Dr Canfield recognized an inverse correlation between increasing blood lead levels and IQ test scores and—equally or more important for assessing school performance—achievement test scores Learning disabilities might exist that are more serious than what is reflected in an IQ test result PCR 834, 835 Having reviewed Kamell's school records (App Exh 1), Canfield saw "evidence of disability th[at] doesn't speak to intelligence" PCR 836

Kamell, despite a very good attitude (PCR 26-27) was held back in kindergarten PCR 9-10, see App Exh 1 Despite excellent attendance and hard work, he was directed to testing for special education services PCR 12, 14-15, see PCR 21 (noting smudges on report card indicating that Kamell tried to erase his grades, which consisted of C's, D's, and F's) The Special Education Referral Request, even after Kamell spent a summer of tutoring in reading, identified his principal weakness in "language, reading, language arts, [and] spelling" (PCR

22-24), information retention was also a problem area PCR 18 By second grade, Kamell was enrolled in a remedial reading program PCR 31-32 42 The third grade teacher, who did not pass Kamell to the fourth grade, noted that "Kamell does try Mother has been very concerned for many years PCR 37, 42 Following "a concern with [Kamell's] processing and his ability to learn [] consistently documented over a period of three or four years" (PCR 41), the third grade teacher referred Kamell to have a psychological evaluation for a learning disability, as did his fourth grade teacher PCR 86 By fifth grade, Kamell was following an individualized education program in which his time was divided between regular classes and a remedial program PCR 44, 52 His integration in regular classes wasn't a reflection of a lesser need, rather, in the interests of "mainstreaming and inclusion,' and given his strong effort, the school determined it was best for him "to receive services in the regular educational setting ' PCR 53 (testimony of Dennis Bunkley), PCR 96 (testimony of Kimberly Trammell) As his fifth grade teacher noted, Kamell was trying, but achieving at a rate that made it difficult to keep up ' Most of his grades are for effort ' PCR 44

Dennis Bunkley, the director of pupil personnel services for the East Cleveland schools, explained that improvement of Kamell's grades in later elementary school and middle school in Cleveland did not mean the disability disappeared, rather, course work started to focus on different skills and Kamell had learned to compensate PCR 48-49 Kimberly Trammell, Kamell's fourth grade teacher, echoed this She recalled Kamell as a "very sweet kid, got along with his classmates, struggled with his school work ' ' He was one of the hardest working students I've had in terms of his effort " PCR 83 He worked at a "1' level for "exceptional effort but was getting F's and D's PCR 84, App Exh 4 Subsequently, "[h]is homework assignments [were] designed so that he would have a minimal

amount of reading " PCR 88 "Learning disabilities don't just disappear " PCR 96 The letter grade, she explained, "does not show an accurate picture of what a student can and cannot do It is not fair to compare Kamell to other students in terms of letter grades and what they can do It does not really reflect what they are doing nor does it reflect the reasoning process " PCR 97

The same is true with Kamell's school grades in South Carolina During high school he was receiving substantial tutoring at home from his stepmother When he first came to South Carolina, he was getting D's and F's, so she started to work with him herself 'I would say at least maybe two hours every night Monday through Thursday He was in lower level classes so they didn't assign homework usually on the weekends ' PCR 893 When getting into a Division I college on a football scholarship became a strong possibility given his game performance (PCR 893), the family hired a private educational service and the tutoring increased See App Exh 70 (affidavit of Huntington Learning Center) Despite this and despite very hard work, Kamell scored too low on the SAT four times This is an indication of what Kamell's mother perceived first-hand Kamell's average grades did not reflect his poorer ability PCR 895-96, 923-24

2 Brain damage

a Quantitative volumetric analysis of brain MRI

Dr Ruben Gur, a psychologist who focuses on the brain and behavior and neuropsychology, specializes in neuroimaging PCR 660 When magnetic resonance imaging was introduced in the late 1980's and early 1990's, Dr Gur was a part of a multidisciplinary team of researchers at the University of Pennsylvania, who were among the first to use neuroimaging to study the brain and behavior Today magnetic resonance imaging (MRI) is

used worldwide and "routinely to diagnose brain damage" PCR 661 MRI uses a strong magnetic field to create resonance of molecules A computer records the resonance and creates a series of readouts "of the signal intensity in each point of the brain ' The greater the signal, the darker the three-dimensional pixels (voxils) on the computer readout, and the signal is different for the different types of matter in the brain gray matter, white matter, myelinated fibers, fluid PCR 691 "[S]ince we know the precise dimensions of each voxil[], we can calculate the volume of each compartment, grey matter, white matter, and cerebral spinal fluid" PCR 689-91

Dr Gur uses a process known as quantitative analysis of brain MRI He explained the process, and its quality control checks, in some detail at the postconviction hearing PCR 671-74 In this case, neurologist David Bachman performed a neurological and physical examination of Mr Evans and found evidence of "cognitive dysfunction in Mr Evans' mental abilities" suggesting shrinkage of the brain tissue to an abnormal degree" PCR II 154-55, 178 Based on his findings, his review of the neuropsychological testing conducted by Dr James Evans prior to trial, and Kamell's history of lead exposure, he ordered an MRI PCR II 154-55 Dr Gur's team began with a compact disc containing digital data of the MRI performed at Dr Bachman's request by the Medical University of South Carolina The data was presented in a format called DICOM—which is what Dr Gur's team's software accepts PCR 670 They compared the volume of each part of Evans's MRI to the template of a healthy brain using a "warping algorithm" "we take our template and we warp it to a particular scan like Mr Evans" PCR 692 They calculated the amount of "flex" necessary to warp the template to Mr Evans reading This was compared to results for a large sample of

healthy men with similar demographic backgrounds—in ninety-six different regions of the brain PCR 674, 699-700

After conducting the volumetric study, Dr Gur concluded "[t]hat Mr Evans has reduced volume in several brain regions most prominent in the frontal lobe and also in the occipital area of the brain, and the other major finding is reduced finding in the corpus callosum " In short, Dr Gur explained, his "conclusion[] was that there is brain damage in Mr Evans' MRI There's evidence mostly affecting the frontal lobe but other regions are also affected " PCR 675 "If you look at the whole lobes, his temporal and parietal lobes are within normal, but both frontal lobes, left and right, and the right orbital lobe are below normal"—indeed, the frontal lobes were more than one and a half and nearly two standard deviations below the mean, and the right orbital frontal lobe was two and a half standard deviations below the mean, meaning there is "significant reduction in volume in the frontal lobe bilaterally and in the occipital lobe on the right ' PCR 702 There are nine areas in which Kamell s brain is more than two standard deviations off the mean Seven of those, Dr Gur pointed out, are regions that show reduced volume in studies of lead exposure PCR 703 Other regions showed reduced volume of more than one standard deviation [15]

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[15] During the postconviction hearing the State s objected to the admissibility of Dr Gur s testimony on the ground that it is unreliable and more prejudicial than probative PCR 649 After hearing argument on the matter the Court allowed Dr Gur to testify without ruling on the State s objection South Carolina Rule of Evidence (SCRE) 702 which governs the admissibility of expert testimony has three elements whether the underlying method is reliable whether the expert witness is qualified and whether the expert testimony will assist the trier of fact *State v Council* 335 S C 1 20 (1999) For scientific evidence the standard for the reliability of the underlying method is the degree to which the trier of fact must accept on faith scientific hypotheses not capable of proof or disproof in court and not even generally accepted outside the courtroom *State v Jones* 273 S C 723 731 259 S E 2d 120 (1979) Factors guide the analysis including (1) the publications and peer review of the technique (2) prior application of the method to the type of evidence involved in the case (3) the quality control procedures used to ensure reliability and (4) the consistency of the method with recognized scientific laws and procedures *Council* 335 S C at 19 (citing *State v Ford* 301 S C 485 392 S E 2d 781 (1990))

Dr Gur was asked to do a quantitative analysis of structural image to measure any abnormality of the structure of Mr Evans s brain To do so he reviewed data from Mr Evans s MRI received from MUSC in Charleston PCR 671 After he completed the quantitative analysis finding brain atrophy counsel shared with him and he reviewed the testimony of Dr James Evans and Dr Berg from Evans s trial before reaching the

b Resolving uncertainty

What is the significance of Dr Gur's findings? As Dr Gur explained, these findings are consistent with the impairments that Dr James Evans identified and reported prior to and during Kamell's trial But they are much more specific (PCR 707), and much more definitive PCR 712-713 ("Dysfunction means it's not working out, damage means that it is actually something broken) In certain areas, Dr Gur explained, the damage he found was comparable to what Dr Evans diagnosed, in some areas more severe PCR 717

Kamell Evans's most significant damage was in the frontal lobe, ' especially in the orbital frontal area " PCR 704 Dr Gur explained the frontal lobe in layman s terms as the brain's "executive It is the part of the brain that modulates emotion—it ' mak[es] things higher if they're too low or mak[es] things lower if they're too high " PCR 705 If the frontal lobe is damaged, a person "will have difficulties in perceiving the situation and correctly in relation to the context of the situation " PCR 705 This corresponds with ' perseveration," a "repetitive behavior that does not adjust to the circumstances " PCR 709 A person with frontal lobe damage will have difficulties modulating and changing his behavior in accordance with what s going on " Perseveration is a "classic" sign of damage to the frontal lobe sign, "you do something again and again and you don't change it based on the experience " PCR 706 Perseveration was exemplified in Kamell's case, Dr Gur noted, in one of the tests that Dr Evans administered, in which Kamell ' had a hard time understanding the principle and once he understood the principle, he couldn't switch away from it " *Id*

The day-to-day impact of orbital frontal lobe damage is that the ability to make rational decisions deteriorates "People with frontal lobe damage will make bad decisions that

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conclusions to which he testified PCR 675 Dr Gur s methodology satisfies the requirements of Rule 702 is not prejudicial or unreliable and for the reasons discussed in this Point is unquestionably probative

are not in line with their own good, they're not in line with their own goals " PCR 704 Dr Gur also reported that reduced volume in other regions (temporo-limbic regions, such as cingulate, middle temporal and insula) would result in further deficits in processing of anxiety signals and emotion regulation Emotion processing, coordination of sensory information, decision-making, the ability to adapt to changing circumstances—all of these are functions in which Kamell was impaired by brain damage [16]

c Resolving conflict

Testifying as an expert in the field of neuropsychology and neuroimaging, Dr Gur commented on the trial testimony of Dr Elin Berg and Dr James Evans, which he reviewed He noted that Dr Evans found neuropsychological symptoms, including dysfunction of frontal lobe abilities and visual processing systems, but that Dr Evans could not go farther to determine brain damage without imaging, such as an MRI And he noted that Dr Berg found that Kamell had no "psycho neurological" symptoms—which Dr Gur took to mean neuropsychological symptoms—and stated that she would not, therefore, have sought an MRI Asked if the testimonies were in conflict, Dr Gur replied, 'Yes [i]n that Dr Evans discovered neuropsychological deficits and Dr Berg says she saw no psychoneurological deficits I believe she mean[t] neuropsychological ' PCR 677-78

Dr Gur disagreed with Dr Berg's statement that an MRI would "not necessarily rule in or out whether you have a frontal lobe dysfunction " The statement is not true, Dr Gur explained, "[b]ecause MRI is the standard method t[o] rule out or rule in front[al] lobe

[16] Another indicator of the damage to Kamell s brain was the extent of fluctuation of damage within the related hemispheres in his brain With Kamell for example in the superior frontal lobe he has a normal right hemisphere but the left hemisphere is more than two standard deviations below the mean Dr Gur testified [T]hat just doesn t happen in normal people PCR 714 see App Exh 51

damage or damage anywhere else in the brain" 'The method is not perfect and it could miss certain types of damage But if it sees [] damage, you know you have ruled it in ' PCR 679 [17]

During an initial client meeting with Kamell, Sumner noted that Kamell 'stressed to me that this event was not planned and he would also like to know 'what happened' He indicate[d] to me that he must have snapped and would like to know why this occurred ' Resp Exh 3 (page 2) The MRI analysis that Dr Gur performed in this case found, and thus ruled in one possibility brain damage

3 South Carolina

At the sentencing trial, the family and friends called as defense witnesses focused exclusively on positive aspects of Kamell's character and life in South Carolina, along with testimony from Kamell himself which included his version of his relationship problems with Christina Rodriguez For a time, Kamell's life in South Carolina, while punctuated by occasional serious missteps, such as taking a gun to school, was much more stable than in Cleveland His father had remarried, to Robyn Evans, a woman who helped Kamell enormously with his schoolwork in an effort, ultimately unsuccessful, to score high enough on the college entrance exams to go to college His sister and her family lived next door And Kamell became a star athlete in high school

[17] At the postconviction hearing the State called Dr Kenneth Spicer as an expert in diagnostic radiology who looked at the [MRI] images blind and thought they were completely normal PCR II 283 Dr Spicer who also performs quantitative analysis of MRI however recognized that there is a significant amount of subjectivity in mere visual analyses of MRIs and that this is particularly true in cases of diffuse volume loss PCR II 324 His visual assessment of the MRI differed from Dr Bachman s and from the final report from MUSC radiology See PCR II 214 Nevertheless Dr Spicer testified in agreement with Dr Bachman that the first step to resolve ambiguity is to assess the MRI in the context of other clinical findings and histories to reach a more complete diagnosis PCR II 329 Further in agreement with Dr Gur and Dr Bachman Dr Spicer testified that a quantitative MRI analysis is a more sensitive and definitive approach and is a valid tie breaker for ruling in brain volume loss PCR II 312-13 see PCR II 217 (Dr Bachman) Dr Spicer was not provided with and was not aware of Dr Gur s report regarding the quantitative analysis of Evans s brain MRI PCR 303 307 321 22 Nor had he seen Dr James Evans s report PCR II 317

But Kamell's life in South Carolina, while less violent and less tense than in Cleveland (see PCR II 39, 41) was far from all positive An ambivalent relationship with his father, continued learning difficulties, being a black athlete in a white environment, and the toxic and volatile romantic relationship with Christina Rodriguez all posited intense struggles for Kamell Dr Cooper Lewter, an M S W , clinical practitioner in social work, and professor at the University of South Carolina (PCR II 89-90), linked these problems to Kamell's formative years in the Cleveland area

a Cleveland as formative background

Dr Cooper-Lewter performed a social history assessment (see PCR II 92-93) based on interviews with Kamell (Dr Cooper-Lewter met with Kamell ten times for a total of approximately twenty-two hours (PCR II 121)), his immediate family, collateral family members and friends (all of whom testified at trial or in the PCR hearing), and review of medical, employment, police records, school records from Ohio (through the first half of seventh grade) and South Carolina (from the second half of seventh grade through community college), and media reports from crime scene PCR II 93-94, see PCR II at 94-95 (listing family members interviewed) He summarized his findings about Kamell's social functioning and behavior in social environments to a reasonable degree of certainty in the field of social work during the PCR hearing

Dr Cooper-Lewter recognized that Kamell was witness to an abusive relationship from his father upon his mother for an extended period of time, from birth up until about the age of fourteen " "What a child sees can be helpful or damaging " PCR II 97 Witnessing long-term sustained domestic violence "will affect" areas including a child's brain development, social behavior, self-esteem, and "how they see themselves being able to solve

problems" PCR II 97 Witnessing the abuse of [his] mother at hands of [his] father is "traumatic because this is a person who gave you birth and is taking care of you' Kamell's reaction, other than being frightened, was to try to protect his mother PCR II 99 By trying but not being able to stop the abuse, Dr Cooper-Lewter stated, a child feels "helpless, powerless They want it to stop" but cannot solve the problem" PCR II 100

The "unpredictable, but not sporadic' abuse that Kamell suffered at the hands of his father left a formative impact PCR II 98 'Unpredictable violence can be very shattering because one of the key elements necessary for a healthy child to develop is consistency And so if violence is unpredictable what it does is it keeps a child in a constant state of fear, agitation, uncertainty" PCR II 98 Assessing how Kamell's father "particularly [when] drinking, would beat him, hit him like a man, beat him with a belt, call him dumb, stupid,' Cooper-Lewter said, "It's devastating Kamell to the very last time I spoke with him in person still wanted to please his father, which in the literature is very, very standard Children tend to want – they tend to cling to their abusers, but they also want to be able to get their abuser s love" PCR II 117

The abuse was accompanied by what Dr Cooper-Lewter characterized as neglect—affirmative maltreatment involving things that "should have been done that [were] not" PCR II 101 This included exposure to lead paint and lead toys and Kamell's later experience after his father left the home when he "was a latch-key kid, at which point "on a daily basis he had to take care of himself and figure out how to function roughly from the age of eight [un]til about fourteen" PCR II 102 Kamell s formative years, Dr Cooper-Lewter testified, 'were anything but stable" PCR II 138

Further, as a child with low cognitive functioning of which lead poisoning was a significant contributing cause, Kamell needed additional supports In some areas of Kamell's life, Cooper-Lewter noted, Kamell, while trying very, very hard, did have additional supports For example, when he received constant and consistent help from his stepmother with academics, this helped him to do better in school and excel in athletics PCR II 105, 109-10 But, Cooper-Lewter added, "[f]or a period of time from about eight to fourteen he definitely did not get what he needed from a social worker perspective ' And prior to that there was violence and unpredictable violence and consistent chaos ' While this was ' mixed with some loving and caring and nurturing from his mother, his sister, ' "[h]is father was a good provider, but emotionally [and physically] was abusive " PCR II 106

b Difficulties in Greer

A pivotal incident in Kamell's relationship with his father occurred on Thanksgiving 2001 Shatima lived next to her father, and Kamell was staying at Shatima's Barry invited them to come over and celebrate the holiday, and so they moved their get together next door Robyn, Kamell's stepmother, was upset as she thought they were crashing her party Kamell suggested that his father stick up for them, and that led to a verbal altercation that changed Barry and Kamell's relationship up through the date of the crime Barry recalled it as a "disagreement" after which he and Kamell were, in effect, "separated " PCR 642 For over eighteen months—up to and including the day of the offense—they did not speak to each other PCR II 41-43 (Shatima Evans), PCR II 137 (Dr Cooper-Lewter)

This division from his father coincided with other stressors in Kamell's life Football had long been a reliable source of structure in Kamell's life Unable to score high enough on the SAT tests to attend a four-year college, Kamell enrolled in North Greenville Community

College a "school where athletes were not thought of very highly and where Kamell was out of place—it "was not a good fit for him ' He dropped out after two years, spent a season playing for a semiprofessional football team, the South Carolina Seminoles He was working multiple jobs, but also was arrested for drug possession

Not long after Kamell quit football, he began dating Christina Rodriguez Nicholas Wideman, a former college football teammate at North Greenville College, who Kamell became reacquainted with when they played for the South Carolina Seminoles (PCR 610), testified based on his interactions with Kamell and Christina that this was a relationship mired in "confusion" and "communication issues " PCR 611 A week before the crime, Wideman testified, the toll on Kamell was apparent He and Kamell went to a party, but Kamell ' was really upset he had broken down and started crying " PCR 613

> He had a gun on him and at this particular time when he broke down and started crying, at the time we didn't know where it was coming from And we were like let's just go ahead and leave so we didn't draw attention to ourselves in the parking lot And in the midst of him crying, he grabbed his handgun and put it to his face I think he was crying out for help, but I don t [know] whether he was really going to pull the trigger because we reacted to quickly to push his hand down from his face and the gun fell to the floor

PCR 615 Later, Kamell visited Nick's apartment and apologized PCR 613 [18]

One type of support that Kamell had demonstrated a need for throughout his life, Dr Cooper-Lewter found, was the need to go to others to discuss things when he needed help PCR II 107 While a leader on the field, a leader with children, off the field in his emotional life was a very different dynamic [19] Kamell, Cooper-Lewter explained is a "concrete

[18] After the victims funeral Nick had a lot of conversations with Christina over the telephone All of it was just remorse and I tried my best to be there just apologizing for the whole incident And I tried because I was there to help console what she was going through at the particular time because she didn t have communication with her mother PCR 619 20 622

[19] When asked to differentiate the testimony that Kamell cares for children and does a lot to help them with the testimony of his difficulties and needs in his private life for example Cooper Lewter agreed that Kamell was a

thinker"—a person "very child-like in their thinking They need very firm, consistent indicators for them to be able to not be confused " PCR II 116 "Kamell had developed over the years [a] procedure And that was to go to someone and ask them to help him when he couldn't understand something And so he relied heavily on Christina while he was dating her From Cooper-Lewter's perspective, however, the relationship was "volatile and toxic " Kamell and Christina's arguments over relationship issues affected Kamell "in a very negative way " PCR II 112 Kamell is a person who is not able to analyze certain factors very fast "He's a person who depends on people [] that he can trust to give him accurate feedback " During that time—involved in arguments with Christina, and not on speaking terms with his father—in the key relationships in Kamell's life, he had none PCR II 112

D Trial Counsel's Ineffectiveness

Counsel was ineffective for failing to adequately investigate, develop, and present available, relevant, and admissible mitigating evidence Beginning their mitigation investigation less than two months before an agreed-upon trial date, counsel failed to pursue available investigative avenues, and failed to follow red flags—including indications that Kamell suffered lead poisoning, and had witnessed and experienced abuse and neglect as a child in Cleveland Counsel's defense consisted only of some positive character evidence and conflicting mental health testimony from two experts, neither of whom were given the information necessary to render a compelling diagnosis Consequently, counsel's mitigation presentation was incomplete, incoherent, and lacked proof of brain damage stemming in part from environmental exposure to lead

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person who cared immensely but explained that caring is a positive characteristic that doesn t necessarily mean he s a leader It means he has empathy He has the ability to have compassion and care about others PCR II 128

1 The standard and principles of *Strickland* as applied in the United States Supreme Court's jurisprudence [20]

The ineffective assistance of counsel standard established in *Strickland v Washington* 466 U S 688 (1984), requires a showing that an attorney s representation fell below an objective standard of reasonableness, ' *id* at 688, and that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different," *id* at 694 *Strickland* itself was a capital case, and over the past twenty-five years the Court has developed a jurisprudence focused on representation in capital sentencing trials The Court decided three significant cases earlier in this century (*Rompilla v Beard*, 545 U S 374 (2005), *Wiggins v Smith*, 539 U S 510 (2003), *Williams v Taylor* 529 U S 362 (2000)), and has spoken more recently in four *per curiam* reversals last Term (*Sears v Upton*, 130 S Ct 3259 (2010), *Porter v McCollum*, 130 S Ct 447 (2010), *Wong v Belmontes*, 130 S Ct 383 (2009), *Bobby v Van Hook*, 130 S Ct 13 (2009)) The Supreme Court looks to a number of principles in applying *Strickland*'s two prong test for deficient performance (the first prong) and prejudice (the second prong), which the South Carolina Supreme Court has applied in its capital precedents (see, e g , *Council v State*, 380 S C 159, 670 S E 2d 356 (2008), *Von Dohlen v State*, 360 S C 598, 602 S E 2d 738 (2004))

The principles that guide a court's consideration of deficient performance prong, include, significantly, the following

- Counsel's performance must be assessed according to standards of performance that prevailed at the time of the trial See *Van Hook*, 130 S Ct at 16-17, *Council*, 380 S C at 173, 670 S E 2d at 363, see also *Gray*

[20] The principles set forth in this section apply to *all* claims that Mr Evans s trial counsel provided ineffective assistance of counsel in violation of the Sixth and Fourteenth Amendments to the United States Constitution and South Carolina law (Points I through X *infra*)

> *v Branker*, 529 F 3d 220, 229 (4th Cir 2008) (citing *Strickland*, 466 U S at 690) [21]
>
> - Counsel's tactical decisions are entitled to great deference—but only if based on thorough and reasonable investigation As *Strickland* states, 'Strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary" 466 U S 690-91 Last Term, the Supreme Court clarified that even a decision to focus on a potentially reasonable strategy may be deficient if counsel failed to "conduct a thorough investigation of the defendant's background" *Sears*, 130 S Ct at 3295 (quoting *Williams*, 529 U S at 396))

With respect to counsel's performance in the preparation and presentation of mitigation in capital sentencing proceedings, *Wiggins* and *Rompilla* emphasized that facts discovered during investigation that point to significant mitigation cannot be forgotten or ignored in developing a mitigation theory Counsel's failure to follow "red flags," in short, is inadequate, constitutionally deficient performance Further, as *Williams* made clear in 2000 and *Sears* again in 2010 double-edged evidence—that with mitigating but also some aggravating potential—is a cornerstone of mitigation that defense counsel cannot ignore The types of mitigating evidence that the Court has held demand investigation include witnessing or experiencing physical and psychological abuse (see, e g , *Sears*, *Porter*, *Rompilla*, *Wiggins*) and brain abnormality and impaired cognitive functioning, which the Court has identified as highly mitigating (see *Sears*, 130 S Ct at 3262-64, see also *Porter*, 130 S Ct at 453-54) The South Carolina Supreme Court has likewise recognized that inadequate investigation can undermine the reliability of expert opinion and testimony See *Council*, 380 S C at 172-74,

[21] In this regard professional norms such as the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases 31 Hofstra L Rev 913 1023 26 (2003) are important guides but nevertheless only guides Recently in both *Council* and *Ard v Catoe* 372 S C 318 642 S E 2d 590 (S C 2007) the South Carolina Supreme Court found ineffective assistance of counsel and recognized and applied as guides the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases

670 S E 2d at 363 (finding counsel deficient in part for failing to provide expert witness with "sufficient records"), *Von Dohlen*, 360 S C at 608, 602 S E 2d at 743 (finding "absence of crucial medical records and related information which existed at the time [of] trial prevented [expert] from conveying an accurate diagnosis and explanation of [p]etitioner's mental condition to the sentencing jury")

In assessing whether counsel's deficient performance prejudiced the defendant, the following principles are key

- The impact of all of counsel's failures on the outcome must be considered *cumulatively* in the context of the totality of the circumstances That means that the prejudice from counsel's failure to investigate and present mitigating evidence must be considered in conjunction with counsel's failure to challenge the state's aggravating evidence, failure to challenge venue, and so on *Strickland*, 466 U S at 694-96, see *Porter*, 130 S Ct at 452, *Wiggins*, 539 U S at 534-38, *Williams*, 529 U S at 395-97, cf *Kyles v Whitley*, 514 U S 419, 437 (1995)

- Along the same lines, in determining whether a single juror could have been influenced by counsel's deficient performance, the impact of mitigating evidence that could have been investigated and presented must be *balanced* against the aggravating evidence presented at trial and which would be brought out in conjunction with any mitigation with a double edge See, e g , *Belmontes*, 130 S Ct at 390-91, *Van Hook*, 130 S Ct at 20

- Finally, prejudice can exist, even in cases where trial counsel presents a significant amount of mitigating evidence *Sears*, 130 S Ct at 3265-66, see *id* at 3266 (citing *Porter*, 130 S Ct at 449, *Rompilla*, 545 U S at 378, *Williams*, 529 U S at 398) This is true where counsel completely overlooks important avenues of mitigation But it also holds when new evidence on a subject, about which some evidence was presented at trial, adds significant and meaningful detail, as opposed to cumulative restatement

2 Deficient performance

On *Strickland*'s first prong, which concerns the adequacy of counsel's investigation, preparation and presentation of mitigating evidence at Evans's 2004 trial, this case is not a close call

a Counsel was deficient in agreeing to a trial date before conducting any mitigation investigation

Before the mitigation investigation even began, it was on insecure footing Prior to the July day on which Steve Sumner was appointed no mitigation investigation had been accomplished Yet upon appointment, Sumner was aware that a September trial date was on the calendar Agreeing to a trial date approximately two months away before any mitigation investigation was conducted—a point at which counsel did not know what they would find in investigation—was not reasonable The mitigation investigation should have begun once the State served its notice of intent to seek the death penalty" *Council*, 380 S C at 172, 670 S E 2d at 363 Further, it was not reasonable to expect to accomplish a thorough mitigation investigation in the short time before the proposed trial date In fact, the time devoted to mitigation investigation was even shorter the first mitigation work, aside from client interviews, began on July 22, when Dale Davis entered—approximately six weeks before trial It is true that capital counsel have been found to have adequately prepared for a capital sentencing trial in less time, but such circumstances are rare today, and were far rarer in 2004 than under the professional norms of twenty years ago Cf *Van Hook*, 130 S Ct at 16-17 (upholding brief mitigation investigation under late 1980's standards and reversing Sixth Circuit Court of Appeals opinion that granted relief based on 2003 standards) Further, whether a rushed investigation is reasonable depends much on what counsel finds, and on what counsel chooses not to seek and leaves by the wayside

b Counsel was deficient in ignoring and choosing not to pursue "red flags, and in deciding on a litigation strategy before thoroughly investigating The trial strategy, therefore, like the investigation, was not reasonable

During the investigation, albeit brief, counsel's two mitigation investigators presented Sumner with a number of serious indicators of mitigating evidence in Evans's past that demanded attention, and about which no evidence was presented at trial Dale Davis highlighted in her memorandum to Sumner on July 22, 2004, that Kamell's father was abusive to him and his mother and that Kamell had lead poisoning Over the course of the next six weeks (after Dale Davis withdrew from the case when counsel failed to seek a continuance), Lenora Topp reported to Sumner on these topics repeatedly, declaring that a trip to Kamell's hometown "must be made," both to interview witnesses and gather records But Sumner dismissed this request Goldsmith, who claimed he was in charge of mitigation investigation, was only vaguely informed of the details, if at all In *Porter*, finding deficient performance by *de novo* review, the Supreme Court noted that counsel ignored pertinent avenues for investigation of which he should have been aware," including issues of mental health, schooling, and abuse in the childhood home 130 S Ct at 453 Here, counsel did not pursue evidence of lead poisoning of which they were aware They did not pursue evidence that Kamell's mother was routinely abused in Kamell's presence by Kamell's father They did not investigate the source of Kamell's life before he was thirteen years old In contrast to *Van Hook*, this is "a case in which the defendant's attorneys failed to act while potentially powerful mitigating evidence stared them in the face " 130 S Ct at 19

At the postconviction hearing, counsel gave no valid reason for not investigating these ' red flags ' Sumner stated that Kamell seemed able to communicate with him and that he therefore saw no reason to go to Cleveland He offered the same explanation to defend his failure to aggressively seek evidence of lead poisoning he would only seek out a complete set of health records if he had first "received an[] indication that there were any issue in

that area of mental or physical health" PCR 268 So when asked what counsel did to familiarize themselves with the issue of lead poisoning in this case, Sumner answered straightforwardly "Nothing" PCR 367 Sumner testified that lead poisoning was "not a part of our trial strategy at all' So, too, for investigating abuse Goldsmith testified he would not have brought up the issue unless Kamell's father brought it up As for Kamell's mother, Sumner said, "I just didn't have much interaction with her" PCR 348-49

On September 5, counsel cemented their trial strategy, memorializing it in a 'trial strategy" memo, which Sumner stood by in postconviction as an accurate articulation of his approach to the case The memorandum is silent on lead poisoning, silent on abuse of Kamell's mother, silent about Cleveland Only after the memo was written, during trial, and after a mitigation strategy was already set by counsel, did anyone from the defense team interview Renee Two weeks after trial, Lenora Topp received Kamell's medical records from Cleveland documenting toxic lead exposure Sumner suggested that he did not respond to the evidence of abuse that Lenora Topp learned from Renee because "I guess just from a litigation point of view, the allegations of abuse is just not the direction we wanted to take" But counsel had decided on a litigation strategy before investigating The strategy, accordingly, was not reasonable

In *Rompilla*, counsel had interviewed the defendant s family members and consulted three mental health experts After conversations with the client, his family, and the mental health experts, counsel decided the mitigation would have little return, and at sentencing presented only alibi evidence to support a theory of residual doubt 545 U S at 378 But counsel's investigation of records on Rompilla's background (school, medical, juvenile) was incomplete Most significant, counsel failed to obtain the defendant's prior conviction file,

and therefore missed evidence pointing to brain damage, borderline mental retardation, schizophrenia, and abuse The Court emphasized that even a case where some mitigation investigation is carried out, overlooking and failing to pursue red flags marking significant avenues of mitigation fails to meet prevailing professional norms *Id* at 392-93

Thus, counsel who presented evidence that a client was a good person with some evidence of extreme emotional disturbance was found to be ineffective, warranting reversal in *Gray v Branker*, 529 F 3d 220 (4th Cir 2008) Trial counsel in *Gray* did some investigation and presented some mitigating evidence But the Fourth Circuit (reversing under the restricted standard for relief of the Antiterrorism and Effective Death Penalty Act of 1996) found that the mitigation presentation fell below what the constitution requires because counsel did not investigate apparent mental health issues See *id* at 230 This failure made it "impossible for them to adopt a reasonably informed [mitigation] strategy' *Id* at 234 Likewise, in *Council*, the South Carolina Supreme Court found capital trial counsel performed deficiently by failing to obtain full background records on the client and his family, failing to pursue red flags indicating avenues for mitigating evidence, and failing to properly prepare witnesses 380 S C at 172-78, 670 S E 2d at 363-66, see also *Von Dohlen* Last term, in *Sears*, the Supreme Court reversed, faulting the lower court for placing "undue reliance" on a mitigation theory that was not supported by reasonable investigation 130 S Ct at 3265 (citing *Wiggins* and *Williams*)

Throughout their testimony at the postconviction hearing, trial counsel suggested that Kamell was ambivalent about abuse in the home and that Kamell s mother and other family were "uncooperative" It is no excuse that the defendant provided ambivalent information or that a family member was not ready with prompt and straightforward assistance In *Bond v*

Beard, counsel presented more than a half dozen "family members and friends at the penalty phase hearing" to testify generally about ' good character and willingness to help others " 539 F 3d 256, 279 (3d Cir 2008) Counsel, however, did not obtain school and hospital records and had only "brief and perfunctory discussions" with the family between the guilt and penalty phases of trial and "did not inquire into family dynamics or background " *Id* at 281 Trial counsel took a similar tack The Third Circuit rejected it

> We will not excuse this conduct on the ground that [the defendant] and his family members did not tell counsel that his background provided fertile territory for mitigation arguments Neither [the defendant] nor his family had a duty to instruct counsel how to perform such a basic element of competent representation as the inquiry into a defendant's background They did not, as the Commonwealth suggests, have to volunteer "red flags" about [the defendant's] mental health when trial counsel should have discovered that information through a basic inquiry into his background

Id at 288 [22]

In sum, even a strategy that is reasonable in the abstract may be unreasonable if based on less than adequate investigation "This point is plain in *Williams* We rejected any suggestion that a decision to focus on one potentially reasonable trial strategy—in that case, petitioner's voluntary confession—was 'justified by a tactical decision' when 'counsel did not fulfill their obligation to conduct a thorough investigation of the defendant's background ' *Sears*, 130 S Ct at 3295 (quoting *Williams*, 529 U S at 396) Accepting for the sake of argument that the "positive ' ' good guy" mitigation approach taken by counsel was reasonable in a vacuum, it was not reasonable for counsel to take that approach in this case while simultaneously ignoring significant mitigation avenues

[22] Similarly in *Williams v Allen* 542 F 3d 1326 1340 (11th Cir 2008) the Eleventh Circuit granted relief finding a state court s denial of a sentencing ineffectiveness claim unreasonable where trial counsel knew the defendant had experienced abuse as a child and had evidence of mental health issues and did not conduct further investigation to pursue those leads By choosing to rely only the account of the defendant s mother the court held trial counsel followed an incomplete and misleading understanding of [the client s] life history *Id*

c Counsel was deficient in presenting incomplete and conflicting expert testimony, which was also not backed by adequate investigation

The evidence of mental impairment counsel presented was scattered and unfocused Dr James Evans's testimony alluded to lead poisoning, but he admitted to having no evidence of it, his testimony suggested brain dysfunction, but he provided no concrete evidence of brain damage Dr Evans volunteered the information about the applicant's lead poisoning himself, it was not elicited from him during his direct examination by trial counsel R 1697 More, Dr Berg's testimony undercut the legitimacy and persuasive power that Dr Evans's testimony may have had While Dr Evans testified to neuropsychological symptoms, she testified that she saw none And the last-minute manner in which counsel reconciled its scattered scientific evidence with the evidence that Kamell Evans was a good person was not coherent and failed to explain Mr Evans or the tragic shootings

In *Wilson v Sirmons*, an expert in clinical psychology was hired to evaluate the defendant 536 F 3d 1064, 1075 (10th Cir 2008) After administering several psychological tests, the psychologist theorized that defendant Wilson was schizophrenic, however, further data and testing would have been necessary to confirm this diagnosis, and the psychologist was not given enough time to do this before the trial commenced *Id* at 1075 In post-conviction, the psychologist's diagnosis of schizophrenia was confirmed upon further testing *Id* at 1077 The *Wilson* court found that trial counsel's conduct fell below acceptable standards because counsel's lack of preparation prevented the expert from obtaining the information he needed to confirm his diagnosis, and also because counsel did not even present the mental health diagnoses that the expert was able to develop *Id* at 1092 Here, as in *Wilson* the medical experts were not given the medical records necessary to arrive at an

accurate diagnosis, as trial counsel did not receive Kamell Evans's medical records until a week after he had already been sentenced to death Furthermore, trial counsel ignored the preliminary conclusions that the neuropsychological expert had drawn regarding the applicant's lead poisoning, and left the expert with too little time to collect more evidence to confirm the diagnosis Thus, counsel's performance was deficient

The South Carolina Supreme Court reached similar conclusions in *Council* and *Von Dohlen* In *Council*, defense counsel undercut the testimony of its experts by not providing them with information necessary for a thorough and reliable assessment 380 S C at 172-74, 670 S E 2d at 363 In *Von Dohlen*, the ' absence of crucial medical records and related information which existed at the time [of] trial prevented [the expert] from conveying an accurate diagnosis and explanation of [p]etitioner's mental condition to the sentencing jury ' 360 S C at 608, 602 S E 2d at 743 Similarly, in *Bond v Beard* the Third Circuit found counsel's penalty-phase performance deficient for failing to present evidence of Bond's developmental problems stemming from lead poisoning at a young age, as well as a failure to investigate into Bond's childhood 539 F 3d at 282 As in *Council* and *Von Dohlen*, counsel did not obtain "readily available" school and medical records and did not conduct a meaningful inquiry into [the defendant's] family life,' and thereby 'failed to give their consulting expert sufficient information to evaluate [the defendant] accurately" *Id* at 288 The *Bond* court held that trial counsel's performance fell short of adequate

That was the case here as Dr Evans could not say that Kamell had brain damage with certainty without an MRI, and he attributed a cause to lead poisoning while admitting he had no medical proof See R 1702 [23] Applicant's childhood medical records from Cleveland—

[23] The lack of records on lead poisoning and the lack of definitive MRI analysis also hampered Dr Evans s ability to state whether Kamell Evans met the criteria for the statutory mitigating circumstance that the capacity

confirming the lead poisoning—arrived on September 30, 2004, one week after the jury had sentenced Mr Evans to death

> d Counsel was deficient in presenting a false picture of Kamell to the jury, in failing to adequately investigate Kamell's life in South Carolina, and in failing to retain a social worker to explain how Kamell's life experience in Cleveland was formative background for the difficulties he experienced in South Carolina

Trial counsel's sentencing presentation focused on Evans's positive character attributes But it glossed over a childhood besieged by witnessing and experiencing physical abuse in the home, neglect by both parents, challenges from mental impairment, and the development of these early issues into problems as a young adult and adult in South Carolina

The South Carolina Supreme Court in *Council* found deficient performance because, although Council's mother testified briefly about his childhood, the testimony that counsel elicited from her gave an incomplete and misleading understanding of Council's history In reality, Council had suffered abuse as a child and suffered from mental illness Counsel presented only the mother's testimony despite the availability of other family members 380 S C at 174-75, 670 S E 2d at 364 The Court determined that trial counsel's failure to pursue additional evidence could not be characterized as reasoned strategic judgment, as there were red flags throughout his investigation pointing out "that the family was dysfunctional, [Council] had been raised in a violent home environment, and experienced learning disabilities " *Id* In this case, as in *Council*, trial counsel failed to reasonably investigate the applicant s background of childhood abuse and mental impairment, resulting in a deficient presentation of mitigating evidence As the United States Supreme Court noted in *Porter*,

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of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired S C Code Ann §16 3 20(C)(b)(6) On direct appeal the question presented was whether the trial judge should have charged the mitigating factor *sua sponte* Trial counsel s failure to adequately prepare their witness hampered their ability to seek this mitigating charge and was deficient and prejudicial

evidence of childhood abuse "may have particular salience for a jury" in cases, such as this one, that stem from domestic dispute 130 S Ct at 455 [24]

There are not, contrary to the sentencing summation that Goldsmith presented at trial, "two Kamells, one evil, one good There is only one Kamell Evans a man lead-poisoned from childhood, who has brain damage to the frontal lobe as a result, and is therefore inhibited in his ability to control his impulses, his emotions, and to adjust to changing circumstances (particularly under stress) He is a person who possesses positive character traits, as trial counsel stressed, but who also experienced and witnessed in childhood physical abuse and neglect, factors that shaped his relationships He is a man who tries hard, but thinks concretely, with a need for structure and guidance, which he sorely lacked in the months and weeks preceding the tragic shootings of Antonio and Joseph Sapinoso

3 Prejudice

There is a reasonable probability that counsel's failure to properly investigate, develop, and present evidence in mitigation impacted the outcome of the case and undermines confidence in the result *Sears*, 130 S Ct 3259, *Porter*, 130 S Ct 447, *Rompilla v Beard*, 545 U S 374, *Wiggins v Smith*, 539 U S 510, *Williams v Taylor* 529 U S 362, *Council v State*,

[24] There are other examples In *Outten v Kearney* defense counsel s penalty phase strategy was similar to that of Evans s trial counsel—to argue to the jury that defendant Outten was a good guy whose life should be spared 464 F 3d 401, 415 (3rd Cir 2006) In reality counsel in *Outten* as here in Evans s case did not make this argument based on reasoned strategic judgment but due to a failure to investigate his client s background *Id* at 414 If counsel in *Outten* had investigated he would have found that as a child Outten had watched his father beat his mother in drunken rages which eventually transferred to violent beatings of Outten himself *Id* at 411 Furthermore Outten had suffered multiple head trauma injuries as a child which trial counsel overlooked *Id* Thus the Court found counsel s investigation and presentation deficient and unreasonable *Id* at 419

Similarly in *Commonwealth v Collins* counsel was deficient in the presentation of mitigating evidence because counsel did not undertake a reasonable investigation into defendant Collins background 888 A 2d 564 582 (Pa 2005) Instead counsel focused on presenting Collins as a good person instructing a defense witness who was aware of Collins head injury to only say good things about Collins *Id* at 582 Counsel did not obtain Collins school or mental health records nor did he attempt to obtain a social history of Collins from his family members *Id* Had trial counsel done so they would have found that Collins had serious emotional problems from an early age which were compounded by a head trauma that Collins had received *Id* at 580 In Evans s case as in *Collins* trial counsel ignored or failed to find relevant mitigating evidence choosing instead to rely on the mercy of the jury and attempting to portray the applicant as a good guy

380 S C 159, 670 S E 2d 356, *Von Dohlen v State*, 360 S C 598, 602 S E 2d 738 The impact of this failure by counsel is even greater when the prejudice is considered—as it must be—with that stemming from counsel's failure to meaningfully challenge the State's case for a death sentence See *infra* Parts B and C

Of the Supreme Court's four *per curiam Strickland* reversals during the previous Term, most turned only on the prejudice prong Accordingly, they bear some examination in relation to Mr Evans's case The most recent application of the *Strickland* doctrine to capital sentencing is *Sears v Upton*, 130 S Ct 3259 (2010) Sears was convicted in Georgia of a gruesome armed robbery and kidnapping that resulted in death Defense counsel did some investigation and presented some witnesses at the penalty proceeding, but the scope of the evidence presented at trial was limited [C]ounsel presented evidence describing his childhood as stable, loving, and essentially without incident Seven witnesses offered testimony along the following lines Sears came from a middle-class background, his actions shocked and dismayed his relatives, and a death sentence, the jury was told, would devastate the family" *Id* at 3261-62 As the Supreme Court noted, the "strategy backfired" as the prosecutor mocked their effort, arguing "[w]e don't have a deprived child from an inner city, a person who[m] society has turned its back on at an early age" *Id* at 3262 And Sears was sentenced to death

In postconviction proceedings, Sears presented evidence of environmental factors that clouded his upbringing and belied the picture presented to the jury of a pristine life "privileged in every way" Specifically, "[h]is parents had a physically abusive relationship, and divorced when Sears was young, he suffered sexual abuse at the hands of an adolescent male cousin, his mother's favorite word for referring to her sons was 'little mother fuckers',

and his father was verbally abusive, and disciplined Sears with age-inappropriate military-style drills " *Id* (citations and quotations omitted) Further, Sears had a history of difficulty in school and learning disability He "repeated second grade, and was referred to alocal health center for evaluation at age nine " *Id* A high school record described Sears's learning and behavioral handicaps as "severe " *Id*

The Supreme Court found the evidence presented at postconviction of brain damage—specifically abnormalities of the frontal lobe—even more significant These appeared to be the result of childhood head injuries, childhood trauma, and drug and alcohol abuse ' Regardless of the cause of his brain damage,"[25] the Court emphasized, Sears's substantial cognitive deficits existed, "making him among the most impaired individuals in the population in terms of ability to suppress competing impulses and conform behavior only to relevant stimuli", "grossly impair[ing]" his "ability to organize his choices, assign them relative weight and select among them in a deliberate way " *Id* at 3262-63 [26]

The similarities between the evidence counsel failed to present in Kamell's case and in the Supreme Court s recent reversals continues in *Porter*, the *per curiam* decision prior to *Sears* in which the Court also reversed and remanded for a new capital sentencing proceeding Porter killed his ex-girlfriend and her current boyfriend after a difficult breakup

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[25] In this case Dr Bachman noted other potential causes for Kamell Evans s brain damage including brain trauma due to football injuries PCR II 190 Regardless the bottom line is that Kamell has atrophy in crucial parts of his brain

[26] Significantly the Court noted that the evidence was not all positive the fact that along with this mitigation evidence there was also some adverse evidence is unsurprising but

> [c]ompetent counsel should have been able to turn some of the adverse evidence into a positive
> In particular evidence of Sears grandiose self-conception and evidence of his magical thinking were features in another well credentialed expert s view of a profound personality disorder This evidence might not have made Sears any more likable to the jury but it might well have helped the jury understand Sears and his horrendous acts—especially in light of his purportedly stable upbringing

130 S Ct at 3264 (citations omitted)

Following days of emotional and mental turmoil over the dissolved relationship and failed attempts to see his ex, Porter spent a night drinking then went to her house in the early morning and shot her, and struggled with her boyfriend and shot him 130 S Ct at 448 Porter faced four aggravating factors the murder occurred during a burglary, it was premeditated it was heinous, atrocious and cruel, and Porter had a prior conviction for a violent felony (which encompassed the other murder in the case) *Id* at 448-49 The only trial witness was Porter's ex-wife who testified about his behavior when intoxicated and his love for his son In postconviction, Porter presented evidence of abuse, military heroism, trauma, substance abuse, and mental impairment The postconviction evidence presented a portrait of Porter's early life that is not dissimilar from Kamell's

> Porter routinely witnessed his father beat his mother, one time so severely that she had to go to the hospital and lost a child Porter's father was violent every weekend, and by his siblings' account, Porter was his father's favorite target, particularly when Porter tried to protect his mother On one occasion Porter's father shot at him for coming home late, but missed and just beat Porter instead According to his brother, Porter attended classes for slow learners and left school when he was 12 or 13

Id at 449 The state postconviction court did not address deficient performance, but instead rejected the claim solely on prejudice The evidence of abuse, the state court held, was simply too old—Porter was 54 at the time of trial, the evidence of alcohol abuse, inconsistent, the evidence of military service, intermittent, with a period of being absent without leave *Id* at 451 The Supreme Court disagreed The postconviction evidence, the Court held, might well have influenced the jury's appraisal of [Porter]'s mental culpability" *Id* (quoting *Williams*, 529 U S at 398) The Florida Supreme Court ignored or "unreasonably discounted the mitigation evidence adduced in the postconviction hearing" *Id* at 454 This included the evidence of childhood abuse 'It is unreasonable to discount to irrelevance the evidence of

Porter's abusive childhood, especially when that kind of history may have particular salience for a jury evaluating Porter's behavior in his relationship with Williams " *Id* at 455 While Evans has none of Porter's military history behind him, his experience with abuse and the manner in which the jury could have factored it in to the tragic crimes is much the same

Just as all capital defendants possess their own unique and ' diverse frailties" (*Woodson v Nor th Carolina*, 428 U S 280, 304 (1976)), Kamell's case is not a mirror image of Sears's case or of Porter's But there are significant crossovers Both *Sears* and *Por ter* emphasize the important mitigating potential of evidence of child abuse—physical and psychological, witnessed as well as experienced—and evidence of mental impairment Counsel's utter failure to investigate and present evidence of abuse, lead poisoning, learning impairments, definitive brain damage, and to subsequently relate that evidence to Kamell's experience in South Carolina deprived the jury of a true picture of the man they were asked to sentence to death The same was true in *Sears* and *Porter* The prosecutor turned the one-dimensional "good guy" evidence against the defense in *Sears*, and the same thing happened here as the Solicitor asked, He has a loving and supportive family How could he do that to his family?,' and answered, "It is evil and meanness that did that " R 1752

Sears and *Porter* emphasize another principle that is significant in Mr Evans's case Even though counsel presented some mitigating evidence in those cases, the failure to present other evidence was nevertheless prejudicial While prejudice is easily apparent on subjects that counsel utterly fails to investigate or ignores, such as mental impairment in *Sear s*, prejudice can also apply in circumstances in which counsel has presented some information on an aspect of mitigation, but has done so incompletely or incoherently, such that the picture portrayed to the jury is skewed or significantly diminished

In *Sears*, the state court had held that it was "impossible" to determine that counsel s presentation could have prejudiced Sears because some mitigation was presented at trial the The Florida court concluded that because trial counsel had presented "a reasonable theory with supporting evidence' "it is impossible to know what effect [a different mitigation theory would have had " 130 S Ct at 3264 The Supreme Court rejected this view Calling on courts to 'engage" and "take into account ' mitigation evidence, the Court stated that applying *Strickland* "will necessarily require a court to 'speculate' as to the effect of the new evidence—regardless of how much or how little mitigation evidence was presented during the initial penalty phase " *Id* at 3266-67

That is the case here with respect to trial counsel's presentation of expert testimony Engaging with the trial evidence and the evidence in postconviction shows that with respect to the expert testimony of Dr Berg and Dr Evans presented at trial (1) there were significant conflicts in the expert testimony, and (2) the evidence failed to present a coherent picture of brain damage and its cause Dr James Evans testified to neuropsychological symptoms indicating brain dysfunction in the frontal lobe However, Dr Berg did not notice any "psycho neurological" indicators and deemed an MRI a "waste of money " R 1730 Thus, Dr Berg, the last witness, left the jury with the impression that rather than brain damage, or brain dysfunction at the very least, Evans's behavior stemmed from a single episode of a major depressive disorder—a far less convincing piece of mitigating evidence This contradiction was extremely harmful to the successful presentation of mitigating evidence to the jury

Moreover, because trial counsel had not hired a neurologist to confirm these findings Dr Evans's diagnosis was limited R 1702 Justice Scalia's dissent in *Sears* helps explain why Justice Scalia emphasized that the evidence of head injury in *Sears* was open to

argument as to its strength Specifically, Justice Scalia challenged the seriousness of evidence of "Sears' hitting his head at a roller-skating rink sometime early in elementary school", 'running into an end table as a child", getting hit with a golf club sometime later in elementary school" 130 S Ct at 3270 (Scalia, J , dissenting) He noted that, from his perspective, a jury likely would have discredited the expert testimony because ' the evidence of brain-damaging trauma is nonexistent" *Id* Justice Scalia's argument points to something that was left wanting by the testimony of Dr Evans at trial The jury may have discredited Dr Evans's testimony not only because of the contradictory testimony of Dr Berg, but also because "the evidence of brain-damaging trauma [wa]s nonexistent" *Id* Dr Evans presented a diagnosis of brain dysfunction, but could not go further to identify brain damage What is more, when he suggested that lead poisoning might be a cause, the prosecutor quickly elicited that he had no proof It is understandable that jurors want proof for diagnoses In this light, the volumetric analysis by Dr Gur and the medical proof and corroborative family accounts of toxic lead exposure are, far from cumulative, very significant

Here, 'there is a reasonable probability at least one juror would have struck a different balance and returned with a different sentence had the jury been confronted with the considerable mitigating evidence" *Von Dohlen*, 360 S C at 607, 602 S E 2d at 743 In contrast to a case like *State v Jones*, 332 S C 329, 504 S E 2d 822 (1998), in which the South Carolina Supreme Court found no prejudice under *Strickland* because the postconviction evidence merely presented a "fancier mitigation case" ("the 'new' evidence [in postconviction] [wa]s the same as the 'old' evidence [at trial]," *id* at 339, 504 S E 2d at 827), here the postconviction evidence is qualitatively, not just quantitatively, different In *Jones*, the trial testimony ' extensive[ly]" addressed the defendant's "family and social background

through his teacher, mother, two aunts, and uncle," and the jurors were aware via a clinical psychologist's testimony that Jones had mental retardation, brain dysfunction, and 'often behaved in a bizarre manner " *Id* So when in postconviction four experts (a social worker, a different clinical psychologist, a neurologist, and a psychiatrist) reiterated these findings, 332 S C at 338, 504 S E 2d at 826, the Court held it merely added gloss the PCR evidence was a 'more elaborate version' of the expert conclusions and evidence at trial *Id*

There are significant differences between Mr Evans's case and *Jones* Whereas in *Jones*, a single expert testified to the presence of neuropsychological factors indicating brain dysfunction, here, the trial evidence was conflicted and uncertain Whereas in *Jones*, the postconviction evidence merely restated the medical evidence presented at trial with no greater certainty—other than the presence of multiple, additional opinions, here, the postconviction evidence was qualitatively different—showing brain damage, not merely dysfunction, as well as its location, its severity, and its cause Whereas in *Jones*, trial counsel had already presented evidence about the client's background and childhood, here, trial counsel did no investigation and presented no evidence of Evans's background in Cleveland or the fact that he witnessed and was the victim of abuse Further, in this case, the Solicitor used the lack of detail and corroboration as a reason to undercut Dr Evans's testimony during cross-examination R 1701-02

Finally, and for the same reasons, this case is easily distinguishable from *Simpson v Moore*, in which the South Carolina Supreme Court reversed a PCR court finding of sentencing ineffectiveness There, ' [t]he jury was aware of Simpson's troubled childhood, traumatic life experiences, and mental condition [and] [a]ny additional investigation would have merely resulted in a "fancier" mitigation case 367 S C 587, 607, 627 S E 2d

701, 712 (2006) Evans's sentencing jury learned absolutely nothing about his childhood, including its traumatic incidences of abuse and neglect or lead poisoning The expert testimony is also distinguishable The expert testimony in *Simpson* was stronger than in Evans's case because (a) it was based on an adequate investigation of the client's background and (b) it was not conflicted,[27] and the postconviction evidence, including testimony from the same forensic psychiatrist, merely offered more detailed opinions on the same matters 367 S C at 606-07, 627 S E 2d at 711-12 The postconviction evidence in Evans's case was qualitatively different it resolutely shows brain damage, its location, and lead poisoning as a cause

What will sway a single juror with mitigation is something that is extremely hard to divine Here, the jurors heard nothing about Kamell's life in Cleveland, heard nothing of the physical violence that he witnessed and endured as a child, and they knew nothing of the difficulties he was experiencing as an adult in South Carolina, or of his lead poisoning To suggest that this evidence would have been meaningless to a jury is hard to gauge—indeed, its utter lack of relation to the mitigation case presented at trial is what led the state court in *Sears* in similar circumstances to deem the assessment "impossible' But as the Supreme Court taught in *Sears*, that is the assessment that *Strickland* calls for See also *State v McClure*, 342 S C 403, 537 S E 2d 273 (2000) (noting "evaluation of the consequences of an error in the sentencing phase of a capital case are more difficult because of the discretion that is given to the sentencing jury A capital jury can recommend a life sentence for any reason or

[27] In contrast to Evans s case counsel s social history investigation in *Simpson* was not deficient and the records and information culled from that investigation were made available by counsel to three experts (a social worker who explained the impact on Simpson of his mother s prenatal drug abuse which continued after Simpson was born a clinical psychologist who noted low IQ and conducted tests indicating paranoia schizophrenia and mania and a forensic psychiatrist who testified that Simpson suffered depression and showed symptoms of attention deficit disorder and post traumatic stress disorder) 367 S C at 606 627 S E 2d at 711

no reason at all") Kamell's history of witnessing abuse and violence, his valued but also tortured relationship with his father, the fragility and uncertainty of his relationship with Christina Rodriguez, and his brain damage and lead poisoning may have led at least one juror to understand him, particularly when presented through the lens of a social worker qualified to evaluate Kamell's background see *Council*, 380 S C at 173-74, 670 S E 2d at 363, and especially in light of the positive attributes that trial counsel did present "[H]ad the jury been able to place [this evidence] on the mitigating side of the scale, there is a reasonable probability that at least one juror would have struck a different balance" *Gray v Branker*, 529 F 3d at 238 (quoting *Wiggins*, 539 U S at 537)

Significantly, the Court must also consider in assessing prejudice the strength of the State's case in aggravation *Van Hook*, 130 S Ct at 20, *Belmontes*, 130 S Ct at 390-91, see *Council*, 380 S C at 176, 670 S E 2d at 365 (finding prejudice, despite six statutory aggravating circumstances) In doing so, trial counsel's failure to challenge the State's case is relevant For example, the Court must consider the extent to which counsel could have rebutted or excluded the State's argument that the shootings were gang-motivated and "execution style" (R 1756), the influence that Joe Sapinoso's workplace—the courtroom—had on the trial, and the Solicitor's summation when it crossed the line of fairness These failures, which are significant—the prejudice of which must be assessed alongside the prejudice from counsel's failure to adequately investigate, develop and present mitigating evidence—are addressed in Parts B and C of this brief

II DEFENSE COUNSEL'S FAILURE TO OBJECT TO THE TRIAL COURT'S INSTRUCTION THAT THE JURY "MAY RECOMMEND A SENTENCE OF LIFE IMPRISONMENT FOR ANY REASON OR FOR NO REASON AT ALL OTHER THAN AS AN ACT OF MERCY" WAS DEFICIENT AND PREJUDICIAL

During the sentencing trial, counsel presented evidence and argument to the jury that the applicant's life should be spared as an act of mercy Mercy was the "primary element" of counsel s mitigation plea PCR 344 Trial counsel testified in postconviction that they would have objected to any charge that operated to limit the jury from considering mercy as a basis for returning a verdict of life imprisonment without parole Yet they did not object when the trial judge charged the jury that a sentence of life without parole was prohibited as an act of mercy Specifically, the charge stated that the jury 'may recommend a sentence of life imprisonment for any reason or for no reason at all other than as an act of mercy " R 1785, see *Rosemond v Catoe*, 383 S C 320, 680 S E 2d 5 (2009) (overruling *State v Hughey*, 339 S C 439, 459, 529 S E 2d 721, 731 (2000)) Nor did trial counsel object when this charge was submitted to the jury in writing, although trial counsel knew in advance of the jury instruction that the judge would give the charge and that this would occur These errors resulted in the jury deliberating the case without being able to place the defendant's primary element on the scale The exclusion of mercy is profoundly prejudicial in a capital murder trial, especially where counsel positioned mercy as the crux of their mitigation argument, and especially where the State presented the crime as the gang-motivated killing of a law enforcement officer, tried in the courthouse where the victim worked as the victim's former coworkers testified and others actively served the needs of the jury that heard evidence and deliberated on sentence

A Relevant Facts in the Record on Appeal and Postconviction Proceedings

As Goldsmith recounted, "my argument to the jury was, consistent with the [defense] theory, you want to kill this guy with the gang, but if you do, you kill this other guy as well" PCR 223-24 To reconcile this, Goldsmith emphasized in summation, I built my closing argument around [mercy] ' PCR 344 Goldsmith said to the jurors

> I am going to ask for mercy for Kamell Evans Mercy is unmerited favor You can't earn it, you don't deserve it, but you give it to him anyway We don't repay evil for evil And mercy is appropriate in this case

R 1770, PCR 344 Mercy was, Sumner concurred, the "major part' of the sentencing argument PCR 334 [28]

At the postconviction hearing, trial counsel acknowledged what every trial attorney knows never give an argument to the jury that is contradicted by the judge's charge PCR 336 (Sumner), 351 (Goldsmith) Both attorneys testified they would have objected to any charge that suggested a limitation on the jury considering mercy, when deliberating on the sentence PCR 335 (Sumner), 353 (Goldsmith) And yet neither objected when Judge Cole proposed an instruction that defied the "primary element" of their argument "[29] Counsel made no attempt, alternatively, to change the argument to avoid a conflict between their argument and the judge's charge PCR 351, see PCR 333-34, 344 The trial court, reiterating what was stated in chambers, then charged the jury

> Simply stated, you may recommend a sentence of life imprisonment for any reason or for no reason at all other than as an act of mercy

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[28] Trial counsel referred to mercy by turns as the primary element (PCR 344) the key highlight (PCR 345) and a major part (PCR 334) of the mitigation case The Solicitor recognized this and responded to defense counsel s emphasis on mercy at R 1749

[29] Judge Cole reviewed the proposed jury charges verbally with counsel in chambers PCR 335 345 Counsel did not submit any proposed jury charges PCR 338 39 Sumner could not specifically say exactly what [Judge Cole] said about mercy during the charge conference PCR 340 Goldsmith thought what the judge proposed was appropriate PCR 345 Goldsmith testified that he knew the charge in question was going to be given before he made his argument to the jury PCR 346 Counsel s failure to acquire and review a written copy of the judge s charge prior to opening statements was ineffective

R 1785 The charge was also provided to the jury in writing R 1786 [30]

B Counsel's Failure to Contest *Rosemond* and *Lockett* Error

The instruction that Judge Cole gave in Evans's case is identical to the charge, also delivered by Judge Cole, that the South Carolina Supreme Court disapproved of in *Rosemond v Catoe*, 383 S C 320, 680 S E 2d 5 (2009) Under S C Code Ann § 16-3-20(C), 'The judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law ' Mercy is embraced within this statutory directive as a basis for returning a life sentence This position is also supported by the fact that the statute does not require that the jury "weigh' aggravating circumstances against mitigating circumstances, rather, South Carolina is a non-weighing state, meaning the jury can return a verdict of life for any reason "otherwise authorized or allowed by law " As the Supreme Court explained in *Rosemond*, "[i]t is proper to instruct a jury in a capital sentencing phase that it may recommend a life sentence for any reason or no reason at all, *including* as an act of mercy " *Id* at 330, 680 S E 2d at 10-11 (emphasis added), see also *State v White*, 246 S C 502, 507, 144 S E 2d 481, 483 (1965) (noting the "absolute discretion of the jury with regard to the issue of mercy ') [31]

The plain meaning of the words of the charge given, however, is that mercy is precluded as a consideration for a sentence of life The charge substitutes the words "other than" for the word "including," in effect reversing the meaning of the statute and eviscerating

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[30] The judge is required to submit a written copy of the charge on aggravation and mitigation to the jury by S C Code Ann § 16-3-20(C)

[31] A jury s consideration of mercy if proper evidence of mercy is admitted is well recognized in the sentencing phase of a capital case Because a capital jury may consider properly admitted evidence of mercy in the sentencing phase consideration of mercy is not inconsistent with the instruction that the jury should not be guided by sympathy prejudice passion or public opinion *Rosemond* 383 S C at 330 680 S E 2d at 10 11 (citing *State v Singleton* 284 S C 388 326 S E 2d 153 (1985) reversed on other grounds *State v Torrence* 305 S C 45 406 S E 2d 315 (1991)) cf *Saffle v Parks* 494 U S 484 (1990)

the role of mercy in the jury's weighing of the sentencing options In sum, the South Carolina Supreme Court determined in *Rosemond* that the court's charge in Mr Evans's case violates South Carolina law [32]

1 Deficient performance

Counsel's explanation for their failure to object to the erroneous charge is that they found it helpful Sumner claimed that he did not think the charge limited the jury's consideration of mercy, and because "it use[d] the word mercy" was actually preferable to a charge that tracks the words of the statute PCR 338, see PCR 335 Goldsmith similarly testified that he thought this 'an expansive charge" that allowed jurors to consider mercy PCR 346-47 The charge, they say, told the jury to consider mercy, not abjure it

There is only one possible understanding of the charge's words and it is that given by the South Carolina Supreme Court, condemning them, in *Rosemond* The interpretation offered by trial counsel defies both the Supreme Court's determination in *Rosemond* and common sense Regardless, the charge was error because mercy was the crux of the sentencing defense, and counsel was deficient in failing to object Counsel's failure to make certain that they saw and reviewed the charge for typographical or substantive errors prior to their closing argument and before it was submitted to the jury contributed to the error The result was a charge not only contrary to capital jurisprudence and the statute as it existed at the time of trial, but contrary to the theory and thrust of applicant's mitigation plea to the jury

2 Prejudice

[32] Consistent with South Carolina capital jurisprudence the jury in Evans s case was charged that they could find non-statutory mitigation without proof beyond a reasonable doubt and return a sentence of life whether or not the jury found the existence of a statutory or a non statutory mitigating circumstance R 1784 The charge excluding mercy as a basis for returning a life sentence contradicted this earlier charge and rendered the overall mitigation charge arbitrary capricious and ambiguous in violation of Section 16 3 20

The only question in these circumstances is whether counsel's failure prejudiced Evans In *Rosemond*, the South Carolina Supreme Court did not decide the issue of prejudice, reversing and remanding for a new sentencing proceeding on other grounds 383 S C at 329, 680 S E 2d at 10 Evans submits that the error amounts to not only a violation of state law, as the state Supreme Court identified in *Rosemond*, but a violation of the Eighth and Fourteenth Amendments because the erroneous charge took a mitigating factor—mercy—from the purview of the jury's consideration in violation of *Lockett v Ohio*, 438 U S 586 (1978), and its line of cases See *Eddings v Oklahoma*, 455 U S 104 (1982), *Skipper v South Carolina*, 476 U S 1 (1986), *Hitchcock v Dugger*, 481 U S 393 (1987) The South Carolina legislature has decided to allow mercy as a sentencing consideration, encompassed in the language "for any reason or no reason at all," and the South Carolina Supreme Court has so interpreted the statute As such mercy is indisputably a valid mitigating factor under state law Accordingly, the given charge, which restricted jurors from considering mercy as mitigation, violates the *Lockett* line of cases, which require that a jury be allowed to consider all relevant mitigation

The Court need not decide whether this error mandates reversal in every case Under the unique circumstances of this case, it surely does The exclusion of mercy was highly prejudicial in this capital murder trial where defense counsel positioned mercy as the crux of their mitigation argument Indeed, counsel offered little else See Point I Indeed, what little mitigation counsel presented was demolished by this single instruction At the very least, the prejudice from counsel's failure to object to the "no mercy" charge contributes with the prejudice from counsel's many other deficiencies to establish prejudice and a constitutional violation under *Strickland*

PART B

III DEFENSE COUNSEL WAS INEFFECTIVE IN FAILING TO RECOGNIZE AND OBJECT TO THE STATE'S CHARGE THAT EVANS KILLED A LAW ENFORCEMENT OFFICER "DURING OR BECAUSE OF THE PERFORMANCE OF HIS OFFICIAL DUTIES" THE EVIDENCE DID NOT SUPPORT THE CHARGE, AND THE PREJUDICIAL IMPACT OF THIS ERROR CARRIED THROUGHOUT THE TRIAL FROM JUROR *VOIR DIRE* TO THE STATE'S CLOSING ARGUMENT

Aggravating factor S C Code Ann § 16-3-20(C)(a)(7) was a part of the original state capital murder statute S C Code of Laws § 16-52 (1962) As amended in 1976 and in its form at the time of trial, the aggravating factor applies to

> (7) The murder of a federal, state, or local law enforcement officer or former federal, state, or local law enforcement officer, peace officer or former peace officer, corrections officer or former corrections officer, including a county or municipal corrections officer or a former county or municipal corrections officer, a county or municipal detention facility employee or former county or municipal detention facility employee, or fireman or former fireman *during or because of the performance of his official duties*

S C Code Ann § 16-3-20(C)(a)(7) (amend 1976) (emphasis added)[33] The aggravator's prominence in capital legislation reflects its preeminent importance as a tool for maintaining an ordered society If a police officer is murdered during and because of his official duties, we are less safe The law enforcement officer is cloaked with the persona of society itself, a strike against the officer is a strike against ordered society and each member in it In this case, however, there was simply no evidence that the murder of Joe Sapinoso was committed during or because of his official duties with the Sheriff's Department[34]

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[33] South Carolina s original capital sentencing statute included five aggravating circumstances Circumstance number (3) read (3) Murder of a law enforcement officer or correctional officer while acting in the line of duty S C Code Ann § 16 52 (1962 as amended) With the 1976 amendment the language in the line of duty was changed to during or because of the performance of his official duties The apparent legislative intent was to tighten the nexus between law enforcement work and the murder

[34] The scope of Evans s claim was discussed during the postconviction hearing PCR II 245 252 see generally PCR II 231 54 As discussed Evans does not argue that counsel should have presented evidence regarding the

Trial counsel was ineffective for failing to object to the aggravating factor In contrast to the many South Carolina capital cases in which the aggravating factor has been applied to the killing of a peace officer in the line of duty,[35] the statute's meaning does not support the aggravating factor's application here in light of the facts known from discovery and the evidence and arguments at trial Further, as to prejudice, the erroneously charged aggravator became very damaging when the jurors became aware that the victim, had he not been murdered, may have been the officer assigned to greet and screen each of them as they entered the courthouse or guard the courtroom in which they were serving during the trial See R 1571 (Deputy Sheriff Tripp), R 1532 (Sheriff Loftis) Trial counsel ignored the potential juror empathy for the courthouse "family"[36] and did not move to change the location of the trial The aggravating circumstance further operated as a gateway for highly charged

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aggravating factor in response to the testimony of Sheriff Loftis but rather that the testimony was irrelevant See PCR II 248 At the postconviction hearing Evans s motion on the inadmissibility of testimony by State witnesses in postconviction regarding efforts to obtain benefits for the Sapinoso family based on Joe s employment as a police officer as well as affidavits offered by the State on the matter were accepted as Court Exhibits as agreed by the parties they were not relevant and not admitted as evidence at the postconviction hearing PCR II 252 54

[35] See e g *State v South* 357 S C 646 594 S E 2d 462 (2004) (officer shot on duty in patrol car) *State v Cottrell* 376 S C 260 657 S E 2d 451 (2008) (on-duty officer killed while confronting defendant) *State v Bryant* 372 S C 395 642 S E 2d 582 (2007) (officer killed while making arrest) *State v Wood*, 362 S C 135 607 S E 2d 57 (2004) (officer killed during traffic arrest) *Sheppard v State* 357 S C 646 594 S E 2d 462 (2004) (same) *Hudgins v Moore* 337 S C 333 524 S E 2d 105 (1999) (same) *Hughes v State* 367 S C 389 626 S E 2d 805 (2006) (same) *State v Hill* 331 S C 94 501 S E 2d 122 (1998) (same) *State v Ivey* 325 S C 137 481 S E 2d 125 (1997) (officer killed during questioning at mall) *State v Forney* 321 S C 353 468 S E 2d 641 (1996) (officer killed during traffic arrest) *State v Linder* 276 S C 304 278 S E 2d 335 (1981) (on duty officer confronting defendant) *State v Allen* 266 S C 175, 222 S E 2d 287 (1976) (shooting of two game wardens after stop) In each of these cases charging Section (C)(a)(7) was consistent with the purpose of the statute to protect law enforcement doing their job

[36] The phrase courthouse family derives from the State s opening statement at the sentencing phase when Deputy Solicitor Strom referred to the victim s law enforcement family before the jury R 1517 (He has a greater family a larger family than just his immediate family and that s his law enforcement family) In 1888 the South Carolina General Assembly recognized that courthouse family members might have some deleterious impact upon juror functions So strong was the feeling that the Legislature passed a bill declaring any person employed within the walls of the courthouse ineligible to serve on either a civil or criminal jury this in spite of the fact that the right to participate in government by serving as a juror is Constitutionally guaranteed Currently S C Code Ann § 14 7 820 declares anyone employed within the courthouse walls ineligible to serve as a juror in any civil or criminal case It might be noted that the Legislature was so sensitive to the issue that the declaration of ineligibility was extended to include sheriffs and by case law extension their deputies

statements presented to the jury, also without objection from counsel, under the rubric of victim impact testimony The testimony of Sheriff Loftis and Deputy Sheriff Tripp served to bolster the victim's law enforcement status and harnessed the emotional power associated with the killing of a law enforcement officer during or because of his or her duties—a status that was not relevant to the circumstances in this case

The confluence of this triad of errors likely overwhelmed the jury The improper charge of the law enforcement aggravator, the venue of the trial being in the victim's place of employment, and the unbridled use of victim impact testimony, operated together, each as a springboard of error for the other, to produce a verdict that so undermines confidence in the outcome that a new sentencing trial is the proper remedy

A Relevant Facts in the Record on Appeal

The shootings in this case centered upon the defendant's emotionally charged and estranged romantic relationship with victim Antonio L Sapinoso s daughter, Christina Rodriquez Antonio Joseph Sapinoso was Christina's brother and he also became a victim On the evening of the shooting, the applicant went to the mutual residence of Antonio and his son Joseph and arrived just as Joseph returned home from work The two entered the house where the applicant attempted to enlighten Christina's father and her brother to the extreme turmoil and unrest between the applicant and Christina In the end, some four hours later, both Antonio and Joseph Sapinoso were shot and died from the injuries

On May 20, 2003, the State served counsel John Mauldin with a Notice of Intent to Seek the Death Penalty against Kamell Evans The Notice alleged four aggravating factors all of which were ultimately charged by the trial court (1) committed while in the commission of the crime or act of kidnapping, (2) committed while in the commission of the

crime or act of burglary in the first degree, (3) two or more persons were murdered by the defendant pursuant to one act or one scheme or course of conduct, and (4) murder of a law enforcement officer during or because of the performance of his official duties S C Code Ann §§ 16-3-20(C)(a)(1)(b), (c), 16-3-20(C)(a)(7), (9) The fourth aggravator applied only to Joseph Sapinoso At no point prior to or during trial did any of Evans's counsel challenge the applicability of any of these aggravating factors to his case

At sentencing, in an attempt to establish evidentiary support for the (C)(a)(7) aggravator—to establish that the victim was a law enforcement officer killed during or because of the performance of his official duties—the State asked Sheriff Loftis about his efforts to access a federal reserve of funds set aside to benefit the families of deceased public health and safety employees R 1528 During his testimony Sheriff Loftis offered two theories as to how the victim remained on-duty despite his being home well after the conclusion of his regular workday R 1529-1531 First, Loftis claimed that pursuant to a Greenville County Sheriff's Office policy whenever a deputy operates a sheriff's office vehicle that deputy is considered to be on-duty and available to respond to calls for service R 1529-1530 [37] Second, Loftis asserted that the victim's family had received federal benefits designated for family members of police officers killed in the line of duty R 1531 [38] Defense counsel had one last chance to object to the law enforcement aggravator prior to the closing arguments and the trial court's charge, but did not R 1742

B Testimony at the Postconviction Hearing

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[37] App Exh 36 is a photograph of the unmarked Jeep driven by Joseph Sapinoso The license plate is not a government license plate and no marking suggests that the jeep is a law enforcement vehicle

[38] How Sheriff Loftis came to possess this information was never established at trial as both the State and Evans s defense attorney chose not to question Loftis on this matter See R 1530 33 Additionally no other evidence was introduced to establish that Sheriff Loftis was correct in his assertion

At the postconviction hearing, both Sumner and Goldsmith were asked about what they did to investigate and challenge the charging of the (C)(a)(7) aggravating factor Goldsmith stated, "I would think the standard legal research and we found nothing ' PCR 239, accord PCR 253 Sumner explained that his research on the matter was "verbal," by which he meant that he talked to his fact investigator and "four or five" deputies with the sheriff's office "[T]hat would be [the] extent of my research," he said, "just asking people PCR 368 Goldsmith added that their understanding was that a ' Sheriff's deputy is on duty 24/7 " PCR 239 He also noted that Kamell's confession stated that he first encountered Joe Sapinoso as Joe was getting out of the car PCR 254 "We felt like based on that that Mr Sapinoso was still in uniform, was on his way home, had not reached his home, had been on duty " PCR 239, see PCR 241-42

C Deficient Performance

1 Trial counsel performed deficiently by looking to and then allowing definitions of "on duty" provided by law enforcement protocol and federal benefits programs to serve as the method of interpreting the statutory meaning of "during and because of the performance of official duties "

Trial counsel testified at the postconviction hearing that they had no 'case authority" for making an argument in opposition to the aggravator PCR 239 Rather than rely on case authority, they spoke with members of law enforcement as to whether Joe Sapinoso was shot "during or because of his official duties " At the sentencing phase of Evans's trial, the State presented testimony of Sheriff Stephen Loftis for this purpose R 1519 Loftis testified that Joe Sapinoso was "on duty," despite his being home well after the conclusion of his regular workday, pursuant to a Greenville County Sheriff's Office policy that whenever a deputy operates a sheriff's office vehicle that deputy is considered to be on-duty and available to respond to calls for service R 1529-1530 Loftis also testified that the victim's family had

received federal benefits designated for family members of police officers killed in the line of duty R 1531 Neither contention establishes that the victim was performing official law enforcement duties at the time of his death as required by South Carolina's statute

Although Loftis asserted that "according to policy" whenever a Greenville County deputy sheriff operates an official sheriff's office vehicle that officer is considered to be subject to on-duty call (R 1530), the State never introduced this policy into evidence and neither the State nor defense counsel asked Loftis to expand on his one-sentence answer See R 1529-30 Defense counsel, in effect, accepted the Sheriff's allusion to a county policy to justify the application of a capital aggravating circumstance that the Constitution requires proof of beyond a reasonable doubt

Nor does Sheriff Loftis's testimony that he believed the victim's family received federal benefits under the Public Safety Officer's Benefits Act (PSOBA) establish that the victim was killed during the performance of official duties While the PSOBA[39] provides a monetary benefit to the survivors of public safety officers whose death occurs from injuries sustained in the line of duty, 42 U S C § 3796(a), the statue's definition of "in the line of duty" is far more expansive than the definition contemplated by Section 16-3-20(C)(a)(7) The PSOBA considers the commute between an officer's home and work to be "in the line of duty" 28 C F R § 32 3[40] Arguably, this is broader than even the Greenville Sheriff's Department policy in that the act of going from the officer's home to the officer's vehicle could be viewed as part of the officer's commute under the PSOBA The definitions applied by benefits administrators to the phrase "in the line of duty," therefore, are not helpful to

[39] The Sheriff referenced a United States Department of Justice offer that deals with line of duty deaths involving police officers (R 1531) as the source of these benefits The benefits are authorized by the Public Safety Officer s Benefits Act administered by the Bureau of Justice Assistance See 42 U S C § 3796(a) (2006)

[40] S C Code Ann § 42 1-160 excludes injuries sustained while the employee is going to and from work The general rule is *Whitworth v Window World Inc* 377 SC 637 661 SE2d 333 (2008)