

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)
)
STEVEN VERNON BIXBY,)
)
Applicant)
)
v.)
)
STATE OF SOUTH CAROLINA,)
)
Respondent)
)
_____)

IN THE COURT OF COMMON PLEAS

Case No. _____

RECEIVED
Nov 26 2024
S.C. SUPREME COURT

**APPLICATION FOR POST-CONVICTION RELIEF
BASED ON INCOMPETENCE TO BE EXECUTED**

Applicant submits the following application for post-conviction relief.

1. Place of detention: Broad River Correctional Complex, 4344 Broad River Road, Columbia, South Carolina, 29210.
2. Name and location of Court which imposed sentence: Abbeville County Court of General Sessions.
3. Names of co-defendants (if any): Rita Bixby, Arthur Bixby (both deceased).
4. The indictment number or numbers upon which the offense for which sentence was imposed: 2004-GS-01-0321.
5. The date upon which sentence was imposed and the terms of the sentence: February 21, 2007, death penalty.
6. A guilty finding was made after a plea of not guilty.
7. The applicant did appeal from judgment of conviction and sentence.
8. Appeals:

- a. *State v. Bixby*, 388 S.C. 528, 698 S.E.2d 572 (Aug. 16, 2010) (South Carolina Supreme Court affirmed convictions and sentences)
 - b. *Bixby v. South Carolina*, 131 S. Ct. 2154 (Apr. 25, 2011) (United States Supreme Court denied a petition for writ of certiorari).
9. Not applicable.

GROUND FOR RELIEF WITH SUPPORTING FACTS

10. Ground for allegation of unlawful custody:
- a. Mr. Bixby is incompetent to be executed pursuant to the standards set forth in *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993), and as a result, his sentence cannot be lawfully carried out.
11. Facts supporting ground for relief:
- a. Dr. Richart DeMier, a clinical psychologist who spent more than twenty years working at the United States Medical Center for Federal Prisoners conducting competency, sanity, and civil commitment evaluations, examined Mr. Bixby for more than fifteen hours on February 13 and 14, 2024, at Broad River Correctional Complex, and via Zoom on April 8, 2024. *See* Attachment (Report of Richart DeMier, Ph.D.).
 - b. After his examination and the review of records provided to him by counsel, Dr. DeMier has found to a reasonable degree of medical certainty that Mr. Bixby is not presently competent to be executed under standards set forth by this Court in *Singleton*.
 - c. As Dr. DeMier reports: “Mr. Bixby has significant deficits in his ability to properly assist his counsel, for two reasons. First, he is unable to

understand the nature of the proceedings. Second, he does not possess sufficient capacity or ability to rationally communicate with counsel.” *Id.* at p. 28.

- d. Dr. DeMier further explains that “Mr. Bixby’s bizarre beliefs have apparently rendered him totally unable to understand the most basic legal procedures available at this stage of his case.” *Id.* at p. 29. And, Mr. Bixby “is unable to have a coherent discussion with his attorneys about matters of legal relevance.” *Id.*
- e. Dr. DeMier’s opinion that Mr. Bixby is incompetent to be executed is based in part on Mr. Bixby’s belief in bizarre and paranoid concepts:
 - i. Mr. Bixby believes that prison officials injected a tracking device when he received a tuberculin skin test.
 - ii. He believes death row inmates are traded like hogs on the stock market and the money earned becomes the reward for catching escapees.
 - iii. Mr. Bixby believes he received a sign from God approving of his conduct during the capital crime when, the night before the crime, gold was trading at \$1,967 and his birth year is 1967.
 - iv. School and medical records were removed, destroyed, or withheld because they would have been helpful to Mr. Bixby. “Somebody went around and made sure they cleaned everything out.”

- v. Mr. Bixby believes his actions during the capital crime were justified because “the law backs me up completely” and “the discovery proves my innocence.”
- vi. Mr. Bixby also believes that blood found on his clothing contained the DNA of Christ and that crime scene photos contain evidence that an angel was present during the crime.
- vii. Mr. Bixby believes his death warrant is “null and void” because it was not “properly sworn and completed.”
- f. These are exactly the kind of deficits—inability to understand the legal proceedings and inability to rationally communicate with counsel—that the *Singleton* Court found render a person incompetent to be executed.

12. Prior to this Application,

- a. Applicant appealed his conviction and sentence in state court.
- b. Applicant filed an Application for Post-Conviction Relief, dated April 25, 2011, which was amended several times between 2011 and 2014. Upon the denial of post-conviction relief, Applicant filed a petition for writ of certiorari to the South Carolina Supreme Court which was denied. *See Bixby v. State*, No. 015-000821 (March 7, 2017).
- c. Applicant filed a federal habeas petition in the Federal District Court for the District of South Carolina on March 27, 2018. *Bixby v. Stirling*, No. 17-00954 (D.S.C.). Following the denial of relief, he filed a motion in the Fourth Circuit Court of Appeals seeking a Certificate of Appealability,

- which was denied. *Bixby v. Stirling*, 2022 U.S. App. LEXIS 27381 (4th Cir. 2022).
- d. On February 28, 2022, Applicant filed a Motion for Relief Pursuant to Rule 60(b) in the Federal District Court for South Carolina, which was denied, and the Fourth Circuit Court of Appeals affirmed. *Bixby v. Stirling*, 90 F.4th 140 (4th Cir. 2024).
 - e. Applicant has filed petitions for certiorari in the United States Supreme Court upon the denial of post-conviction relief, *see Bixby v. South Carolina*, No. 17-5598, cert. denied Oct. 16, 2017; the denial of federal habeas relief, *see Bixby v. Stirling*, No. 22-6690, cert. denied May 15, 2023; and the denial of his Rule 60(b) motion in federal district court, *see Bixby v. Stirling*, No. 23-7641, cert. denied Oct. 7, 2024.
 - f. Applicant has not filed any petitions, motions or applications other than those addressed above.
- 13. Not applicable.
 - 14. Applicant has not raised this ground in this or any other court.
 - 15. Not applicable.
 - 16. Applicant's competence to be executed was not ripe previously.
 - 17. Applicant was previously represented by counsel.
 - a. **Trial:** Charles Grose, 404 Main Street, Greenwood, SC 29646; Bill Nettles, 1441 Main Street, Suite 500, Columbia, SC 29201; and Mark MacDougal, Akin Gump, LLP, Robert S. Strauss Building, 1333 New Hampshire Ave N.W., Washington, D.C. 20036.

- b. **Direct Appeal:** Robert M. Dudek, 1330 Lady Street, Suite 401, Columbia, SC 29201; LaNelle C. DuRant, 1330 Lady Street, Suite 401, Columbia, SC 29201; and Charles Grose.
- c. **Petition for certiorari to the United States Supreme Court:** David Bruck, 1 Denny Circle, Washington and Lee University School of Law, Lexington, VA 24450; Robert Dudek; and Charles Grose.
- d. **State Post-Conviction:** John R. Mills, Phillips Black, Inc., 1721 Broadway, Suite 201, Oakland, CA 94612; and Daniel J. Westbrook, Nelson, Mullins, Riley, & Scarborough, LLC, P.O. Box 11070, Columbia, SC 29211-1070.
- e. **Federal Habeas Corpus, District Court:** Miller W. Shealy, Jr., 81 Mary Street, Charleston, SC 29403; and William H. Monckton, IV, Monckton, Hembree and Humphries, PA, 1300 Professional Drive, Suite 102, Myrtle Beach, SC 29577.
- f. **Federal Habeas Corpus Appeal and Rule 60(b) Proceedings:** Gerald King, Gretchen Swift, and David Weiss, Assistant Federal Public Defenders, Fourth Circuit Capital Habeas Unit, Federal Public Defender's Office, 129 W. Trade Street, Suite 300, Charlotte, NC 28202; and Joshua Snow Kendrick, Kendrick & Leonard, PC, P.O. Box 6938 Greenville, SC 29606.

18. See answer to Question 17.

19. Applicant seeks a finding that he cannot be executed due to his incompetence under *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993).

20. Applicant is not under sentence from any other court.

Respectfully submitted,

/s Joshua Snow Kendrick

Joshua Snow Kendrick (No. 70453)

KENDRICK & LEONARD, P.C.

P.O. Box 6938

Greenville, SC 29606

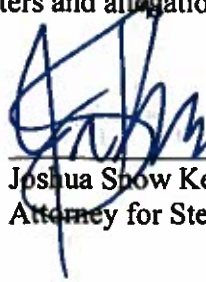
November 25, 2024

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

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VERIFICATION

I, Joshua Snow Kendrick, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



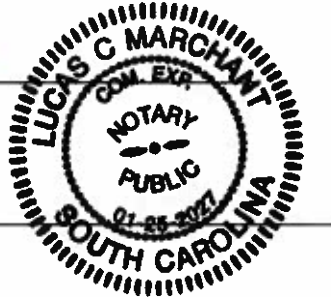
Joshua Snow Kendrick
Attorney for Steven Vernon Bixby

SWORN to and subscribed before me

This the 12 day of NOVEMBER, 2024.


Notary Public

My Commission Expires: _____



RICHART L. DEMIER, PH.D., ABPP
CLINICAL PSYCHOLOGIST
BOARD CERTIFIED IN FORENSIC PSYCHOLOGY
SPRINGFIELD, MISSOURI

FORENSIC PSYCHOLOGICAL EVALUATION REPORT

BIXBY, Steven Vernon

Date of Birth: August 17, 1967

Referred by: Gretchen Swift and David Weiss, Capital Habeas Unit for the Fourth Circuit

Location of Evaluation: Broad River Correctional Institute, Columbia, South Carolina

Dates of Evaluation: February 13 and 14, 2024, and April 8, 2024

Date of Report: August 19, 2024

REFERAL INFORMATION

Steven Vernon Bixby is a 56-year-old man who was referred for evaluation of whether he is currently competent to be executed. He was referred by his attorneys, David Weiss and Gretchen Swift of the Capital Habeas Unit for the Fourth Circuit.

According to an engagement letter, I was asked to evaluate Mr. Bixby in accordance with both the federal and South Carolina standards regarding competency to be executed. The federal standard, as articulated in *Madison v. Alabama*, 139 S. Ct. 718, 723 (2019), reads:

The critical question is whether a “prisoner’s mental state is so distorted by a mental illness” that he lacks a “rational understanding” of “the State’s rationale for [his] execution.” Or similarly put, the issue is whether a “prisoner’s concept of reality” is “so impair[ed]” that he cannot grasp the execution’s “meaning and purpose” or the “link between [his] crime and its punishment.”

As explained in the engagement letter, the broader South Carolina standard was articulated in the 1993 case of *Singleton v. State*, 313 S.C. 75, 84 (1993):

... we announce the appropriate test in South Carolina as a two-prong analysis. The first prong is the cognitive prong which can be defined as: whether a convicted defendant can understand the nature of the proceedings, what he or she was tried for, the reason for the punishment, or the nature of the punishment. The second prong is the assistance prong which can be defined as: whether the convicted defendant possesses sufficient capacity or ability to rationally communicate with counsel.

SUMMARY OF OPINION

As detailed below, Mr. Bixby is currently not competent to be executed. Although he meets the criteria for competency for execution in the federal standard, he lacks the ability to understand the nature of the proceedings as required by the South Carolina standard. Moreover, he lacks the ability to rationally communicate with counsel.

NOTIFICATION

Mr. Bixby was initially evaluated on February 13 and 14, 2024, at the Broad River Correctional Institute, where South Carolina's death row is located. A follow-up interview was conducted using the videoconferencing platform Zoom on April 8, 2024.

At the beginning of the first interview, I was accompanied by paralegal Michelle Thompson; Mr. Bixby knows her as a member of his defense team. Ms. Thompson was there to provide introductions, and she remained during the notification process.

Before Ms. Thompson left the room, the nature and purpose of Mr. Bixby's evaluation were explained, as were the limits of confidentiality. I explained that he was referred for an evaluation by his attorneys. He was informed that the usual confidential relationship between psychologist and patient did not exist, and it was emphasized that information obtained during the evaluation was not confidential. I told Mr. Bixby that any statements he made, or any other information I learned about him, could be used to inform my opinion. I explained that I would discuss my findings with his attorneys, and that if they asked me to, I would prepare a written report for his attorneys.

I explained that at present, I was working as an agent for his attorneys, and that all the information he provided was confidential and privileged, unless he or his attorneys choose to use it in his case. I informed him that if that happens, the information I gleaned from him would no longer be confidential or privileged. I explained that in such a case, my report would likely be shared with the attorneys for the State of South Carolina, and any judge who hears the case. I told him that in such a case, I could also be called as a witness. I explained that the results of the evaluation could be used in court proceedings to assist in decisions about his current mental state and his competency to be executed.

Finally, Mr. Bixby was told that he could choose not to respond to any certain question, or he could choose to cease participation and end the interview at any time.

Following that explanation, Mr. Bixby read a Forensic Evaluation Notification Form, and he was provided an opportunity to ask questions about information contained in that document. He read the notification document without any apparent difficulty, indicated he understood this notification, and agreed to participate in the evaluation. He was able to recall the various elements of my explanation. He was able to describe the limits of confidentiality, and he accurately recalled the potential disposition of the report.

I saw Mr. Bixby for a follow-up interview on April 8, 2024. That interview was conducted using the videoconferencing platform Zoom. It appeared that Mr. Bixby was in the same room or a very similar room. At the beginning of that session, I asked him similar questions about the nature and purpose of the evaluation, issues of confidentiality, and the various ways the information could be used. He accurately recalled our previous discussion and provided correct responses to my inquiries.

SOURCES OF INFORMATION

At the Broad River Correctional Institute, Mr. Bixby and I met in a small private room with a computer on a small table to the side. We were both seated at a larger table, and Mr. Bixby was not restrained in any manner. Correctional staff were in nearby offices. The interview space was private and comfortable. We met for approximately 5 hours, 45 minutes, on February 13, and for approximately 4 hours, 45 minutes, on February 14. The interview focused on his background (with particular attention to his personality functioning), his current functioning, his clinical diagnoses, and his abilities relevant to his competency to be executed.

A follow-up interview via the videoconferencing platform Zoom was conducted on April 8, 2024. That follow-up interview lasted approximately 4 hours.

I was provided the following documents to review:

1. Medical Records:
 - a. Medical records from Dartmouth-Hitchcock Medical Center. The notes begin in August 1968, and continue until May 1994. Some of those documents highlighted his birth complications; numerous others focused on the frostbite injury he suffered on a worksite at age 21 and the impact of that injury. Some of the documents were illegible.
 - b. Medical records from Beckman Center for Mental Health concerning evaluation and treatment at that facility between August 3 and October 2, 1997.
2. Psychological and psychiatric reports prepared prior to trial:
 - a. Report prepared by Michael Ferlauto, M.D., Forensic Psychiatry Fellow, and Richard Frierson, M.D., dated November 29, 2006.
 - b. Report prepared by Marla L. Domino, Ph.D., dated December 1, 2006.
 - c. Report prepared by Richard Frierson, M.D., dated February 2, 2007.
 - d. Report prepared by Donna Schwartz-Watts, M.D. This report was undated, but it appeared to have been prepared after December 14, 2006.
 - e. Letter from Tora Brawley, Ph.D., to Donna Schwartz-Watts, M.D., dated February 20, 2007. That letter was accompanied by six pages of handwritten notes.
3. Trial testimony of Richard Frierson, M.D., Tora Brawley, Ph.D., and Mr. Bixby's mother, Rita Bixby.
4. Two handwritten filings made to the court, prepared by Mr. Bixby, dated June 23 and 24, 2006.
5. Documents generated during the post-conviction process:
 - a. Report prepared by Ruben C. Gur, Ph.D., in the form of a letter to John Mills, dated October 18, 2012.
 - b. Report prepared by Bhushan S. Agharkar, M.D., dated October 12, 2012.
 - c. Deposition of Richard Frierson, M.D., dated November 30, 2012.
 - d. Testimony of Ruben C. Gur, Ph.D., dated December 10, 2012.
 - e. Testimony of Richard Frierson, M.D., dated December 13, 2012.
 - f. Testimony of Bhushan S. Agharkar, M.D. The document is not dated, but it appears to have been during the same post-conviction proceedings where Richard Frierson, M.D., testified on December 13, 2012.

- g. Eighty-seven pages of Mr. Bixby's Post-Hearing Brief, which summarized matters presented as mitigation.
- h. Testimony of Rebecca Kendig, Ph.D.. I also reviewed a PowerPoint presentation that Dr. Kendig used as a demonstrative aid during her testimony.
6. Appellate decision affirming Mr. Bixby's death penalty, dated August 16, 2010.
7. Records related to Steven Bixby's father, Arthur Bixby:
 - a. Report prepared by Thomas V. Martin, M.D., dated February 21, 2008.
 - b. Report prepared by Richard Frierson, M.D., dated May 31, 2008.
 - c. Report of CT imaging of Mr. Arthur Bixby's head, dated October 30, 2008.
 - d. Medical records from Bryan Hospital Forensics regarding Mr. Arthur Bixby's care and treatment at that facility from September 30, 2008, until the date of his death, September 5, 2011.
8. Voluminous letters (1,335 handwritten pages) from Mr. Bixby to Alane Taylor, written between December 16, 2003, and June 21, 2004. Instead of reading all the handwritten letters, I relied on two typed "fact chronologies" which quoted various parts of the letters at length. Those were prepared by Kim Fuhrmeister, an investigator on Mr. Bixby's defense team, and they were dated January 23, 2024. The typewritten documents totaled 100 pages.
9. Medical, mental health, and correctional records from the South Carolina Department of Corrections regarding the care of Mr. Bixby between November 21, 2021, and December 19, 2023.
10. List of records highlighting possible symptoms of mental illness, prepared by Mr. Bixby's defense team, undated.
11. Legal summary of Mr. Bixby's case, prepared by his defense team, dated April 2, 2024.

The following psychological measures were administered:

1. Montreal Cognitive Assessment (MoCA).
2. Minnesota Multiphasic Personality Inventory, Third Edition (MMPI-3).

BACKGROUND INFORMATION ACCORDING TO MR. BIXBY

I began the interview by asking Mr. Bixby about his background and personal history. This is often a good way to establish rapport with an individual before progressing to more substantive portions of the interview. Mr. Bixby spoke freely about his background, and he seemed casual and at ease during the discussion, except when his account differed from that of others. At such times, he tended to become tense, angry, or sarcastic. Information in this section, unless otherwise noted, was provided by Mr. Bixby.

Birth and childhood

Mr. Bixby explained that he understood there were complications during his birth. He explained that the umbilical cord was wrapped around his neck, which is consistent with available medical records. However, he made other statements about the birth difficulties which made no sense. For example, he blamed the difficulties on the fact that his mother took aspirin during the ninth month of pregnancy "and that caused an issue." He also asserted that his birth difficulties caused

him to crave scallops, and for him to become allergic to things that he had not previously caused an allergic reaction.¹

Mr. Bixby described the composition of the family. He noted that when his parents married, this was the second marriage for both of them and that he had older half-siblings on both sides of the family. According to various sources, his parents met while they were both married to their first spouses. Both divorced, and they married each other shortly thereafter. They had two children, Danny, born in 1966, and Steven Bixby, born in 1967. His half-siblings on his mother's side lived in the household.

Mr. Bixby described his family as lower middle class. He acknowledged that he would sometimes "go without food," but he said this was rare. He indicated that there were no school programs to supplement nutrition for needy children at that time.² He said he had adequate clothes for school. When asked whether he had access to medical and dental care, he said he saw an eye doctor frequently, as he has strabismus (misalignment of the eyes), but he maintained he never needed to see a dentist.

Physical abuse history

When the topic of physical punishments was first addressed, Mr. Bixby immediately said, "Well, there's various statements out there about that!" He was indicating that he was aware that others, including his brother and half-siblings, have described physical abuse at the hands of his parents. Mr. Bixby acknowledged that he received physical punishments, but he offered a starkly different account than others. He stated that his punishments ranged from being required to sit in a specific spot to a spanking. He maintained that the spankings were never excessive or abusive. He said, "Any punishment we got never exceeded the crime." When asked how he accounted for the differing descriptions of his brother and half-siblings, he stated the discrepancies were due to the fact that his brother and half-siblings were jealous of him. When I said I did not follow that explanation, he became more animated and asserted, "They make it sound like they were ... abused, and that is not so." He became angry at and dismissive of his brother and half-siblings and said, "They've always tried to be the centers of attention and kings and queens of the pity party."

It has been reported that the house was sometimes so cold that there was frost on the sheets. He denied that, calling the statement "another embellishment" of his brother and half-siblings. He acknowledged the home was sometimes cold, but he would not, or could not, tell me how cold it was. He stated the account of frost on the sheets was impossible, because if the house were that cold, the pipes would have frozen (although this is not necessarily true – frost can be inside a house without the pipes freezing).

Sexual Abuse History

Mr. Bixby stated that he was sexually abused by his older half-sister, Debra. He stated that Debra forced him to provide and receive oral sex. He stated that his mother was slow to accept

¹ It is certainly possible that people can develop new allergies at various stages of their lives, but the development of an allergy would not be linked to difficulties during birth.

² While I do not know the details about what Mr. Bixby's school may have offered, school lunch programs had been around for at least two decades before Mr. Bixby was born.

his allegations as the truth, but she eventually did. He explained that his mother became irate with Debra, but that she was careful to maintain a relationship with Debra. Mr. Bixby explained that his mother was afraid that if she were on bad terms with Debra, Debra could prevent her from seeing her eldest son Dennis, who was disabled and in a nursing home.

Educational History

Mr. Bixby stated that he attended public schools through the 7th grade. He described himself as an average student. When confronted with the fact that others have said he struggled in school, he retorted that he was always able to participate in school plays, and that to do so, he had to maintain an average of 75 in his schoolwork. He seemed unhappy that two former teachers had provided information to Dr. Kendig, the mitigation specialist who testified during post-conviction proceedings, and he intimated that his former teachers said negative things about him because they disliked his parents.

When asked about how he got along with others in school, Mr. Bixby said he was neither popular nor unpopular. He described himself as “the class clown.” When specifically asked, he acknowledged that he was bullied, and he said that although his teachers knew he was being bullied, they would not intervene, because they disliked his parents. He described some teachers as physically assaultive towards him, yet also fearful of his parents, who had a reputation as people who would not stand for such abuse. Mr. Bixby stated that he was frequently involved in physical altercations with other students, but he painted himself as the hero in such scenarios. Rather than saying he was in fights because he was bullied, he said he was the one who would stand up to bullies and protect other students, especially girls, from the bullies. He reported having many casual friends as a child, but he acknowledged there was nobody to whom he was particularly close. He said that he had no confidants, but he said he needed none, as his parents filled that role.

Around 7th grade, his parents began home schooling him. When asked for the details about the home schooling, Mr. Bixby seemed unable to provide many details. He said that both his parents taught him, and that they had encyclopedias, “a bunch of law books,” and had purchased texts from a Christian school. He acknowledged that part of his “education” involved assisting his father at work sites, and that he frequently accompanied his mother to court when she assisted others with their civil claims. He estimated he went to court with his mother over 100 times. Mr. Bixby asserted his belief that his education exceeded that of children who remained enrolled in public school.

Substance Use History

Mr. Bixby stated he first used alcohol around age 15. He stated that he typically drank beer and liquors, such as whiskey, gin, and vodka. He said that he had “tried it all.” He acknowledged a history of binge drinking, stating, “That’s been one of my issues. I don’t drink too often, but when I do, it’s usually a binge of a couple or three days.” He estimated that he has had about 200 such binges. He stated his heaviest period of alcohol use occurred from 1994 through 1996, after his wife left him. He maintained that although he would binge drink every weekend, his alcohol use never interfered with work or responsibilities. He said he last drank alcohol around 1999 or 2000.

Mr. Bixby also acknowledged using marijuana. He explained that he primarily used marijuana after his frostbite injury in 1988 (discussed below), because, "It helped considerably with the pain." He explained that his marijuana use was heavier in winter, because the pain from his injury was more intense in cold weather. He denied ever using marijuana excessively. He said his last use of marijuana was three to four months prior to the offense.

He denied almost all other substance use. He stated that he tried mushrooms twice, including at a graduation party, but he did not enjoy them, as they seemed to have no effect. When asked, he specifically stated he has never used pills, cocaine, crack cocaine, LSD, methamphetamine, or heroin.

Employment history

It was somewhat difficult to obtain a clear work history from Mr. Bixby. He said his first job was mowing lawns or chopping wood around the age of 8 or 9. When I asked about the first job where he received regular payment, he said he worked for his father, but he said he was paid "under the table." When I asked about the first job where he was on a regular payroll and paid taxes, he said he had a job loading wood for a lumber company.

One of the reasons it was difficult to obtain a clear work history was that Mr. Bixby stated he changed jobs frequently, and he estimated he had had about 25 different jobs. When asked why he changed jobs so frequently, he first said that he generally left jobs after six to eight weeks because they became boring. When pressed for details, he changed that account and stated that most of his jobs were seasonal, so he would be laid off at the end of a season. He said such jobs generally lasted three to four months.

In 1988, while working for a company that installed siding, Mr. Bixby suffered severe frostbite on the jobsite. He said that he saw "an old family doctor" that evening, but that the following day, he went to a frostbite specialist/neurologist at Littleton Regional Hospital. Available medical records corroborate his account that the damage was severe. He had reduced blood flow in his arms and hands. He stated that his mother accompanied him to appointments, because his injury precluded him from driving. He said that according to a neurologist, he lost 88% of feeling in his arms and hands.

History of romantic relationships

Mr. Bixby met his former wife, Kathy, when she was in a band with one of his siblings. He met her in February 1987, and they were married September 1987. He acknowledged that this was his first serious romantic relationship. He and Kathy had three daughters: Heather (born in 1988), Michelle (born in 1990), and Nicole (born in 1991).

Initially, Mr. Bixby stated the marriage ended when he needed to move to a warmer climate; he asserted that Kathy would not accompany him. When pressed for more details about troubles in marriage, however, Mr. Bixby blamed Kathy's parents. He said, "It was all about them," and he described several conflicts with her parents. He accused Kathy's father of drinking alcohol and driving when his children were in the car, and he stated that his father-in-law threw a beer can out the window and it splashed on Heather, who smelled like beer when she got home. In response, Mr. Bixby said he threatened to kill his father-in-law. He stated his mother-in-law

called him an “SOB” for his desire to move to South Carolina. He described another confrontation where he kicked his mother-in-law out of his home, and she had to walk home in winter.

He described significant interpersonal difficulties with Kathy as well. At one point, in something of a non sequitur, he said that Kathy had postpartum depression, but “maybe if I put my foot in her ass, maybe we’d still be together.”³ He acknowledged that there was violence in the marriage. He blamed Kathy for initiating the violence and alleged that she tried to run him over with her car. When asked directly, he admitted threatening and striking Kathy. I asked at one point whether there were other times he hit her, and he said, “Oh, yeah,” and laughed. Kathy moved out on June 28, 1994.

On August 16, 1994, Mr. Bixby moved to South Carolina. He became involved in a relationship with Alane Taylor, and he described it as an on-and-off relationship. When asked, he acknowledged that he made suicidal threats while drinking heavily at one point during the relationship. That led to his evaluation at Beckman Center for Mental Health, a local hospital, and medical records indicate that local law enforcement authorities wanted him kept against his will. (This incident is described in more detail below; the records appear somewhat contradictory regarding whether he was admitted.) During that episode, Mr. Bixby’s guns were removed from his home (a common practice when people are in a suicidal crisis), but he asserted that was a violation of his Constitutional rights. Apart from this incident, he stated that he received no mental health evaluation or treatment prior to his incarceration.

Legal history

Mr. Bixby was asked about his legal troubles prior to the murders for which he is currently on death row. He said he had two previous difficulties, but he said both were “farces.” He reported that he received a citation for driving under the influence of alcohol (DUI). In an account that was difficult to follow, he asserted he was “framed” after he went to a town meeting and “raised hell with the Police Department.” He said he had consumed only “a couple of beers – nothing excessive.” He stated that his driver’s license was suspended as a result of the DUI, but it was later restored after he spoke to the police commissioner. Mr. Bixby further stated that the restoration of his license angered local police officers, who beat him up and took him to the hospital, where he refused to consent to a blood draw to check his blood alcohol content. He was therefore jailed. During subsequent court proceedings, he said he acted as his own attorney “and made them look like fools.” However, the judge reportedly stopped the proceeding and found him guilty.⁴ On another occasion, Mr. Bixby stated that a jury found him guilty of driving with a suspended license.

Mr. Bixby was asked about the offense conduct related to his current conviction. Although much of what he says about the sequence of events matches the official reports, his account is consistent with his inaccurate beliefs about property rights, which are detailed below.

³ This statement seems to reflect Mr. Bixby’s sentiment that mental illness is never an excuse, and a harsh response to it is an appropriate and effective treatment.

⁴ This account likely reflects Mr. Bixby’s narcissism, which is discussed in detail below. It seems unlikely that he was performing so well that his opponents looked “like fools,” given that the judge stopped the proceedings and convicted him.

Additionally, his descriptions of some things that happened during the standoff are bizarre. For example, he described handcuffing the corpse of Officer Wilson and “reading him his rights.” He also contended that Officer Outz was killed by another officer in an incident of “friendly fire.”

Importantly, he voiced a number of bizarre beliefs following his apprehension; these beliefs appear to center on divine intervention. He stated that he was able to walk through a barrage of gunfire. He stated his father was struck by gunfire while he was behind Mr. Bixby; Mr. Bixby therefore concluded that the bullets had traveled around his body. He has asserted that an angel is visible in a crime scene photograph. He also stated that the DNA of Christ was found on his bloody clothes. He was adamant that the blood could not have been anybody else’s. When I sought clarification by asking follow-up questions, he simply said, “You’ll have to do some research on cherubim angels.” His refusal to consider any alternate explanations was striking.

Forensic evaluations

Prior to his trial, Mr. Bixby was evaluated by numerous individuals. Dr. Schwartz-Watts described Mr. Bixby’s history of depression, and she noted that he “also has symptoms consistent with psychosis at times.” She described significant paranoid and narcissistic features. She offered diagnoses of schizoaffective disorder, bipolar type;⁵ alcohol abuse, in a controlled environment; cognitive disorder, not otherwise specified; and narcissistic personality disorder. She stated that the diagnosis of cognitive disorder was based largely on Dr. Brawley’s testing results. Dr. Brawley noted that the patterns of Mr. Bixby’s deficits reflected cognitive dysfunction, including “frontal lobe deficits,” and that these findings were consistent with “brain organicity.” However, she did not provide any more specific diagnoses.

In a report dated November 30, 2006, Dr. Domino noted that Mr. Bixby had been referred “by forensic evaluators for diagnostic classification.” She noted that he voiced paranoid beliefs about people harassing him and spying on him, in order to “snitch” for the state. He also expressed the belief that evidence against him had been “planted.” He voiced “anti-government sentiments” and attached significance to numbers, in much the same way described below. Dr. Domino offered the diagnosis of personality disorder, not otherwise specified, which was a category used at that time⁶ to classify disorders that “do not meet criteria for any specific Personality Disorder,” but which may contain “features of more than one specific Personality Disorder ... that together cause clinically significant distress or impairment in one or more important areas of functioning” (according to the DSM-IV-TR). She wrote, “It should also be noted that many of his beliefs appear to be the consequence of an upbringing where anti-government and religious sentiments were encouraged since a young age and were the familial norm.”

Mr. Bixby was evaluated by Dr. Frierson. According to his reports, dated November 29, 2006, and February 2, 2007, numerous people participated in or observed those interviews. The latter

⁵ Schizoaffective disorder is a psychotic disorder in which a person displays symptoms of schizophrenia, while also experiencing symptoms of a mood disorder. This diagnosis requires that the person exhibit psychotic symptoms in the absence of a mood disorder.

⁶ Dr. Domino used the Diagnostic and Statistical Manual of Mental Disorder, Fourth Edition, Text Revision (DSM-IV-TR), the diagnostic manual that was current in 2006.

report lists Dr. Frierson as the “presiding” examiner, with Dr. Domino as the “second examiner.” Eight others were listed as “present.”⁷ The first evaluation was conducted to offer an opinion regarding Mr. Bixby’s competency to proceed. The second evaluation was ordered to address:

the issues of the Defendant’s mental health, mental condition, or any mental illness as might affect his capacity to appreciate the criminality of his conduct or conform his conduct to the requirements of the law, and whether such capacity was substantially impaired at the time of the alleged offense.

This posed an ethical problem for Dr. Frierson, who explained in his report:

Moreover, [Mr. Bixby] did not agree to allow me to consider the 12 hours of prior interview that I had witnessed during the Competency to Stand Trial evaluation, an evaluation which was preceded by assurances, including some in the actual court order, that statements he made during the competency to stand trial evaluation could be used for no other purpose than to establish competency.

Of course, it is not possible for Dr. Frierson or any human being to effectively ignore information they had already learned. To Dr. Frierson’s credit, he apparently explained this to the court, and sought to decline the evaluation. He wrote:

I was informed by the Court that I would not be excused from conducting the evaluation per its December 29, 2006, Order and I was given to understand that I would face potential sanctions if I did not to proceed with the evaluation.

In the first evaluation, Dr. Frierson offered the opinion that Mr. Bixby’s odd beliefs had “not crossed into delusional territory.” He noted prominent narcissistic features and features of schizotypal personality disorder. He wrote:

Based on the available information, it is our conclusion that Mr. Bixby developed an extremist ideology during his childhood that has continued into his adult years. Therefore, it is our opinion that Mr. Bixby does not have paranoid delusions, but rather has characteristics of a Paranoid Personality Disorder.

He and his colleagues concluded that Mr. Bixby was competent to proceed.

In the second evaluation, Dr. Frierson noted that Mr. Bixby had developed paranoid beliefs about Dr. Frierson’s involvement (beliefs that could have been avoided had the Court allowed Dr. Frierson to decline the evaluation, as his ethical standards mandated). He explained,

Even after I opined that [Mr. Bixby] was competent to stand trial and attempted to recuse myself from further involvement in his case, his suspicions about me continued. He now suspects I am being used by the State to testify that he is mentally ill in an effort to damage his credibility as a witness.

⁷ It is not known what effect, if any, such a large audience had on Mr. Bixby.

In the second evaluation, Dr. Frierson reached similar diagnostic conclusions. Regarding the psycholegal question, Dr. Frierson ultimately concluded:

Mr. Bixby's [sic] has ideas about defending the Constitution that are not shared by many members of society. These ideas are the result of an indoctrinated value system that stems from childhood and continues into adulthood. They are so firmly held and strongly valued by Mr. Bixby that he becomes tearful when discussing how much he feels victimized by the events of December 8, 2003. Mr. Bixby does not appear to appreciate the criminality of his conduct as he genuinely believes that he has done nothing wrong and that he and his parents are the true victims in this case. In over nine months of lengthy daily letters to Alane Taylor from December of 2003 until August or September 2004, he repeatedly asserts that state government authorities behaved in a manner outside of the rights of the State under Constitutional law and that he and his parents had a right and a duty to defend themselves. This assertion is also reflected in his statements during the current evaluation as well as statements reported in the media immediately after his arrest.

However, pursuant to the court order dated December 29, 2006, this examiner does not find evidence of *mental illness* 'as might affect his capacity to appreciate the criminality of his conduct or conform his conduct to the requirements of the law.' ... During 17 hours of clinical interview Mr. Bixby has not displayed psychotic symptoms or symptoms of a mental illness which could have impaired his ability to appreciate the criminality of his conduct or conform his conduct to the requirements of the law.

Evaluations during postconviction proceedings

During postconviction proceedings, Mr. Bixby was evaluated by Bhushan S. Agharkar, M.D. Dr. Agharkar evaluated Mr. Bixby in August and October 2012. He concluded that Mr. Bixby "currently suffers and has historically suffered from psychosis. During the incident on December 8, 2003, Mr. Bixby believed he was legally and morally right as a result of psychotic thinking." He offered the opinion that Mr. Bixby's odd beliefs constituted paranoid and grandiose delusions. Dr. Agharkar also noted, "Having such ideas make it difficult for Mr. Bixby to meaningfully and productively interact with the world around him."

Ruben C. Gur, Ph.D., was also involved in Mr. Bixby's case at the time of postconviction proceedings. He evaluated Mr. Bixby, reviewed neuropsychological tests, and reviewed results of a positron emission tomography (PET) scan and magnetic resonance imaging (MRI) of Mr. Bixby. He conducted "quantitative volumetric and metabolic analyses of Mr. Bixby's brain imaging studies" and concluded that Mr. Bixby

... suffers from brain damage and an organic brain disorder and related impairments that appear to be caused by head trauma, seizure activity, or a combination of the two.... His ability to modulate his emotions, control his behavior and impulses, identify and apply principles, and assess threats is

impaired. Mr. Bixby's behavior, including his behavior at the time of the offense, is affected by his brain damage and organic brain disorder.

BACKGROUND INFORMATION ACCORDING TO COLLATERAL SOURCES

Despite Mr. Bixby's glowing portrayal of his upbringing and adult life prior to incarceration, other sources paint a much bleaker picture, one littered with abuse, enmeshment, and mental illness. This section highlights those differences. Much of the information in this section was drawn from the 2011 PCR brief prepared by Mr. Bixby's defense attorneys, and from Dr. Kendig's testimony.

Prior to a discussion of the background information, I note that it is not possible to know conclusively which is more accurate: Mr. Bixby's minimization of any physical abuse history, or the more concerning description provided by his siblings. However, it is objectively true that Mr. Bixby's parents both had significant mental health diagnoses. Teachers, who are presumably neutral sources of information, described Rita Bixby as volatile. In addition, Mr. Bixby is not close with his siblings and is not in touch with them today; therefore, there is no obvious motive for them to exaggerate the abuse in order to save Mr. Bixby from the death penalty. Finally, Mr. Bixby's explanations for his siblings' alleged exaggerations—for example, that they were jealous of him—are not particularly persuasive. Again, certainty in this context is not possible, but I find that the abuse reports from the Bixby siblings appear to be more credible and consistent than the differing account offered by Mr. Bixby. The following information should be considered within that context.

Mr. Bixby's father, Arthur Bixby, has been described as an abusive alcoholic by children from his first marriage. He was physically and emotionally abusive to his first wife and the children from that marriage. Abusive behaviors included beatings, sometimes for no discernible reason. He reportedly made the children from his first marriage watch him shoot the family dog after the dog defecated inside the house. His earnings often fell below the poverty level. Late in life, he was diagnosed with schizophrenia; before his death, he had symptoms consistent with dementia.

His mother, Rita Bixby, completed only the 7th grade. She was married at age 16, and she had her first child at the age of 17. This child, Dennis, had cerebral palsy and an intellectual disability. She reportedly drank to excess, and Mr. Bixby's teachers described her as volatile and intimidating. She held few jobs and did not work outside the home after 1964. She was unusually litigious, and Mr. Bixby spoke with some pride about how she assisted others in New Hampshire with civil lawsuits, many of which apparently involved property disputes. There were some indications that she had one or more mental illnesses.⁸ She voiced unsupported medical beliefs, such as her contention that she could not take aspirin, because it crystallized in her bladder and caused urinary infections; that is not a known side effect of aspirin. In her early twenties, Rita was prescribed anti-anxiety medication. That document also indicated that late in her life, "the medical personnel at the South Carolina Department of Corrections found Rita had 'delusions'," which are fixed, false beliefs that persist even in the face of contradictory evidence.

⁸ While I have no basis to doubt the records, it is important to note that I have no independent opinion about whether Rita Bixby was accurately diagnosed with mental illness, given that I never evaluated her.

The content of the delusions was not specified, but it is evident that many of Mr. Bixby's unusual beliefs were learned from his mother.

According to medical records, during Mr. Bixby's birth, the umbilical cord was wrapped around his neck, as he stated. However, the medical records also indicated that he had low birth weight, and that he remained hospitalized for five days after his birth.⁹

Collateral sources painted a bleak picture of the family dynamics during Mr. Bixby's childhood. The family was apparently quite isolated. According to Mr. Bixby's brother Danny, "Our parents didn't like us to have friends." According to Dr. Kendig, the parents often encouraged their children to be involved in conflicts with others. There were reports that Mr. Bixby's prominent strabismus did not receive appropriate attention early in life, and it seems reasonable to conclude that this was one factor that made him the target of bullies. Family life was apparently volatile. Mr. Bixby's brother Danny described an incident when his father threatened his mother with a handgun and Mr. Bixby, who was approximately 4 years old, was led out of the room.

Danny and Mr. Bixby's half-siblings described Arthur Bixby severely beating the children, including having a fistfight with one of Mr. Bixby's older half-brothers, and beating another until the children feared for that victim's life. When Arthur Bixby learned his daughter was pregnant, he reportedly threw her against a wall. When any child was suspected of misbehavior, all would be punished by beating their bare buttocks and legs with a leather strap, and they were told to keep the abuse secret.

Information from two of Mr. Bixby's former teachers contradicted Mr. Bixby's account of his years of formal education. They indicated he struggled with his academic performance, and described him as an unathletic and "rather clumsy" child who was bullied. Moreover, they described his emotional immaturity, stating that he was unable to process and express his emotions in an age-appropriate manner. They stated that he had difficulty controlling his impulses and emotions. Moreover, they stated that when his parents were enlisted to assist with young Mr. Bixby's problems, they would blame the school and exacerbate the problems.

Others corroborated that during his "home schooling," Mr. Bixby spent considerable time helping his father work instead of engaging in normal learning activities. Also, he frequently accompanied his mother to court. While a visit to a court proceeding could certainly be instructive, Mr. Bixby attended dozens of courtroom proceedings, and during her trial testimony, Rita Bixby stated that Mr. Bixby referred to himself as her "bodyguard." If observation of courtroom proceedings were part of a learning process, it seems reasonable that the merits and weaknesses of arguments on both sides would be explained; it seems unlikely that Rita Bixby would have explained the perspective of the opposing side.

Although Mr. Bixby denied any meaningful head injuries, collateral information noted two significant injuries. First, at age 16, he was thrown from the back of a pick-up truck when it

⁹ While this would be considered a lengthy hospital stay in 2024, according to the CDC, the average length of a hospital delivery in 1970 was 4.1 days (<https://www.cdc.gov/mmwr/preview/mmwrhtml/00036988.htm>).

rolled over. Mr. Bixby described walking away with no injuries, but others reported he was injured. The extent of his injuries is unknown, but another occupant of the truck bed was hospitalized for a week. Second, at age 20, he was struck in the head with a piece of lumber and developed a severe headache. He did not receive medical intervention for a week.

Finally, former co-workers described Mr. Bixby's presentation in work settings. It was noted that he was extremely awkward in social situations. Moreover, his former co-workers noted that he did not pick up on social cues.

REVIEW OF MENTAL HEALTH AND PRISON RECORDS

Dartmouth-Hitchcock Medical Center

Records from Dartmouth Hitchcock Medical Center were reviewed. Some of those records dated back to Mr. Bixby's infancy, and some of the handwritten records from the late 1960s were very difficult to read. The most relevant information, which could shed light on Mr. Bixby's personality or behavioral patterns, was for treatment when he was an adult.

For example, following a fistfight in 1986, he sustained a fracture, but he removed a splint on his hand. This caused his hand to heal improperly, and medical professionals expressed hesitation to provide further treatment. A note from October 19, 1986, reflects that "he was noncompliant and removed his splint." The same note described a further medical procedure to repair the damage caused by Mr. Bixby's noncompliance. However, the note read, "The fact that he was noncompliant previously is certainly of concern prior to embarking on such an adventure."

An undated Behavioral Medicine Evaluation by John B. Martin, Ph.D., indicates it was prompted by a referral from physical therapy; the referral was dated December 15, 1989, and the evaluation was evidently close to that time. Findings included that Mr. Bixby stated he drank coffee excessively (estimated at 7-8 cups per day). Dr. Martin noted that Mr. Bixby had no routine daily pattern, and he described himself as "very anxious, nervous, and depressed." Dr. Martin concluded that Mr. Bixby's physical problems were likely stress-related, including gastrointestinal difficulties and frequent muscle contraction headaches. He noted that Mr. Bixby had high levels of anxiety and confusion related to his physical complaints. Dr. Martin noted problems with excessive alcohol use and "difficulty in modulating the expression of anger." Ultimately, he concluded:

The client would benefit substantially from learning additional and alternate methods of coping with his injury and with the difficulties that injury has engendered. With this type of coping in place, the client may then benefit from a work hardening program. However, at this time it seems that the client would derive limited benefit from such a program given his lack of coping skills and given his lack of well-defined job goals.

Dartmouth-Hitchcock Medical Center records described an episode that was initially described as "a possible seizure" in April 1990. Mr. Bixby complained of feeling dizzy about 15 minutes after speaking to the Workman's Compensation Board. A note upon his admission stated that he "got upset because his worker's comp check was denied," and that he "states he has seizures

when he is upset.” Ultimately, it was concluded that the incident was likely not a seizure, and that the incident could have been stress-related. Approximately four years later, in 1994, Mr. Bixby told other providers that this episode was stress-related.

In 1990 and 1991, there were concerns that Mr. Bixby possibly had viral meningitis. Medical testing, including spinal taps, determined that he did not have viral meningitis. However, Mr. Bixby continues to assert that he had meningitis, and he contends that the supporting records have mysteriously disappeared.

In April 1994, he was admitted to Mary Hitchcock Memorial Hospital for “questionable seizure, questionable sensory neuropathy.” It was noted that he had been in jail when he slipped, hit his head, and had “seizure-like activity.” There were no significant changes in his clinical picture, and he was discharged two days later.

In May 1994, he was evaluated for back pain. Leland Hall, M.D., reported further noncompliance with a treatment plan. Specifically, Dr. Hall noted that Mr. Bixby stopped physical therapy after two weeks because he believed it was exacerbating his pain, “so he discontinued the program on his own.” Dr. Hall described Mr. Bixby as having a flat affect, meaning he had a conspicuous absence of observable emotional responses. In his note, Dr. Hall concluded, “I advised the patient that I felt unless he could get on a weight reduction diet and participate in a good physical therapy program that he was probably doomed to his present state.” Dr. Hall recommended a referral to the Behavioral Medicine department. In a memo to another physician, Dr. Hall described Mr. Bixby as a “poor man who is now really on the fringes of society.”

Beckman Center for Mental Health

It appears that Mr. Bixby was hospitalized at Beckman Center for Mental Health in August 1997, although some of the notes are somewhat confusing. Police brought him to the Emergency Room with suicide notes, and there was a dispute between police and hospital staff about whether he should be admitted. He was very intoxicated upon admission.¹⁰ It is not clear if he was initially released. During my interview, Mr. Bixby insisted he was never hospitalized, but notes from the medical record indicate he was committed August 3, 1997.

He was diagnosed with adjustment disorder with depressed mood. A later note shows he was diagnosed with “311”; disorders in the Diagnostic and Statistical Manual of Mental Disorders (DSM) have numerical codes, and in the edition of the DSM in use at that time, the code of 311 corresponded to depressive disorder, not otherwise specified.

Therapy notes by Donna B. Welch, LPC, suggested that Mr. Bixby minimized his problems instead of focusing on them. For example, a note from August 19, 1997, reads, “He feels he has had a spiritual awakening and can commit his problems to higher power.” A note from September 9, 1997, indicates he “said he has no problems and no longer requires services.

¹⁰ An Emergency Room note indicates his blood alcohol level was 0.59. However, that is likely an error; while not strictly impossible, that level of intoxication would almost always result in death.

SCDC Records

Approximately two years of records from SCDC were reviewed. Those records contain notes from 20 sessions with Bruce Oberman, an LMSW and QMHP (Qualified Mental Health Professional). Although there were formal notes for 20 sessions, Mr. Oberman noted that he has conversations with Mr. Bixby “every business day that I am here.” Much of the information in the session notes is consistent, and sometimes repetitive. For example, the notes often indicate that Mr. Bixby reports he is not hallucinating or experiencing homicidal or suicidal thoughts. The notes often say that Mr. Bixby does not believe he needs any psychiatric medication. The sessions ranged in length from 20 minutes to 2 hours, 25 minutes. The average session length was 1 hour, 22 minutes.

The notes contain many examples of anti-government beliefs, beliefs about unfairness in his trial, and other odd beliefs. Some examples include the following. On November 1, 2021, Mr. Oberman wrote of Mr. Bixby, “Inmate seems to be strongly anti-government on almost any topic.” On January 6, 2022, he wrote, “Inmate professes beliefs that there should not be any government, taxes, etc. He claims that people should ‘live off the grid’ and let everybody care for themselves. He said if he was living off the grid, he would be completely healthy and never have any medical problems or challenges.” On February 15, 2022, Mr. Bixby expressed concerns about a new “super-contagious virus” that thrives in the humidity of the showers and can live on surfaces for 36 hours. Mr. Oberman’s note indicated he feared going into showers with others, but he also refused to cooperate with virus testing on the unit. On March 1, 2022, Mr. Bixby claimed that the Russian invasion of Ukraine was due to Ukraine’s practice of “slant-drilling” and stealing oil from Russia; Mr. Oberman advised Mr. Bixby to “keep his thoughts to himself.”

Some of Mr. Bixby’s statements to Mr. Oberman directly reflected his thoughts about his case. For example, on August 5, 2022, Mr. Bixby “talked extensively about his death penalty trial. He maintained that the government made up numerous lies and behaved inappropriately and illegally. He is always optimistic that the ‘truth’ will come out and he will one day get his sentence overturned.” On June 8, 2023, Mr. Oberman noted that Mr. Bixby “said a bunch of law professors looked at his legal case and believe they can get him released from prison.” Two months later, Mr. Oberman noted that Mr. Bixby “said law enforcement was crooked and he probably should never have been put in prison.” On October 30, 2023, Mr. Bixby “talked about the various ways the government spies on people.”

In addition to the notes from Mr. Oberman, these records contained documentation of about 17 visits labeled as “Psychiatric Clinic.” Those notes were typically shorter. None documented symptoms of severe mental illness, but most described his insight and judgment as “poor.” The notes also reflected his paranoia, his noncompliance, and his apparent belief that he knows how to manage his diabetes better than medical professionals. Specifically, a note on September 30, 2023, indicated that he frequently refuses to check his blood glucose levels stating, ‘I don’t trust that machine’.” A note from November 2, 2021, indicates that Mr. Bixby often eats ice cream for breakfast, and a note from four days later read, “He believes that ice cream lowers his BS [blood sugar] and despite re-educating him, he still insists that this is the case.”

PSYCHOLOGICAL TESTING

Mr. Bixby was administered two psychological measures. The first was the Montreal Cognitive Assessment (MoCA). This test is commonly used to screen for cognitive problems, particularly dementia. Mr. Bixby's score of 26 out of 30 fell in the range of "normal cognition."

He was also administered the Minnesota Multiphasic Personality Inventory, Third Edition (MMPI-3). He appeared to approach this measure in a candid manner; validity scales revealed no evidence that he either minimized or exaggerated psychological symptoms. The two primary findings were an unusually high number of neurological complaints¹¹ and evidence of significant persecutory ideation. His scores were consistent with an individual who is suspicious, distrustful, and harbors beliefs he is being persecuted. People who generate similar scores generally lack insight, and they tend to blame others for their difficulties. Finally, people who generate similar scores are generally viewed as overly assertive and socially dominant, and they are often viewed as domineering by others.

BEHAVIORAL OBSERVATIONS AND CURRENT MENTAL STATE

At the time of the interview, Mr. Bixby was alert and fully oriented. He knew the date and time, his current location, and the reason he was referred for the present evaluation. He was friendly and cooperative, and rapport was easily established. As noted above, he understood the nature and purpose of the evaluation. He presented with a great deal of confidence in what he said, and he expressed discontent with previous individuals who provided different accounts of his background or questioned his mental stability.

Mr. Bixby presented without grossly obvious indications of mental illness. His speech was normal in rate and tone. The content of his speech was clear, coherent, logical, and goal-directed. No pressured speech was noted. Some of his statements reflected unusual beliefs, and some of those beliefs, detailed below, were bizarre. Other statements reflected the suspiciousness, distrust, and paranoia that are essential to his personality. Still other statements reflected his narcissism; again, such statements are detailed below. He denied experiencing hallucinations, ideas of reference, or other psychotic symptoms.

Despite that denial, he endorsed several ideas that could be consistent with psychotic mental illness. Specifically, he explained that when he received a tuberculin skin test, the prison was actually injecting a tracking device. Such tracking devices, he explained, have been common since Vietnam, and they were in wide use during American involvement in the gulf wars. He said such devices were used to find missing soldiers. I confronted him regarding an earlier statement he had made about living "off the grid." When I asked whether he could simply be tracked with this device, he said that he could find it with a stud finder and remove it.

¹¹ Compared to the MMPI-3's normative sample, Mr. Bixby reported an unusually high number of neurological complaints. However, the individuals in the sample did not have significant frostbite injuries. An examination of the items comprising that specific scale revealed that his neurological complaints were consistent with his frostbite injury and its sequelae.

Another example of a bizarre idea was his contention that death row inmates are “traded like hogs” on the stock market. His subsequent explanation made little sense and was difficult to follow. He stated that the trading involved a bond, and that the money earned becomes the reward money for escapes. From there, he asserted that 401(k) retirement plans constitute an illegal gambling ring, and that Presidents Lincoln and Kennedy were both assassinated due to their efforts to change financial systems.

Mr. Bixby easily becomes fixated on numbers, and he ascribes divine meaning to numbers. For example, he reported praying for a sign from God that he was doing the right thing, and on the news that night, he saw that gold was trading at \$1,967. 1967 is the year of his birth, and he considered his prayer answered. Other numbers that he finds significant require more mental manipulation. For example, he believes that 7 is a holy number, and he said that if his birthday (August 17) were displayed on a clock, it would be 77 minutes after 7, or 7:77. Another example focuses on the date of the offense. He stated that if you add the birth years for his parents and himself (29 + 32 + 67), the result is 128. He then added that there were three people involved in the offense, and the date of the offense was 12-8-03 (the combination of the sum of the birth years and the number of people involved).

Importantly, Mr. Bixby appears to believe that when he espouses his unusual beliefs, especially those tied specifically to his case, others are in agreement. He indicated that “everybody on the yard,” meaning the other inmates with whom he can interact, agree with him. He also indicated that Mr. Oberman, agrees with him. This may represent a deficit in Mr. Bixby’s reality testing. The fact that he believes that Mr. Oberman is in agreement with him is particularly striking.

His mood during the interview was upbeat. He denied any deficits or struggles of any kind, and he professed to know more about the world and the law than others. As elaborated below, he considered himself an expert in many areas, and he presented himself as more knowledgeable about the law than he actually is. He denied hallmark symptoms of depression, including pervasive sadness, loss of energy, loss of interest in activities, or disturbances in sleep or appetite. He peppered his speech with quips and comments about his case and his surroundings. For example, he described the food as low in quality, and referred to the meals as “lethal ingestion.” He acknowledged, but minimized, the suicidal statements he made which led to his hospitalization in 1997. However, he adamantly denied current suicidal ideation or suicidal intent. There were no symptoms of a manic episode during the evaluation.

PERSONALITY FUNCTIONING

Several aspects of Mr. Bixby’s personality were so striking that they merit separate discussion. He demonstrated a pattern of seeing the world in extremes, with no acknowledgement of any middle ground. His ongoing enmeshment with his deceased parents continues to dictate how he views himself and the world. He has numerous false and bizarre beliefs about law enforcement and the criminal justice system. Finally, he displayed prominent narcissistic and paranoid features. Each of these matters are discussed separately below.

Seeing the world in extremes

One of the central features of Mr. Bixby's thought pattern is his inability to think in a nuanced fashion about complicated matters. Instead, he displays a cognitive pattern of viewing all matters through a black-and-white or all-or-nothing lens. This affects his perception of the circumstances of the crime for which he was convicted, his current beliefs about numerous topics, and his perceptions of numerous individuals who are or were close to him.

There are abundant examples of how this pattern of thinking affects his perception of events around the case. He remains firm in his conviction that his actions on the day of the offense were justified, and he becomes angry when this is questioned. He cannot contemplate that there is any other explanation than that he had an "absolute, God-given, inalienable right" (a phrase he used multiple times) to protect his property from what he perceived as a threat. During my interview, he would not consider the possibility that others in his circumstance would not have perceived a threat. In his mind, there was a threat, and there is no other possible way to look at it. At times, he cites inaccurate evidence to support his position. For example, he cited a quote from Thomas Jefferson to support his position: "Every man should be at all times armed to protect himself, his family, and his friends."¹²

When discussing the events of that day, he can see no middle ground between his perspective that his actions were appropriate and justifiable, and the perspective of law enforcement, whom he perceives as out-of-control and corrupt. He referred to the South Carolina Law Enforcement Division (known as SLED) in a derogatory manner, calling them "Satan's Little Evil Demons." On multiple occasions, he pointed out that Abbeville contains the word "evil," and it was not clear whether he was merely making a wry observation or whether he believed that was truly meaningful. Given the importance he appears to assign to random numerical coincidences, however, it appears likely that he believes this is meaningful.

When pressed to articulate the perspectives of law enforcement that day, he was unable to do so. When asked to describe the emotions of law enforcement personnel or their family members that day, he seemed unable to do so. I asked him specifically about the family of Officer Wilson, and he changed the subject.

This pattern of viewing the world in extremes extends beyond the crime for which he was convicted. With few exceptions, Mr. Bixby also views people as either all good or all bad. During my interview, I asked him about various people who have played a significant role in his life, including his parents, his brother Danny, his ex-wife Kathy, Alane Taylor, and Bruce Oberman (the counselor he sees regularly). Specifically, he was asked to identify good and bad characteristics of each person. With the exception of Mr. Oberman, Mr. Bixby was unable to do so. Instead, he described all these people in extreme terms. For example, he was not able to articulate any positive traits about his former wife. Even when asked specifically about their wedding day, he said he loved her, but he could not say why. I asked, "What did you love about her?" He said there must have been something, but he was deceived by her.

¹² While not an exact quote, this appears consistent with language a letter Jefferson wrote about a month before his death. See <https://tjrs.monticello.org/letter/1422>.

When I asked about his brother Danny, he offered no positive traits. He said Danny's best qualities were his "sneaking and conniving ways." As discussed in more detail below, Mr. Bixby could not offer any negative or objectionable traits about his parents, and he vehemently denied any unflattering statements offered by others. He became angry at the prospect of people besmirching his parents. He acknowledged that he enjoys talking to Mr. Oberman (which is evidenced by the frequency and length of their meetings). He said he trusts Mr. Oberman "to a certain extent, but I know who he works for."

Enmeshment with parents

Enmeshment describes family relationships that lack appropriate boundaries. Children who become enmeshed with their parents do not go through the normal process of individuating and becoming fully separate from their parents. Such relationships are characterized by a lack of appropriate boundaries, and children remain inappropriately reliant on their parents for emotional support. In an enmeshed relationship, thoughts and emotions are shared to an unhealthy extent, and deviating from the thoughts and emotions of others becomes unthinkable.

In Mr. Bixby's case, it appears that he failed to differentiate from his parents. As a general rule, he adopted their thoughts, perceptions, beliefs, and values as his own. While it is normal for such things to be passed from parent to child, Mr. Bixby's case was maladaptive in that he seemed to completely forego his autonomy to remain in his parents' good graces. (Importantly, this did not happen to any of his siblings. All left the home and most severed ties with his parents, which appears to have infuriated Mr. Bixby.)

There are several striking examples of Mr. Bixby's enmeshment with his parents. He would not or could not articulate anything negative about either of his parents. Indeed, he vehemently denied reports of physical abuse or neglect at the hands of his parents, and he was visibly angry that others had made such reports. He stated that he believed his home-schooled education (which relied heavily on doing manual labor with his father or accompanying his mother to civil court proceedings) provided a better education than most people receive. In fact, in his deposition testimony, Dr. Frierson said, "We summed up Bixby in one sentence in his letter, and that is, 'Because I was homeschooled, I had a superior education,' and the word education had a J in it." His mother attended his medical appointments after his frostbite injury, and a note from his 1994 hospitalization indicates that his family was involved in his care to an inappropriate degree. Finally, although subtle, I was struck by Mr. Bixby's discussion of his parents' reaction to his sister's pregnancy. He said, "If you're gonna live in our house, you're gonna live by our rules." He clearly seemed to be equating himself with his parents when talking about "our house" and "our rules."

Although both have been dead for over a decade, Mr. Bixby remains extremely protective of his parents and his image of his parents. During our follow-up interview, he spoke about people saying negative things about his parents. He said:

Anything about my mother and father, if they were going to do it, they should have done it when they were still alive. That's blasphemy of the holy ghost and it's unpardonable and unforgivable. I don't want it used in my case, and I don't want to hear about it being used in my case.

Regarding people saying negative things about his parents, he also said, "If they didn't say it while they were alive, they can shut the fuck up." He asserted that because his parents left him with Power of Attorney, he has the ability to file civil lawsuits for libel, slander, and defamation of character against anybody who besmirches his parents. These beliefs affect his competency, as discussed below.

Narcissistic personality disorder

A personality disorder is a stable pattern of perceiving, relating to, and thinking about the world in a maladaptive manner. The essential feature of narcissistic personality disorder is a pervasive pattern of grandiosity, need for admiration, and lack of empathy.

There were numerous examples of Mr. Bixby's narcissism. He contended that he was a very bright individual (his IQ score would be "off the charts"), and that the quality of his education surpassed that of others. He maintained that he was a favorite child, and that his siblings were therefore jealous of him. He claimed to be well-known "everywhere up in New Hampshire, in the area I was raised."

He generally presents himself as the hero in accounts of his background. Three examples illustrate this. First, he indicated that he was the one who stood up to bullies and protected girls in his class. Second, he told a story about uncovering a plot wherein a Hardee's manager was stealing hours from employees to receive kickbacks. (How this would lead to "kickbacks" is unclear.) He indicated that after he exposed that corruption, his co-workers "begged" him to stay. Finally, he cast himself as the mistreated hero in his accounts of his own legal problems, including ones about his DUI and suspended driver's license.

Other examples of his inflated self-esteem include his belief that he received "fan mail" after his arrest (although he maintained the prison withheld it, which is consistent with the paranoid traits described below). Moreover, he compared himself to Randy Weaver, a figure often viewed as a martyr by those with anti-government beliefs.

He spoke about his frostbite injury with an apparent sense of pride. He told his wife he was "too stubborn and bull-headed to do anything but my job." He added, "That's why we [people in his family] can't work for anybody else." He took pride in a behavior others would likely view as reckless or foolish.

Finally, Mr. Bixby is unwilling to admit when he is wrong. For example, he insisted he had meningitis, despite medical records that indicate that medical tests showed he did not have that condition. This is consistent with the cognitive patterns described above, wherein he is unable to consider other perspectives or explanations for events other than his own.

Paranoid personality disorder

Again, a personality disorder is a stable pattern of perceiving, relating to, and thinking about the world in a maladaptive manner. The essential feature of paranoid personality disorder is a pattern of pervasive distrust and suspiciousness of others such that their motives are interpreted as malevolent. There were numerous examples of Mr. Bixby's paranoia.

He voiced a consistent belief that important records, including school records and medical records were removed, destroyed, or withheld because they would be helpful to him. Although it is not surprising that elementary school records from the 1970s would be unavailable 50 years later, he feigned shock when he said, "Not a report card can be found on the face of the Earth." He explained his belief that "somebody went around and made sure they cleaned everything out." Regarding what he alleged were missing MRI reports or spinal tap results, Mr. Bixby said, "Somebody did not want that to be known." At one point, he specifically stated that SLED took medical records that were "bought and paid for by Steven Bixby."

These paranoid tendencies appear to have been present for decades, and it is likely that he learned to be overly suspicious from his parents. He asserted that his teachers would not intervene when he was being bullied because they disliked his parents. He also maintained that his teachers were physically abusive to the point that they would draw blood with their nails. (Due to the passage of time, this assertion cannot be refuted, but it seems unlikely, and the allegation is consistent with paranoia.)

Mr. Bixby has pervasive distrust regarding medical providers. During his 1994 hospitalization, there is a note saying "Pt's [Patient's] family very involved, feel that things are being hidden from them." During my interview with Mr. Bixby, he said he suspected that his tuberculin skin test was given as a means to inject him with a tracking device. When he was pressed, he acknowledged that it could also have simply been a test for tuberculosis, saying, "Anything is possible." But, he quickly added, "Everything that is done back here is done for supposed reasons, but I don't believe half of what they say." He often refuses necessary medical treatment because he harbors doubts about the quality of the treatments. He said he was suspicious of the instruments used to measure his blood sugar, and he complained that there was no way to guarantee the "authenticity" of the insulin provided by the prison.

Finally, he expressed the belief that legal resources offered to prisoners are deliberately incomplete. He stated that the prison offers a censored version of legal materials that he called "indoctrinated."

BIZARRE BELIEFS

Mr. Bixby espoused numerous beliefs that are common among people who hold anti-government beliefs, including sovereign citizen beliefs. In Mr. Bixby's case, he also has false and inaccurate beliefs about his own legal case and its status. In the following subsections, I outline many of his false, bizarre, and inaccurate beliefs in several areas: the Constitution and other legal documents, law enforcement, the status of his own case, and money, commerce, and banking (often a central theme among individuals with sovereign citizen beliefs). The following does not constitute an exhaustive list of Mr. Bixby's odd beliefs.

False, inaccurate, and bizarre beliefs regarding the Constitution or other legal documents

Mr. Bixby's understanding and interpretation of the U.S. Constitution is flawed. It is not clear what beliefs he learned from his parents, and what beliefs he developed on his own. Although it is almost certainly a mixture, there can be no question that many of the beliefs have their roots in the beliefs of his parents. After all, a major portion of his home-schooling "education" involved

following his mother to court. It is also noteworthy that during our second interview, he brought a copy of the New Hampshire Constitution with him, although he failed to explain how it was relevant to a case in South Carolina.

Mr. Bixby asserted that if lawmakers were to follow the Constitution, they would revoke all existing laws. He claimed, without explaining the rationale, that no part of the Constitution following the 10th Amendment should be recognized. Beginning with the 11th Amendment, he explained, it is all “government encroachment.” I pressed him on the issue of whether women should be allowed to vote (a right enshrined in the 19th Amendment). He stated that the 19th Amendment was passed for political reasons, and he dodged the question of whether the right of women to vote was a legitimate Constitutional right. (To preserve my rapport with Mr. Bixby, I did not press him further on this issue).

He asserted that it is a violation of a person’s civil rights to remove their firearms when they are acutely suicidal, and his interpretation of the 2nd Amendment is consistent with views of sovereign citizens and other extremist groups. As already noted, he believes that Thomas Jefferson urged Americans to be armed “at all times.”

Ignoring the jurisprudence of the Supreme Court,¹³ he voiced the belief that the only crime that can result in the death penalty is treason. Moreover, he asserted that a conviction of treason cannot be appealed, and the penalty of death must be imposed immediately.

He cited the “right to revolution” enshrined in Article 10 of the New Hampshire Constitution. While the words “right to revolution” do not appear in the document itself, Article 10 is commonly viewed as enshrining that right, and those words are included in brackets on the official New Hampshire government website.

He maintained that the Constitution is not subject to any interpretation. He said, “It’s not meant to be interpreted.” While many people, including some Supreme Court Justices, describe themselves as “originalists,” it is a fact that any ambiguity must be interpreted, and interpretations, which are really just different understandings of meaning, are inevitable. When asked how many people understand the Constitution as well as he does, Mr. Bixby simply responded, “It’s not taught anymore.” He seemed particularly upset when he discussed the prospect that “college professors” want to establish a new Constitutional Convention and “tear [the Constitution] apart.”

Finally, Mr. Bixby asserted that any mental health evaluation in connection with a legal matter is unconstitutional. He stated that it is “forbidden” to “delve into somebody’s conscience,” and that therefore, his evaluation by Dr. Frierson was unconstitutional. He said he expected his attorneys to “always challenge the constitutionality of psychological evaluations.” (He did not appear to appreciate the irony that he was explaining this to me while I was conducting a psychological evaluation.)

¹³ He spontaneously mentioned the landmark case of *Furman v. Georgia*, 408 U.S. 238 (1972).

False, inaccurate, and bizarre beliefs regarding law enforcement

Mr. Bixby asserted that police forces are forbidden by the Constitution, because a police force is tantamount to “an illegal standing army.”¹⁴ He cited Article 1, Section 8 of the Constitution in support of this idea, although what the Constitution actually says is that military appropriations are limited to two years. (The words “standing army” do not appear in the Constitution.) Additionally, Mr. Bixby expressed bizarre beliefs about the legality of law enforcement generally. He asserted that the only reason police were put in place was “to force people to work in slave labor in the industries.” He maintained that police can only enter private property if a crime is in plain view.¹⁵ Finally, he was particularly perturbed regarding the idea that police officers have been given a “title of nobility,” which is unconstitutional. When asked for specifics, Mr. Bixby said that “paramilitary” is a “title of nobility.”

Some of Mr. Bixby’s bizarre beliefs about police conduct affected his interpretation of evidence in his own case. He asserted that law enforcement officials intentionally and deliberately tampered with evidence by moving the body of Officer Outz without authorization from the coroner. Additionally, after shooting and killing Officer Wilson, Mr. Bixby and his father reportedly made a “citizen’s arrest” of Officer Wilson’s body, placed it in handcuffs, and read the *Miranda* rights. Mr. Bixby likely used this bizarre behavior to demonstrate to himself that he was acting within the law.

False, inaccurate, and bizarre beliefs regarding his own case

Mr. Bixby holds a wide variety of false, inaccurate, and bizarre beliefs about his own case. These beliefs include his account of the events which led to his conviction, the circumstances surrounding those events, and his current understanding of his case at this juncture. The most prominent bizarre belief held by Mr. Bixby is that his actions on the day of the offense were justified, and that as a result, his conviction will be overturned, if only he can appear before the appropriate tribunal, which may be the U.S. Supreme Court.

He holds an outsized belief that the eight “no trespassing” signs in his parents’ yard were sufficient to preclude all others, and especially government and law enforcement officials, from entering the property. Responding to what he believed was an unwarranted intrusion with deadly force was his “absolute, God-given, inalienable right.” He also said, “The law backs me up completely,” and “The discovery proves my innocence.” He cited 18 USC § 241 and 18 USC §242 as examples of the laws violated by government officials. He also maintained that Officer Outz was killed by “friendly fire,” and that it was illegal for Officer Outz’s body to be moved without the express permission of the coroner. He asserted that the police response was “vengeful destruction of personal property.”

As noted above, Mr. Bixby has also expressed odd beliefs about things he asserted happened during or after the police shootout. He claims that he had unidentified blood on his clothing, so

¹⁴ When attempting to categorize Mr. Bixby’s beliefs, it should be recognized that there will be some inevitable overlap.

¹⁵ I asked Mr. Bixby about crimes that are rarely committed in plain view, and as an example, I mentioned child sexual abuse, which is almost always perpetrated indoors with no witnesses. After a rant about what he thinks of child molesters, Mr. Bixby insisted that police would be forbidden from entering private property, even if they had strong evidence that the crime of sexual assault was occurring in that moment.

that blood must contain the DNA of Christ. He stated that no other conclusion is logical. He also claimed that one of the crime scene photographs contained clear evidence that an angel was present.

Currently, Mr. Bixby has numerous false beliefs that adversely impact his ability to understand the nature of the proceedings at this juncture. He appears convinced that if he can expose the “evil” perpetrated by government officials, his conviction will be overturned. He said the central facet of the case was “not who done it – it’s because of all the [government] evil that’s been exposed.” He is extremely focused on the right of Habeas Corpus, which he does not appear to accurately comprehend. He claims to have an “absolute right” to appear in person before a tribunal. He asserted that his claims of innocence or justification have never been properly presented before a court, and that he has “a right to speak, which is being denied by me not being present” at postconviction proceedings. He also asserted that if a court declines to hear a case, “that’s treason.” Finally, he asserted that because his death warrant was not “properly sworn and completed,” it is “null and void.”

False, inaccurate, and bizarre beliefs regarding commerce, money, and banking

Some of Mr. Bixby’s unusual beliefs regarding commerce, money, and banking were extremely difficult to follow, but they reflected themes commonly espoused by people identified with the sovereign citizen movement. Some of those beliefs included his concern that the Rothschild family name is “on the World Bank.” It was my impression that Mr. Bixby was saying that the Rothschild family inappropriately exerts control over the World Bank.

Mr. Bixby also claimed that John Wilkes Booth was paid to assassinate President Lincoln, because President Lincoln was preparing to eliminate the Federal Reserve. Similarly, he maintained that President Kennedy was assassinated because he wanted to print silver certificate money. Powerful forces, he claimed, arranged both assassinations. Finally, he asserted that all of the debt of the United States “belongs to Britain.” I was unable to follow his subsequent explanation.

DIAGNOSTIC FORMULATION

From a diagnostic perspective, Mr. Bixby offers a particularly challenging case. As discussed above, he has been evaluated by numerous individuals, and although some of their diagnostic conclusions have differed, they all have described the same core features. Mr. Bixby meets the diagnostic criteria for narcissistic personality disorder and paranoid personality disorder. Psychotic disorders were carefully considered, but in my opinion, Mr. Bixby does not meet the diagnostic criteria for any psychotic disorder, such as schizophrenia or delusional disorder. He reported symptoms consistent with posttraumatic stress disorder (PTSD).

Narcissistic personality disorder

According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), the diagnosis of narcissistic personality disorder requires “a pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts.” Mr. Bixby meets the following five criteria.

First, he has a grandiose sense of self-importance. He said he believes his IQ score would be “off the charts,” and he described his home-schooling as superior to public education. He believes his understanding of the Constitution and the law surpasses others, and he believes that others agree with his unusual interpretations of the law in general and the facts of his case in particular. Second, he is preoccupied with fantasies of unlimited success and power. Specifically, he appears to sincerely believe that his case will be overturned, and he will be able to return to the community and sue those who have wronged him. He told me he expects to be awarded one million dollars per square foot of his parents’ land which he believes was taken unlawfully. Third, he has a sense of entitlement (i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations). This is especially evident in his history (and his mother’s history) of claiming special knowledge about legal matters and standing in various courts. It is also evident in his description of the conduct for which he was convicted; he believes he was entitled to behave the way he did. Fourth, he lacks empathy, meaning he does not recognize or identify with the feelings and needs of others. He shows no empathy toward the victims of his crime or their families, and when asked to reflect on it, he blames the victims for what he says were their unlawful actions. When asked to consider how the deaths of the officers impacted their families, he shows no empathy, sympathy, or remorse. Finally, he displays arrogant or haughty behaviors or attitudes. He boasts about his abilities (or what he believes are his abilities), including his perceived ability to understand legal matters without proper training. Moreover, he is disdainful and critical of those who have evaluated him or sought to help him. He appears particularly disdainful of mental health professionals and the mitigation expert, Dr. Kendig.

Paranoid personality disorder

According to the DSM-5, the diagnosis of paranoid personality disorder requires “a pervasive distrust and suspiciousness of others such that their motives are interpreted as malevolent, beginning by early adulthood and present in a variety of contexts.” Mr. Bixby meets the following four criteria.

First, he suspects, without sufficient basis, that others are exploiting, harming, or deceiving him. Specifically, he has asserted that he does not trust the medical care provided by the facility. He stated that he may have been injected with a tracking device, although when pressed, he acknowledged that he could be wrong. He also claimed that the facility withheld his “fan mail” that received after his conviction. Second, he reads hidden, demeaning or threatening meanings into benign remarks or events. He has interpreted things meant to be helpful to him (such as psychological evaluations) as insulting. Even when others are acting in good faith, he is convinced that they are out to do him harm. Third, he persistently bears grudges, a fact evident in many areas of his life. He bears grudges against anybody he believes has made unflattering claims about his parents, including his siblings and numerous people involved in his case. Moreover, he holds grudges against the various individuals and agencies involved in his case, including former attorneys. Finally, he perceives attacks on his or her character or reputation that are not apparent to others, and he is quick to react angrily or to counterattack. He is frequently “on the defensive,” and he spoke with some pride about his readiness to strike back at people he believes are insulting or belittling him. He acknowledges that he is quick to strike back, and he noted that throughout his life, he has believed that any assault, physical or otherwise, should be met with an immediate counterattack. He is quick to anger, even when

discussing events that happened long ago. As noted, this pattern is particularly evident when people say unflattering things about his parents.

Psychotic disorders

In my opinion, Mr. Bixby does not have a psychotic disorder. He does not meet the diagnostic criteria for schizophrenia or delusional disorder. As discussed below, whether or not Mr. Bixby holds delusional beliefs is difficult to ascertain. However, he does not meet the diagnosis for schizophrenia, which requires that he exhibit two of five symptoms. While some may argue that he has delusional beliefs (one of the five symptoms), he does not exhibit the others, which are hallucinations, disorganized speech, disorganized behavior or catatonia, and negative symptoms, meaning the conspicuous absence of thought or emotion.

It is my opinion that he does not experience delusions. A delusion is a fixed false belief that persists even in the face of clear, contradictory evidence. By definition, unusual beliefs shared by a group of people are not delusions. For example, a belief in angels, a common religious belief, is not a delusion. Moreover, delusions are often held tenaciously, and they are often the focus of a person's attention to the exclusion of other important matters. Additionally, people with delusional beliefs are generally very interested in convincing others that their beliefs are true.

He certainly has some unusual beliefs. However, for the most part, they are either beliefs learned from his parents (such as his flawed understanding of Constitutional issues and legal matters), or they are beliefs shared within a subculture (like his belief that President Kennedy's assassination was motivated by his decision to issue silver certificates). The beliefs appear to be open to challenge, or at least discussion, which is generally not the case with people who have delusional disorder. Mr. Bixby will attribute any difference in beliefs to his own perception that he is smarter and better educated than a person who disagrees with him. Unlike people with delusional disorder, Mr. Bixby does not appear invested in convincing others that his beliefs are accurate. He will not spontaneously return to the beliefs with the goal of convincing others, as is commonly seen among people with delusional disorder, and he did not appear irritated or upset when I disagreed with him. On the other hand, at least in some instances, it seems likely that Mr. Bixby will not attempt to convince others of his unusual beliefs because of his poor understanding of social cues. He may not even grasp that others are disagreeing with him, and thus would not feel compelled to respond.

Posttraumatic stress disorder (PTSD)

Mr. Bixby appears to meet the diagnostic criteria for PTSD. He directly observed his father after his father was shot, and Mr. Bixby himself was in grave danger during the shootout. He exhibits intrusive symptoms associated with the event, including intrusive memories, nightmares, and flashbacks that occur one to three times per month. People with PTSD tend to avoid stimuli associated with the traumatic events, but Mr. Bixby accurately noted that he has limited control of his environment. He reported that he sometimes hears people shooting on the firing range, a reminder he would avoid if he could. Other symptoms of PTSD, including negative alterations in cognition or mood and alterations in arousal or reactivity are difficult to differentiate from long-standing personality features. However, he reported an exaggerated startle response, a

hallmark symptom of PTSD, and he maintained that symptom emerged following the capital crime.

COMPETENCY TO BE EXECUTED

Mr. Bixby appears to meet the definition of competency identified in *Madison v. Alabama*, 139 S. Ct. 718, 723 (2019). He has no deficits in his ability to understand and appreciate punishment. He understands the meaning of, and rationale for, punishment. Indeed, he appears to have a clear understanding of the state's rationale for his execution, although he maintains that his actions were justified. He understands that the state intends to put him to death, although he approximated that it would be five or six years prior to his execution. When told that an execution date could potentially be much earlier, he had no apparent difficulty understanding that information. Similarly, Mr. Bixby has no deficits regarding his ability to understand and appreciate death. He expressed some unusual thoughts about the afterlife, but he clearly understood the meaning of death. He voiced some odd beliefs about the state confiscating the bodies of people who are executed and the wrong person being cremated, but he clearly understood that execution meant that his life on Earth would end.

However, when considering the broader South Carolina standard articulated in *Singleton v. State*, 313 S.C. 75, 84 (1993), it is my opinion that Mr. Bixby is *not* competent to be executed. To reiterate, the South Carolina Supreme Court defines the assistance prong as "whether the convicted defendant possesses sufficient capacity or ability to rationally communicate with counsel." Mr. Bixby has significant deficits in his ability to properly assist his counsel, for two reasons. First, he is unable to understand the nature of the proceedings. Second, he does not possess sufficient capacity or ability to rationally communicate with counsel.

Regarding the first reason – his inability to understand the nature of the proceedings – Mr. Bixby lacks a rational appreciation of the weight of the evidence against him. As a result, his sole focus is on asserting his innocence, and he believes it is likely that his conviction will be overturned. His expectations in this regard are not aligned with the reality of his situation or his current defense attorneys' roles.

Moreover, he has a limited understanding of the legal issues that can be brought by his current attorneys. He insisted that there are things he can do that his attorneys cannot do. For example, he said that he can "plaster the Supreme Court with writs of Habeas Corpus." Similarly, he stated that one possible solution is to bypass the courts and "bring the issue [directly] to the legislature." He stated that any court is obligated to hear his claim regarding innocence, and he appeared to flatly reject that this is considered a settled issue in his case. As noted above, he believes his convictions will be overturned on the grounds that his actions were justified, if only he can appear before the right court. Mr. Bixby's bizarre beliefs have apparently rendered him totally unable to understand the most basic legal procedures available at this stage of his case.

Regarding the second reason – his inability to rationally communicate with counsel – Mr. Bixby falsely believes that his attorneys share his goal of exoneration through an argument that his actions were justified, and he may even expect his counsel to participate in the prosecution of those he believes wronged him.

Because of Mr. Bixby's bizarre and inaccurate beliefs about the legal system, he is unable to have a coherent discussion with his attorneys about matters of legal relevance. He is also unable to assist his attorneys in developing any arguments or legal claims that may relate to his childhood and upbringing. Mr. Bixby is unable to provide accurate or balanced information about his background. In numerous ways, his account of his background differs significantly from the accounts of all others, and he adamantly rejects any suggestion that his background disadvantaged him in any way. Due to his ongoing enmeshment with his deceased parents, he lacks the ability to countenance any criticism of them. Such criticisms, in fact, make him so angry that he has difficulty remaining on task or engaging in a reasoned discussion about his life history.

Additionally, Mr. Bixby's enmeshment with his parents creates an obstacle in the attorney-client relationship because any attempt to engage in a discussion with Mr. Bixby about his parents' role in his life risks alienating him from the legal team. Mr. Bixby is at risk of becoming so angry that he will not cooperate with his attorneys; a decision to refuse to assist his attorneys would be an irrational decision, rooted in Mr. Bixby's psychopathology.

For these reasons, it is my opinion that Mr. Bixby is not competent to be executed.



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