

IN THE SUPREME COURT OF FLORIDA

STEVEN EDWARD STEIN,
Appellant,

CASE NO.: SC22-1787

v.

STATE OF FLORIDA,
Appellee.

_____ /

APPENDIX TO INITIAL BRIEF OF APPELLANT

STRICKEN

INDEX TO APPENDIX

Second Amended Petition for Writ of Habeas Corpus (Case No.: 3:09-cv-1162-MMH-PDB) 001

Appendix to Second Amended Petition for Writ of Habeas Corpus (Case No.: 3:09-cv-1162-MMH-PDB) 089

 A. June 27, 1991, Letter from Stan Stein to Judge Wiggins 091

 B. Affidavit of Jan Newhoff 095

 C. Goodman et. al, *Homelessness as Psychological Trauma*, 46 Amer. Psychologist 1219 (1991) 106

 D. May 11, 2021, Letter from Dr. Harry Krop to Linda McDermott.. 114

 E. April 9, 2021, Letter-Report of Dr. Barry Crown, Ph.D. 117

 F. July 9, 2021, Report of Dr. Barry Crown, Ph.D. 121

 G. April 23, 2021, Report of Yenys Castillo, Ph.D. 127

 H. July 25, 2021, Report of Yenys Castillo, Ph.D. 140

PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. 2254

Prisoner's name: STEVEN EDWARD STEIN
Prisoner's number: DOC No. 122551
Place of Confinement: UNION CORRECTIONAL INSTITUTION
Raiford, Florida

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

STEVEN EDWARD STEIN,

Petitioner,

CASE NO. 3:09-cv-1162-MMH-PDB

v.

SECRETARY,
FLORIDA DEPARTMENT OF
CORRECTIONS, et. al.,

Respondents.

CAPITAL CASE

_____ /

SECOND AMENDED PETITION¹

1. **Name and location of court which entered the judgment of conviction under attack and state court case number(s):**

Duval County Circuit Court of the Fourth Judicial Circuit, Case No. 91-1505-CF.

¹ In accordance with this Court's June 28, 2021 order, Mr. Stein herein files his second amended petition for relief as well as a corresponding second amended memorandum of law. Since this Court's order, Mr. Stein's counsel has conducted additional investigation, albeit in a limited fashion, into his grounds for relief. In addition to uncovering additional mitigation which has been included in Ground I, Mr. Stein also uncovered previously undisclosed evidence in support of a claim pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963). Mr. Stein has included a claim based on this evidence as Ground VIII of his second amended petition and corresponding second amended memorandum of law.

2. Date of judgments and convictions:

Found Guilty on June 20, 1991; Recommendation of death by jury on June 20, 1991; Sentenced to death by Judge on July 23, 1991.

3. Length of sentence:

Sentence of death on two counts; life sentence for robbery with a deadly weapon.

4. Sentencing judge:

Honorable David C. Wiggins.

5. Nature of offense or offenses for which you were convicted:

Two counts of first-degree murder; robbery with a deadly weapon.

6. What was your plea?

Not guilty.

7. Type of trial:

Jury trial.

8. Did you testify at trial?

No.

9. Did you appeal from the judgment of the conviction?

Yes.

10. If you did appeal, answer the following:

A) Name of court: Florida Supreme Court.

B) Result: Convictions and sentences of death affirmed.

C) Date of result: January 13, 1994. *Stein v. State*, 632 So. 2d 1361 (Fla. 1994).

If you filed a second appeal or filed a petition for certiorari in the Florida Supreme Court or the United Supreme Court, give details:

Certiorari was denied by the United States Supreme Court on October 3, 1994. *Stein v. Florida*, 513 U.S. 834 (1994).

11. **Did you file any postconviction motions under either Florida Rule of Criminal Procedure 3.800 or 3.850 with the state trial court or any other postconviction motions or petitions for writ of habeas corpus with the state trial court or state appellate court to this judgment and conviction?**

Yes.

12. **If you did file any matters within the realm of question 11, answer the following as to each motion or petition.**

A) The type of motion/petition filed; B) Date motion/petition filed; C) Name of court; D) Result; E) Date of Result.

Motion for Postconviction Relief

- A) Rule 3.850 Motion.
- B) 11/15/95, amended on 6/21/96 and 5/3/02.
- C) Duval County Circuit Court of the Fourth Judicial Circuit.
- D) Denied.
- E) 5/2/06.
13. **If your motion or petition described in paragraph 12 was denied, did you file an appeal of that denial with the appropriate state appellate court?**

Appeal of 3.850 denial taken appropriately to the Florida Supreme Court.

14. **As to each motion or petition indicate:**

A) Name of court where appeal filed; B) Date appeal filed; C) Result; D) Date of Result.

- A) 3.850 denial appealed to the Florida Supreme Court.
- B) Notice of appeal filed on 5/25/06.
- C) The Florida Supreme Court affirmed the lower court's denial of relief.
- D) September 25, 2008, *Stein v. State*, 995 So. 2d 329 (2008), rehearing denied 11/19/08, mandate issued 12/5/08.

15. If you did file any other matters within the realm of question 11, answer the following as to each motion or petition.

A) The type of motion/petition filed; B) Date motion/petition filed; C) Name of court; D) Result; E) Date of Result.

On or about October 22, 2010, Mr. Stein filed a successive Rule 3.851 motion based upon *Porter v. McCollum*, 558 U.S. 30 (2009). On June 1, 2011, the motion was denied by the circuit court. Mr. Stein appealed, and the Florida Supreme Court affirmed the denial of relief on April 26, 2012. *Stein v. State*, 91 So. 3d 784 (2012). Rehearing was denied on June 21, 2012. Certiorari was denied by the United States Supreme Court on November 26, 2012. *Stein v. Florida*, 133 S. Ct. 661 (2012).

A petition for writ of habeas corpus concerning *Hurst v. Florida*, 577 U.S. 92 (2016) was filed on April 12, 2016 in the Florida Supreme Court. The petition was denied on March 3, 2017. *Stein v. Jones*, No. SC16-621 (Fla. March 3, 2017).

On January 9, 2017, Mr. Stein filed a third postconviction motion based on decisions in *Hurst v. Florida*, 577 U.S. 92 (2016), and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). The circuit court denied relief on February 15, 2017.

On January 31, 2018, the Florida Supreme Court issued an opinion affirming the denial of Mr. Stein's postconviction motion. *Stein v. State*, 237 So. 3d 919 (Fla. 2018). Certiorari

was denied by the United States Supreme Court on October 1, 2018. *Stein v. Florida*, 139 S.Ct. 191 (2018).

16. **State concisely every ground on which you claim you are being held unlawfully. Summarize the facts supporting each ground.**

GROUND I

MR. STEIN RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL AT THE PENALTY PHASE OF HIS CAPITAL TRIAL IN VIOLATION OF THE FIFTH, SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.²

Mr. Stein's trial counsel failed in his duty to provide effective legal representation for his client at the penalty phase. There was a wealth of mitigation that trial counsel never presented because his inadequate investigation failed to discover it. As a result, Mr. Stein was deprived of the full impact of substantial and compelling mitigating evidence.

Initial-review collateral counsel raised the issue of trial counsel's ineffectiveness, which was so egregious that it was apparent even upon an incomplete presentation of the issue in postconviction proceedings. However, the record initial-review collateral counsel created was far from complete. Collateral counsel raising an ineffective assistance of counsel claim in an initial-review collateral proceeding is obligated under *Martinez v. Ryan*, 566 U.S. 1 (2012) to provide effective representation within the

² Citations in this petition are as follows: References to the transcript of the trial are designated as "T.____". References to the record on direct appeal are designated as "R.____". References to the postconviction record on appeal are designated as "PC-R.____". References to the supplemental postconviction record on appeal are designated as "PC-SR.____". References to the transcript of co-defendant Marc Christmas' trial are designated as "CT.____". References to the record on direct appeal of co-defendant Marc Christmas are designated as "CR.____". All other references are self-explanatory or otherwise explained as they occur.

meaning of *Strickland v. Washington*, 466 U.S. 668 (1984), in investigating, presenting, and litigating the ineffectiveness of trial counsel. Mr. Stein's initial-review collateral counsel did not fulfill that obligation, to Mr. Stein's prejudice.

Thus, the issue before this Court is twofold. First, the state courts' denial of relief regarding this claim was unreasonable on the face of what was presented in state postconviction proceedings.³ Second, trial counsel's deficient performance and its prejudicial impact upon Mr. Stein's trial is even more apparent when one considers the full factual record – the combination of information presented by initial-review collateral counsel, and of information discovered by undersigned counsel.

For clarity, undersigned counsel will address both facets of this issue: (1) that trial counsel's ineffectiveness was so extreme, it was proven by the state court record as it stands; and (2) that any failure to fully develop the state court record in a manner sufficient to grant this claim is attributable to initial-review collateral counsel's ineffectiveness under *Martinez*, and this Court should consider the full record presented by undersigned counsel in support of this petition in deciding whether Mr. Stein's federal constitutional rights were violated by reason of ineffective assistance of counsel.⁴

³ See 28 U.S.C. § 2254 (d) (1) – (2). As will be discussed further in the Memorandum of Law, to the extent that the Florida courts adjudicated Mr. Stein's claim on the merits, that decision was contrary to or involved an unreasonable application of clearly established federal law, as determined by the Supreme Court of the United States; and based on an unreasonable determination of the facts in light of the state court record.

⁴ Mr. Stein notes that for the sake of completeness, there may be some overlap between these two portions.

I. What Trial Counsel Presented

On January 23, 1992, Mr. Stein and Marc Christmas were arrested and charged with two counts of homicide and one count of armed robbery stemming from a robbery of a Pizza Hut in Duval County, Florida (R. 1-2). On January 25, 1991, Jefferson Morrow was appointed to represent Mr. Stein. He had never handled a capital case by himself, and had never conducted a penalty phase (PC-R. Vol. I 16-17, 92).

Less than five months later, on June 17, 1991, trial commenced. Mr. Stein was found guilty of all counts on June 20, 1991 (R. 317-21). A few hours after the jury returned its verdicts it reconvened for the penalty phase. Trial counsel presented two witnesses: Mr. Stein's older sister, Sandra Griffin, and Mr. Stein's girlfriend, Christina Moss.

Ms. Griffin testified that she and Mr. Stein were adopted. She is eight years older than her brother, and Mr. Stein was adopted when he was two months old (T. 857). She told the jury that she and Mr. Stein got along well growing up (T. 857). She also offered that she had a son and when Mr. Stein visited her, he played with her son (T. 857-58). To conclude her direct examination – which comprised less than two and a half transcript pages – she stated that she thought being in prison could help her brother be a better person (T. 858).

Ms. Moss testified that she and Mr. Stein had been dating since November of 1990 (T. 864). Mr. Stein was like a father figure to Moss' son (T. 863). She also described how she communicated with Mr. Stein while he was in jail – through visits and mail. Like Griffin, Moss concluded her three transcript pages of direct

examination testimony by telling the jury that Mr. Stein could better himself in prison (T. 865).

On cross-examination, without objection, Moss testified that, prior to his incarceration, Mr. Stein carried a concealed gun with him every day as well as extra bullets (T. 866). Moss was then led through a series of questions about her contact with Mr. Stein immediately following the crimes, eliciting her testimony that he was not depressed or nauseous and did normal things, like buy beer and cigarettes (T. 867).

The entirety of the evidence upon which the jury would decide whether Mr. Stein would live or die was presented in less than forty minutes. In his closing argument, trial counsel told the jury that Marc Christmas should die, because he wanted to eliminate the victim-witnesses, not Mr. Stein (T. 902). He also briefly argued that Mr. Stein could be sentenced to consecutive sentences for the convictions (T. 904). Finally, he tried to minimize the evidence that Mr. Stein regularly carried a concealed weapon without a permit (T. 904). He then urged the jury to recommend a sentence of life (T. 906). Trial counsel's closing argument took approximately ten to twelve minutes.

Just over an hour after deliberations began, the jury returned an advisory recommendation for death by a vote of 10-2 as to both murders (R. 330-31). On July 15, 1991, trial counsel made no objection to an inaccurate and inflammatory presentence investigation report that was submitted to the trial court in advance of the sentencing hearing (T. 924). On July 23, 1991, the trial court sentenced Mr. Stein to death, finding that: 1) Mr. Stein had been previously convicted of a violent felony,

relying on the two convictions for first-degree murder “to enhance[] the other”; 2) the crime was committed in the commission of a robbery; 3) the murders were committed to avoid arrest; 4) the murders were heinous, atrocious, or cruel; and 5) the murders were cold, calculated, and premeditated (R. 354-368).⁵

In mitigation, the court found only that Mr. Stein had no prior significant history of criminal conduct. The trial court went so far as to state: “There are **no other aspects** of Steven Edward Stein’s character or record, nor any other circumstances of the offense which would mitigate in favor of Steven Edward Stein or his conduct in this particular matter.” (R. 354-68)(emphasis added).

II. Trial Counsel’s Deficient Performance Prejudiced Mr. Stein

Mr. Stein’s trial counsel failed to present significant, available evidence of mitigating circumstances to the jury during the penalty phase of his trial. Counsel’s objectively unreasonable inaction, whether by reason of ignorance or neglect, prejudiced his client. Counsel’s ineffectiveness violated Mr. Stein’s federal constitutional rights. *See Strickland v. Washington*, 466 U.S. 668 (1984). To the extent that the Florida Supreme Court adjudicated this claim on the merits, its decision was contrary to or involved an unreasonable application of clearly established federal law.⁶

⁵ On direct appeal, the Florida Supreme Court struck the heinous, atrocious, or cruel aggravator as improper, but deemed it harmless error, finding that the four remaining aggravators, weighed “against the one mitigating circumstance of no significant prior criminal record, [meant] no likelihood exists that the sentence in this case would have been different[.]” *Stein v. State*, 632 So. 2d 1361, 1367 (Fla. 1994).

⁶ And, as will be discussed further in this petition and the memorandum of law, initial-review collateral counsel’s ineffectiveness should not curtail this Court’s review of trial counsel’s ineffectiveness – including the wealth of additional mitigating information presented for the first time in this petition.

Trial counsel's deficient representation of Mr. Stein at his capital penalty phase was raised as an ineffectiveness claim during the state postconviction proceedings. Initial-review collateral counsel explored trial counsel's failure to obtain the assistance of an investigator for the penalty phase, failure to gather sufficient records regarding Mr. Stein's life history,⁷ and failure to speak to *anyone*, with the exception of Mr. Stein's sister, who knew Mr. Stein from his time in Phoenix or prior to arriving in Jacksonville shortly before the crimes (*See* PC-R. Vol. III 18, 34-36).

Trial counsel acknowledged he had failed to adequately investigate:

Q: And if there were people there they could present testimony about problems he had growing up, possible problems with drugs or injuries, things that shaped him as a person and may - - you know, that shaped him as a human being, those are the sorts of things that you'd like to present to the jury to make him human.

A: Clearly. Clearly. You're right. I mean that's - - that's what you're supposed to do.

(PC-R. Vol. III 34-36). And, based upon his inadequate investigation, Morrow testified that he did not really locate any mitigation witnesses or have any mitigation to present (PC-R. Vol. III 18, 37). Even trial counsel's attempts to humanize Mr. Stein fell flat because he offered almost no information about him through the witnesses he did present.

⁷ Indeed, Morrow admitted that, as to many record-based matters, he primarily consulted with and followed the lead of Alan Chipperfield – the attorney representing co-defendant Marc Christmas, whom Morrow argued at trial should be put to death instead of Mr. Stein (PC-R. Vol. I, 30-31).

Had trial counsel investigated and prepared, he could have presented a plethora of information that established compelling mitigation. Mr. Stein's formative years were spent in Phoenix, Arizona. During his postconviction evidentiary hearing testimony, trial counsel Jefferson Morrow agreed with the fact that in preparation for the penalty phase, one of the things you need to do is to go to the place where your client is from (PC-R. Vol. III 34). Yet, Morrow didn't do that, which he acknowledged was deficient:

Q: Well, but isn't it true that one of the things you need to do is to go to the place where that person is from?

A: **Yes. That is true. I did not do that and that's - - I'm sorry I did not do that and maybe I should have, but I did not go to where he was from personally and, you know, basically talk to everybody and see - -**

Q: And did anybody do that?

A: Well, I hired Ken Moncrief to investigate his background and that's all I can remember really.⁸

Q: Well, you were aware that Mr. Stein had only been in Jacksonville for four or five, six months at the most?

A: Well, yeah. I knew he was here a short time. I can't remember the exact amount.

Q: And he was not from here, right?

A: Right. I knew that.

Q: And you did talk to his sister and you knew that he grew up in Phoenix?

⁸ In preparation for the penalty phase, Morrow stated that he had an investigator, Rick Powell, but that only lasted a few weeks (PC-R. Vol. III 18). Subsequently, Morrow had an individual named Ken Moncrief who helped him locate witnesses (PC-R. Vol. III 18).

A: In Phoenix, that's correct.

Q: But neither you nor Mr. Moncrief nor anybody else went to Phoenix to investigate.

A: That's correct.

Q: **And you - - if you were doing this case now with the experience you have now would you do that?**

A: **Absolutely. I would camp out there.**

Q: **And in your estimation that's something that you should have done in this case.**

A: **Probably should have.**

Q: **And if there were people there they could present testimony about problems he had growing up, possible problems with drugs or injuries, things that shaped him as a person and may - - you know, that shaped him as a human being, those are the sorts of things that you'd like to present to a jury to make him human.**

A: **Clearly. Clearly. You're right. I mean that's - - that's what you're supposed to do.**

Q: So I mean I'm not asking you exactly to fall on the sword or anything, but in your fair estimation in this case those are things that you should probably looking back that you should have done in this case, don't you think?

A: Right.

(PC-R. Vol III 34-36) (emphasis added). Mr. Stein's case was the first death penalty case Morrow had handled by himself, and the first penalty phase he had ever done (PC-R. Vol. III 16-17).

Not surprisingly, in light of his failure to conduct an adequate investigation, Morrow testified that he didn't really locate any mitigation witnesses. There was a sister and Mr. Stein's girlfriend who came to the penalty phase and they testified (PC-R. Vol. III 18).⁹ However, consistent with his recollection that he had not prepared a life story or a life history of Mr. Stein, Morrow's primary recollection of the substance of the penalty phase is that other than these two witnesses, he did not have any mitigation to present (PC-R. Vol. III 37). Morrow acknowledged having discussions with another attorney over his concern that he didn't have any mitigation, especially mental health mitigation (PC-R. Vol. III 33).

Under this backdrop, Morrow testified as to his penalty-phase strategy:

The strategy was to try to save his life by humanizing him before the jury and by trying to argue that Christmas was the person who killed the people and that my client was not, that my client was part of the robbery and that was it, so I was hoping that that would blend over into the penalty phase so that a death sentence would not be recommended to the trial Judge, and the way I did that is through the sister and through the girlfriend.

(PC-R. Vol. III 31-32).

In support of his penalty phase ineffective assistance of counsel claim, Mr. Stein's initial-review collateral counsel presented the testimony of some family members and friends during the postconviction evidentiary hearing. Mr. Stein's sister, Sandra Griffin Bates (formerly Griffin), testified that she is approximately eight years older than Mr. Stein and recalled his adoption fondly. Her parents, she testified, waited

⁹ Morrow recalled talking to Mr. Stein's sister on several occasions well before the trial (PC-R. Vol. III 18).

thirteen years to have children, first adopting her as a newborn and then adopting Steven eight years later. The Steins were older when they adopted her, and much older when they adopted Steven (PC-R. Vol. III 106).

Sandra adored Steven. Every year they took a special family vacation. Sandra babysat for Steven after school, and her parents and Steven had a loving relationship (PC-R. Vol. III 107). Mrs. Stein loved her son immensely. Mrs. Stein and her husband had lost nine babies naturally. “They wanted children terribly and they opened their hearts” to Sandra and Steven (PC-R. Vol. III 109-10).

In 1977, the family moved to Phoenix when Steven was in elementary school and Sandra was in high school. Mrs. Stein was in ill health, with arthritis, and the family doctor recommended Arizona. Mrs. Stein’s arthritis was relieved, but she suffered from other illnesses (PC-R. Vol. III 107-09). Sandra also recalled that the move was hard on their father, as he became unemployed. Money was very tight. Predictably, money pressures created stress in the house (PC-R. Vol. III 111).

Sandra got married when she was 18 and moved away to Guam for two years with her husband. Steven would write her letters all the time, which was great because they couldn’t afford to use the phone. Steven was a “sweet, young kid” who would draw pictures and mail them to her. Once, he had an appendicitis attack and she felt terrible that she couldn’t be there (PC-R. Vol. III 112-13).

After Sandra returned, she divorced in 1981 or 1982. Eventually, she remarried and had a baby, and Steven would come over to her house. They would play board games and family games, and she entrusted her son to Steven. Then, Steven was in a

horrific automobile accident when he was approximately sixteen years old. One of the passengers died and Steven was in the hospital with severe injuries. Sandra saw him in the hospital with his jaw wired shut. Steven seemed “heartbroken.” (PC-R. Vol. III 114-16).

Meanwhile, Mrs. Stein’s health had continued to deteriorate and she became diabetic and suffered renal failure, requiring dialysis. Sandra’s father also lost his health, suffering from emphysema (PC-R. Vol. III 116).

Sandra recalled that she testified at the sentencing of Steven’s trial, but she didn’t recall being prepared by counsel to testify. Sandra was living in Phoenix at the time. She flew in for the trial to be there with Steven and to see if there was anything she could do to help (PC-R. Vol. III 118-19).¹⁰

Sandra also testified that Steven had only moved to Jacksonville from Phoenix “maybe” six months or a year earlier at the most. However, Steven’s attorney never came to Phoenix and, in fact, had called her on short notice, within a week of when she needed to be in Jacksonville. Sandra testified that had she been asked at trial the questions which she was asked at the evidentiary hearing, she would have testified in the same way (PC-R. Vol. III 119-20).

Donna Nolz testified at the postconviction evidentiary hearing that she knew Steven from grade school in Phoenix. Donna had known Steven for many years, and she recalled his kindness and the fact that he was laid-back. He did not attend school

¹⁰ Sandra recalled that their parents were sick at the time (PC-R. Vol. III 119).

regularly, as he was always sick (PC-R. Vol. III 133-35). He was teased about being pale by other kids; they would call him an “albino”. Steven was “peaceful” – not the type of boy who picked fights. He didn’t run with the popular crowd but he was not disliked (PC-R. Vol. III 136-37).

Shanda¹¹ Elaine Mann testified at the postconviction evidentiary hearing that she met Steven when she was 15 through a mutual friend. At that point in time, Steven had just been in a car accident, and he had been injured very badly. Steven’s jaw had been wired shut and he had a broken collarbone. He was bedridden at the time (PC-R. Vol. III 145-46). Steven would go on to have scars and a lot of pain that lasted for the time that Shanda knew him (PC-R. Vol. III 153). They began a relationship, and she fell madly in love with him. Shanda admired the fact that Steven was intelligent and reckless. He was also very nice to her (PC-R. Vol. III 146-47).

Shanda basically moved into Steven’s house for about a year. His parents were there but they were much older and ill. They didn’t care what Steven and Shanda did, so they had a lot of freedom. Shortly after Shanda and Steven married, they found out Shanda was pregnant. Shanda told Steven she was going to give the baby up for adoption. Steven became very upset and wanted to keep the baby. He told Shanda of the pain he had suffered because he had been adopted. Shanda, at seventeen, decided to give the baby up for adoption anyway. Steven did not go along with this decision

¹¹ Ms. Johnson-Mann’s name in the postconviction evidentiary transcript is mistakenly spelled as “Shandra”.

and was very against the idea, but Shanda didn't give him any choice. Shanda went to another state and gave the baby up for adoption (PC-R. Vol. III 147-50).

Shanda and Steven stopped talking when she moved away. Steven was devastated over the adoption "because as a child of adoption he felt that he had been lonely, that he and his parents had no bond, that he had been hurt by the whole process and he didn't want to do that to anybody else". As a result of the adoption, Shanda and Steven divorced (PC-R. Vol. III 151-52).

Philip (Doug) Vacha¹² testified at the postconviction evidentiary hearing that he had been acquainted with Steven since grade school but became closer after Steven's car accident (PC-R. Vol. III 162). Doug started visiting him in the hospital but felt badly because not many people were. Steven had always had some kind of health issues when he was younger and was "kind of out of the picture on a lot of stuff". Doug didn't want him to feel so isolated. They spent a lot of time talking and hanging out after that. Steven was highly intelligent and they shared many of the same interests, such as music and reading. They did some drinking and drugs (PC-R. Vol. III 164-65).

After high school, Doug entered the Navy and Steven was one of the few people he kept in touch with (PC-R. Vol. III 166). Whenever Doug was home on leave, he saw Steven (PC-R. Vol. III 169). He noticed Steven developing an unhealthy lifestyle, drifting into the use of harder drugs that had a negative effect on him. He was hanging

¹² Doug Vacha's name is mistakenly spelled "Bacha" in the state postconviction transcript.

out with someone who had a lot of powder drugs and was shooting them up into his veins (PC-R. Vol. III 172-74).

Shari Roinestad testified that Steven and her son, Michael, were close friends in high school. Steven often hung out at her house, and if Shari had trouble sleeping he would sit up with her late at night and talk. He had deep thoughts and opinions for his age, discussing politics, poetry, and loyalties. He wrote depressing songs with metaphors about canyons and crying (PC-R. Vol. III 185-87). It was “hauntingly sad” (PC-R. Vol. III 198). Steven was like a tenderhearted son to her (PC-R. Vol. III 191).

Shari saw Steven and Michael, as “fatherless boys” who lacked a masculine interest. They were hypercharged and “needed somebody to make them stop” but she couldn’t. They were restless and always on the go, as though they could not sit still. She felt as though they were looking for a father figure (PC-R. Vol. III 187).¹³

After Steven’s car accident and hospitalization, he started self-destructing. He seemed to feel guilt over the girl’s death, and told Shari he saw her fly through the windshield over and over again. Shari felt he was going through post-traumatic stress. (PC-R. Vol. III 189-90). He “just started really losing it” and was doing drugs to stop the scene from playing over and over in his mind”. (PC-R. Vol. IV 207).

Michael Roinestad, Shari’s son, testified to his good friendship with Steven (PC-R. Vol. IV 209-10). Steven connected well with people but was very guarded, as though he had an emotional wall (PC-R. Vol. IV 212). He was personable, and would do

¹³ Steven’s father was very uninvolved and sick a lot with emphysema or other lung disease (PC-R. Vol. III 188).

anything to help you with any problem you had (PC-R. Vol. IV 217). He was interested in people and would engage unlikely people in conversation, but paradoxically kept his distance (PC-R. Vol. IV 217-18).

Steven was using marijuana at 14 or 15, and drinking alcohol (PC-R Vol. IV 225). He loved and was loved by his parents, but his father was older and ill, and not really a father figure. When his parents were sick, it devastated Steven. (PC-R. Vol. IV 219-20).

Steven had “a ton” of injuries from the fatal car accident, with a shattered jaw and messed up collarbone – even his eyes had darkened from a light blue to a deep purple (PC-R. Vol. IV 216). He had a budding relationship with Diane, who had died in the crash (PC-R. Vol. IV 215). Steven was given painkillers in the hospital and started “jonesing really bad for those nurses to come in and give him the Demerol.” (PC-R. Vol. IV 217). After the painkillers, Steven became heavily involved in snorting crystal meth (PC-R. Vol. IV 227).

Donna, Shandra, Doug, Shari, and Michael all testified that they were never contacted by Steven’s attorneys. Had they been, they would have testified at Steven’s trial consistently with their testimony at the evidentiary hearing. (PC-R. Vol. III 138-39, 153, 167-68,¹⁴ 191, 220-21).

¹⁴ Doug Vacha would have testified as long as the Navy had cleared him to do so (PC-R. Vol. III 167-68).

III. Additional evidence to be considered under *Martinez*

As will be explored further in Mr. Stein's memorandum of law, a state prisoner may obtain federal habeas corpus review of a procedurally defaulted trial counsel ineffectiveness claim by showing cause for the default and prejudice from a violation of federal law. Cause for the default may be established by demonstrating that postconviction counsel was ineffective under the standards set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). See *Martinez v. Ryan*, 566 U.S. 1 (2012).

Particularly in a capital case, postconviction counsel's ineffectiveness in failing to develop a sufficient record in state court should not curtail federal review. Mr. Stein has valid arguments to make that counsel's ineffective failure to develop the record should not preclude a federal evidentiary hearing or expansion of the record. See *Martinez*, 566 U.S. 1; *Trevino v. Thaler*, 569 U.S. 413 (2013); *Christeson v. Roper*, 135 S. Ct. 891 (2015); *Williams v. Taylor*, 529 U.S. 420 (2000).

The letter from Mr. Stein's parents to the court

Initial-review collateral counsel failed to introduce into evidence the letter that Mr. Stein's parents wrote to Judge Wiggins at the request of the Department of Corrections Probation and Parole Services (Appendix A). In that letter, received on July 3, 1991, Mr. Stein's father provides a cursory overview of several matters concerning his son's background, including that Mr. Stein suffered from an illness when he was an infant – pyloric stenosis – that made it difficult for him to eat. Mr. Stein's father also described a head injury that occurred when Steven was thirteen. According to his father, Steven's personality changed following the injury and he was

treated by a psychologist for the next two years. Mr. Stein's father also references a car accident wherein Steven survived, but his friend, Diane, did not. This chronology mentioned destructive behaviors that emerged in Steven following the car accident, and concluded by stating that Steven had expressed remorse for the crimes. But, because trial counsel failed to approach Mr. Stein's father, the jury heard nothing about this.

Further, the aforementioned letter rebuts the notion that Mr. Stein and/or his parents did not want them to participate or provide mitigation in his case. Clearly, when asked by Probation and Parole Services, Mr. Stein's parents wrote a basic chronology of Mr. Stein's life and provided details that were mitigating and corroborated other evidence.¹⁵

*Traumatic Exposures Prior to Steven's Birth*¹⁶

Steven Stein's birth mother, Jan Newhoff, was adopted by her maternal uncle, John Newhoff, and his wife, Ruth Newhoff. She had one adoptive sister, John and Ruth's biological child, Jill Newhoff. Jan's early life involved constant arguments and fights between her adoptive parents, mostly instigated by Ruth. The marriage was filled with violence, including Ruth attempting to stab John. Although John wished to keep the family together and attempted to reconcile with Ruth, Ruth's continued

¹⁵ For instance, Respondent's argument that "[t]he exact details regarding the accident were not established at the evidentiary hearing", see Doc. 84, 24, underscores the value of this information as it pertains to demonstrating prejudice from counsel's deficient performance.

¹⁶ Unless specifically noted, all information in this section comes from the Affidavit of Jan Newhoff (Appendix B). Ms. Newhoff was never contacted by trial or initial-review collateral counsel. Had she been contacted, she would have provided the information contained herein.

assaults led to their eventual divorce in the 1960s when Jan was ten or eleven. Ruth received full parental rights over Jan and Jill, with the girls being allowed to visit John on Saturdays.

Ruth was a domineering mother. She “raised hell” if Jan broke any rules, and used shame and physical threats to dissuade Jan from doing things Ruth did not like. As a way to apologize afterward, Ruth would buy items for Jan. Shortly after the divorce, Ruth began bringing boyfriends home. When Jan was approximately eleven, Robert Whitehurst entered the picture as Ruth’s live-in boyfriend. Robert claimed to have a military background and was largely built at approximately 5’10” and 250 pounds. As soon as he moved in, Robert made Jan uncomfortable with his attentions.

It did not take long for the abuse to begin. One day, Ruth told Jan to ride with Robert while he collected money that was owed to him. Instead of collecting the money, Robert drove to a liquor store and purchased bottles of whiskey and peach-flavored brandy. He drank the whiskey and coaxed Jan into drinking the brandy. A preteen curious about alcohol, Jan quickly became tipsy. Robert drove to a part of town unfamiliar to Jan and initiated sex. When Jan refused, Robert forced her into a bar filled with men she had never met, and quietly told her that if she did not allow him to have sex with her, he would sell her to these men as a sex object. Young Jan believed Robert and returned to the car with him, where he proceeded to rape her.

For years after that, Robert continued to rape Jan. Ruth had a part-time job and was often gone from the home for hours at a time. If the weather was unfavorable, rainy or cold, Robert stayed home. If Robert was home, he forced Jan to have sex with

him. Whenever she tried to resist, Robert threatened that Jan's refusal would result in Robert breaking the arms of Ruth or Jill. Again, with Robert's size and physical intimidations, Jan believed him. The rapes occurred so frequently they almost became normal. School was Jan's only escape. She felt shame and helplessness, not knowing how to make the abuse stop.

Eventually, Jan worked up the courage to tell Ruth about Robert's attacks. Ruth immediately dismissed Jan as a liar, claiming she was just trying to steal Robert for herself. Jan was devastated, and descended into hopelessness. She regularly drank alcohol – usually vodka mixed with sweet drinks, but whatever was available to her from Ruth's collection of light and dark liquors. Drinking was the only way Jan could think to cope with Robert's abuse and Ruth's refusal to intervene. Nearly every week, Jan drank multiple shots to the point of blacking out and waking up the following day. She did not stop until she realized in the fall of 1967 – months along – that she was pregnant by Robert.

Still in the process of physical adolescent development, Jan had been pregnant for approximately a trimester without knowing it. For the first two or three months of her pregnancy, she had been drinking weekly to the point of blackouts. But, with her belly continuing to grow, Jan could no longer attribute her irregularity to youth or morning sickness to hangovers.

Jan's first instinct was to hide her condition from Ruth. Her life already felt hopeless; how much worse might it get if Ruth knew she was pregnant? To Jan in the 1960s, there seemed nowhere for an unmarried, pregnant Methodist girl to turn for

help. One day in October or November of 1967, Jan's schoolteacher assigned a freewriting exercise. Seeing no other outlet, Jan wrote about a young girl who became pregnant after a sexual encounter. The following day, she was called into a school administrative office where her teacher, principal, and school psychologist confronted her about the assignment. Jan was initially reluctant to disclose her pregnancy, but eventually did. When the school insisted that Ruth would be notified about Jan's pregnancy, Jan again summoned up her courage and told Ruth everything.

Without hesitation, Ruth informed Jan that the child must be aborted. Rather than accept that Robert's predations had caused Jan's pregnancy, Ruth made wild accusations that Jan had seduced her cousin's husband or her uncle. Ruth shamed Jan, and ostracized her from the rest of her family. She asked Robert – Jan's rapist – to transport her to an abortion facility. In November of 1967, Robert drove Jan into the city but did not take her to see a doctor. Instead, he made her wait in the car while he went into an unfamiliar building. When he returned, he gave Jan two pills and claimed they would end the pregnancy. Feeling broken and without agency, Jan took the pills and Robert brought her home. Within a day, Jan was spotting blood.

Somehow, Ruth and Robert's efforts to terminate Jan's pregnancy failed. When they reapproached Jan, her confidence was bolstered by the fact that her child had survived their attempts. She refused to go through with another abortion process. She felt love for her unborn child, and wanted to give it the love she had not had growing up.

Eventually, Ruth realized Jan would not change her mind. Ruth changed her tactics and demanded that Jan give the child up for adoption. When Jan resisted, Ruth said that if Jan kept the child, she would be thrown out of the house, without financial support, and would have to live in squalor. Ruth informed Jan that she was not Ruth's biological daughter, and claimed that Jan had turned out well for herself having been raised in a stable home. The combination of threats, compliments, and disclosure of her own adoption overwhelmed Jan. She felt like everything was surreal, and she had no choice in what was happening. She gave in to Ruth's pressure to give up her child.

In December of 1967, Ruth was still concealing the news of Jan's pregnancy from Jan's father and the rest of their community. Ruth, focused more on her own desire to avoid social stigma than on her daughter's well-being, took Jan to the Salvation Army's Door of Hope maternity home in Jersey City, New Jersey. The home purported to house unwed pregnant adolescents and facilitate adoptions for their children. Ruth instructed Jan to lie about the child's father, and refused to let her be interviewed privately. Jan did as Ruth asked, but slipped in an act of defiance by agreeing when asked if her child could contact her once he became an adult. Until Jan's placement at Door of Hope in January of 1968, she had still not seen a doctor for prenatal care.

As much as Jan dreaded her life in Ruth's home, Door of Hope offered no solace. She was one of the younger girls there. Every Sunday, she was forced to attend church services in which the girls were repeatedly told by the pastor that they were sinners for having sex and bearing children out of wedlock. They were told their

actions were irredeemable and there was nothing they could do to receive God's forgiveness. The woman in charge of the home drank copiously, and Jan was exposed to heavy secondhand smoke.

Although the girls were provided three meals a day, the servings were so small that Jan constantly felt hungry. The cook was a sexual predator, and many of the girls had sex with him in exchange for a more substantial portion of food. If any one of the girls violated the home rules, food was withheld from all of them as punishment and deterrence – they would not receive potatoes, rice, or bread for a week. Jan was underweight throughout her entire pregnancy. A nurse attempted to help her reach a healthier weight by slipping her eggnog and a cookie during the evening, but Jan's regular food was so often withheld as punishment that the nightly supplements did nothing to help her gain weight.

In early March of 1968, Jan went into labor. She was transferred from Door of Hope to the nearby Margaret Hague Maternity Hospital, where her contractions lasted for more than half the day. When it was finally time to deliver the baby, Jan refused. She had grown deeply attached to her unborn child, and knew as soon as he was delivered, he would be taken from her. Desperate to prolong her time with her baby, Jan tried to prevent the birth and keep the child inside her. The obstetrician ordered two nurses to stand on each side of her and to repeatedly push on each side of her stomach. When Jan continued to work against these efforts, the doctor slapped her across the face and said she had no choice and the baby would come out whether she wanted or not. An ether mask was placed over Jan's face and she drifted in and out of

consciousness. Her next memory was of hearing “8:13 PM” and her son had been born. Jan named him David Scott¹⁷ – and never saw him again.

Jan was quickly transferred from the hospital back to the maternity home, and then back to Ruth’s house to reenter school. Shortly after she returned to Ruth’s, she received a call from the adoption agency seeking information that might explain health complications her son was exhibiting. Ruth grabbed the phone from Jan and shouted demands that they never be contacted again. Jan was so horrified that she ran away for days before eventually returning home to protect her sister, Jill.

Jan was continually raped by Robert until she fled the home at seventeen by marrying a twenty-three year old man.

*Steven’s Life Before Kyle White*¹⁸

At the time of Steven’s birth, his caretakers knew little about his family medical history or prenatal exposures. Children’s Aid and Family Services of New Jersey knew

¹⁷ The child born as David Scott was renamed Steven upon his adoption by the Stein family later in 1968.

¹⁸ This information has been obtained and corroborated by recent interviews of the following witnesses: Jon Antrim (former classmate and friend of Steven Stein); Robert Bertrand (former neighbor and friend of Steven Stein); Robert Burch (former neighbor of Steven Stein); Jason Coleman (former classmate and friend of Steven Stein); Pat Griffin (ex-husband of Steven’s adoptive sister, Sandy); Shanda Johnson-Mann (ex-wife of Steven Stein); Linda Persky Lowe (second cousin of Steven Stein’s adoptive mother); Lynn Morrison (former neighbor of the Steins); Kit Repogle (biological daughter of Steven Stein); Sheila Roinestad (friend of Steven Stein); Diana Schonberg (former neighbor and family friend of the Steins); Gloria Smith (employee of Children’s Aid and Family Services in New Jersey); Eric Troudt (former classmate and friend of Steven Stein); Doug Vacha (former classmate and friend of Steven Stein); as well as the 2021 reports of Yenys Castillo. None of the referenced lay witnesses were contacted by trial counsel, and many were never contacted by initial-review collateral counsel. Had these witnesses been contacted and/or more thoroughly interviewed, they would have provided prior counsel with the information contained herein. Citations to additional sources will be noted by a footnote at the end of each sentence or quotation.

that Jan's pregnancy had been discovered after a concerned teacher reported Jan's description of a "torrid mating scene" during a school assignment. The circumstances surrounding Jan's pregnancy and the subsequent withholding of information regarding the child's birth father were "disturbing" and, in the experience of employees at Children's Aid and Family Services, consistent with sexual abuse.

Steven was born at twenty inches long and weighing six pounds, eleven ounces. Unlike typical newborns, his head circumference was smaller than his chest circumference. He remained hospitalized for a week due to physiologic jaundice, then was discharged to foster care. During Steven's first evaluation after his foster care placement, his foster mother reported that Steven was vomiting his bottle feeds. He had not grown and was diagnosed with pyloric stenosis, a condition in which the stomach opening becomes blocked and food cannot pass from the stomach to the intestine, causing forceful vomiting and depleting the infant of vital nutrition.¹⁹ Three weeks after Steven's birth, he had only gained five and a half ounces in weight despite growing half an inch. In an attempt to get his vomiting under control, he was prescribed two medications for pyloric spasms, including benty1.²⁰

By mid-April, Steven was frail, malnourished, and irritable. He was not adjusting well to a home environment, and could not be comforted. He spent so much

¹⁹ <https://www.nationwidechildrens.org/conditions/pyloric-stenosis>.

²⁰ Dicyclomine, the active substance in benty1, is associated with life-threatening side effects in infants under the age of six months. <https://www.mottchildren.org/health-library/d00999ai>.

energy crying, he was exhausted. He did not react well to stimuli, and lacked proper social responses. Upon medical recommendations, Steven was placed with a different foster family toward the end of April. He continued to vomit, and his medications were adjusted. Butisol sodium helped him to keep food down.²¹

A week after Steven's placement with the new foster family, his condition seemed to be improving. Then, in May of 1968, Steven was adopted into the Stein family. While records from Children's Aid and Family Services of New Jersey indicate that Steven's adoption was an idyllic "special day"²², this means that Steven – at barely two months old – had already endured multiple removals from primary caretakers. And, his health complications were so severe that until he was one year of age he could not digest food unless he was being held.

Once adopted, Steven lived in Maywood, New Jersey, with adoptive parents Stan and Estella Stein and his older sister, Sandy. The Steins were very open about the fact that they were raising adoptive children. Prior to adopting Sandy and Steven, Stan and Estella had attempted to have biological children. Estella became pregnant several times, but consistently miscarried in the third trimester. In Steven's early years, his parents were outwardly warm. His mom was loving and kind, and his father used to give flowers to children in the neighborhood when they needed cheering up. However, these demeanors soon changed when Estella's health rapidly declined.

²¹ Butisol sodium is a barbiturate which slows the activity of one's brain and nervous system. <https://www.mottchildren.org/health-library/d00923a1>.

²² Children's Aid and Family Services, Background Information for Steven Stein.

Estella was diagnosed with lupus and diabetes, which turned her into a “zombie” and diminished her ability to be affectionate with her children. She dropped Steven as a toddler, and he landed on his head. Steven was hit hard in the head by a baseball, but did not receive medical care. He suffered a football-related head injury while playing safety without a helmet – again, his parents didn’t take him for medical care. Stan and Estella became homebodies with few friends; those they did have quickly noticed dysfunction developing within the family. They were no longer the same people. Stan became sloppy, overweight, and depressed. He always looked like he was in a bad mood. Estella became more and more zoned out. Everything seemed to stop. In the 1970s, Estella’s health became so concerning that the family relocated to Arizona in hopes of easing her arthritis.

Prior to the move, adults who knew the Steins observed that Steven “was not being raised right” by his parents, who either laughed off or ignored emerging risky behaviors. Steven displayed a fear of abandonment, crying for days when his father had to go on a work trip to San Francisco, because he was so afraid his father would never come back. He was always worried about people leaving him, and craved reassurance.

Once in Arizona, the passive parenting worsened. By this point, Steven’s much-older sister, Sandy, had left home to marry a man in the military. Sandy moved far away – at one point to Guam – and was often out of touch with the other Steins. Amidst this, Steven’s desire to fit in increased in intensity.

Although typically easygoing and amiable toward others, Steven was teased in school for having an “Albino” appearance. A teacher even compared him to Cyrano de Bergerac, because he was “so ugly”. Steven was frequently absent from school. He often ditched classes, and on many days he was not present at school at all. He missed almost an entire school year in 7th or 8th grade. When Steven was at school, he was regularly in the dean’s office or detention on account of truancy. It was the school’s practice to notify parents when their children were absent; yet, the Steins failed to intervene regarding Steven’s attendance.

The Stein’s permissiveness became apparent to children as well as adults. Steven’s friends noticed that his parents seemed to allow him to do “anything”. They let him have the run of the house, giving him no responsibility or discipline. Not only did Steven have no chores or curfew, his parents didn’t even seem to pay attention to him. Stan and Estella seemed completely detached from him. Once Steven’s friends realized his parents held no responsibility over him, the Stein’s house became a hotspot for drinking and drugs. Now teens, Steven and his peers would sit outside in front of a window – in full view of Stan and Estella – and ingest anything from alcohol and marijuana to cigarettes, acid strips, and cocaine. Stan and Estella were aware of the drug use, but had become shells of parents due to Estella’s illness and Stan’s depression over Estella’s illness. They just kept watching TV and did not engage with the kids.

As Steven proceeded through adolescence, he was loyal, laid back, goofy, and aloof. He was initially put in gifted classes due to his intelligence, but then kicked out of them due to his hyperactivity and impulsiveness. On other occasions, though, he

would be so depressed he didn't want to do anything. He refused invitations from friends to go out and play. He did not develop hobbies, and seemed to have no interests or aspirations. Rather than developing a sense of self, Steven assumed the personalities and interests of whomever he was hanging around. He was a follower who would do whatever his friends asked of him without question. No matter what the group wanted to do, Steven was the first to say yes and find ways to execute the ideas of others. Steven was proud and did not speak openly about personal issues or emotions, but his friends noted his standoffishness toward his parents. Yet, he seemed hungry for the security of a parent, and developed a close relationship with his best friend's mother, Shari Roinestad.

As a teenager, Steven smoked cigarettes on a daily basis, taking every opportunity to smoke: before school, in between classes, when he ditched classes, and after school. He drank regularly on both weekdays and weekends. He made it a point to always have a cooler full of ice and beer nearby, and his drink of choice was Jack Daniels. Sometimes he drove while intoxicated. Steven smoked marijuana to maintain a buzz throughout the day, smoking an average of six or seven blunts a day, or one ounce. Sometimes he used acid and cocaine, or would empty the contents of a bunch of pills (Quaaludes, prescription pain pills, and anti-anxiety pills) onto a desk at school and snort them. Pills were popular and easily accessible at Steven's school, and several of his classmates sold them. Friends saw Steven with a handful of pills, which he would combine with alcohol and act strangely afterward. When he came down from the "high" he would pretend nothing had happened.

At seventeen, Steven was involved in a series of car accidents. One of these occurred in May of 1985, while Steven was a passenger in his best friend Michael Roinestad's car. A horse trailer swerved in front of them, and they were hit by another car. They were taken to the hospital for emergency treatment. Steven's demeanor changed notably after the accident, becoming less cautious and "throwing any caution he had before to the wind". Then, only a month after Steven's automotive injury, everything worsened.

In June of 1985, Steven invited his friend, Diana Faulkner, with whom he had a budding romance, to go tubing with him on a local river. Diana understood Steven's moods, and knew how to lift him up when he was feeling down. That day, Steven planned to tell her how much he liked her. Steven's friend Robert was driving, and lost control of the car, causing it to flip. Steven lost consciousness, and when he woke up his head was in the windshield and Diana was dead. Steven continued to lapse in and out of consciousness, in a delirious state. Several cars drove by without responding, until finally a group of bikers stopped to assist the children. Steven was gravely injured, sustaining wounds to his collarbone and shoulder. His jaw was broken in three places, and had to be wired shut for weeks. His eye color changed from light blue to purple, and there was observable damage to his legs, ribs, and back. He was in severe pain and received large quantities of prescription opioids. Injections of pain medication left holes in his legs. He was given virtually unlimited amounts of Demerol, and developed a physical dependency.

Worse than the physical injuries were the mental effects. Friends recall that the accident left Steven “haunted” and “mentally wrecked”. He blamed himself for Diana’s death, believing he could have somehow prevented it. He had nightmares well into his 20s. In his dreams, he would be in a field with Diana and suddenly a partition would appear between them. She would be surrounded by glass and bleeding, screaming, but Steven could not get to her. He developed survivor’s guilt which never dissipated, and began to believe he was experiencing paranormal activity from Diana’s spirit. He started to believe she was following him from another realm, in such forms as a Get Well balloon or the hood of his car. Stan remained cold, telling Steven that “boys don’t cry” and to carry his own weight.

During Steven’s hospitalization after the car accident, his friend and former girlfriend, Suzanne, introduced him to Shanda Johnson. Both Suzanne and Shanda had been friends with Diana. Shanda had dropped out of school at thirteen to ride horses and work as a guide on park trails, and was attracted to Steven’s rebelliousness. She visited him regularly in the hospital and nearly every day for the eight weeks of home convalescence once he was discharged.

At this time, Steven was taking several bottles of medication to treat his pain, in addition to smoking several joints of marijuana daily. Steven struggled to endure the lingering physical pain from his accident, and the combination of pills and marijuana helped to alleviate it. And, drugs and alcohol were the only things that seemed to calm Steven’s acute feelings of guilt over Diana’s death. However, when Steven was

intoxicated, he was also more open about his feelings, saying he wished he had died instead of Diana.

Around this convalescence period, Shanda moved in with Steven at his parents' house. Steven mainly kept to his room, avoiding contact with his parents. Stan and Estella were aged and ill, and Stan had a cold demeanor. He was often angry with Steven, who was devastated by troubles with his parents. When they would argue, he retreated into himself. He felt he had no place with his family, and his adoption was a sore subject. He felt alone, and blamed himself for the emotional distance with his parents. There was no attachment between them, but Steven felt obligated to love them.

Steven dropped out of high school around 1985, preferring isolated study and obtaining a GED. He received settlement money from litigation regarding the car accident, but quickly blew through it while at home recuperating from his injuries. He bought a red Camaro that had been his dream car, but barely spent any time driving it. He mostly drove it around the neighborhood, recklessly slamming on the accelerator to go 30mph over the speed limit. He crashed it twice soon after purchasing it, so it was constantly in the shop for repairs. Eventually, Steven became unable to drive due to his numerous speeding tickets and the wrecked condition of the car. He sold the Camaro to a biker in the neighborhood nicknamed "Lightning" in exchange for an estimated three months' worth of cocaine and possibly methamphetamine.

At this point, most of Steven's peer relationships fell apart. While Steven's friends grew up and found fulfilling careers or built families, Steven remained stuck.

He seemed to have no calling in life. As he and his friends saw less and less of each other, Steven resented the growing emotional distance but continued to withdraw. When Steven's friends did see him, he seemed increasingly lifeless, unhappy, and pessimistic. He spent nearly every day with Lightning and other bikers, trusting them because bikers had been the first responders after his car accident.

Steven's friends were worried about the influence Lightning and his friends exerted over Steven. Lightning's house reeked of cigarette smoke and was filled with empty beer cans. Lightning was a known drug dealer, and Steven's primary source of cocaine and meth. Steven's drug use worsened during this time, and friends saw him using a needle and spoon to shoot up drugs. Although Steven's decline was obvious, his parents never attempted to intervene. As had become their habit, Stan and Estella simply ignored the situation.

As Steven spent more time with Lightning, he drank more heavily. Steven and Lightning would each drink a twelve-pack of beer, and share a bottle of bourbon. Steven would sometimes swallow some of his pain pills while drinking, and he and Lightning shared marijuana joints. Steven would stammer his words and was unable to walk afterward. Shanda had to help him home. Though Steven attempted to shield Shanda from his use of harder drugs so as not to disappoint her, she suspected it. Lightning would invite Steven into the house alone for a few minutes, and Steven would emerge wiping his nose and acting energetic and erratic – very different than when he was drunk.

Steven became severely depressed. His constant partying with Lightning, alcohol and drug use, and financial dependency took a toll on him. Stan and Estella could no longer ignore what was happening. Once again, they did not attempt to intervene, but instead made it clear they did not want him around, and told him to leave their house.

Around the same time, Shanda's parents demanded that Steven marry Shanda or break off their relationship. Shanda's parents told Steven that if he wished to remain with her, he needed to man up, get a job, and provide insurance. Without hesitation but also without a plan, Steven proposed to Shanda. To bring in money, Steven worked as a residential painter. He came home most days with his clothes, face, and hands covered in white paint. He worked a second job at a gas station to make ends meet while Shanda stayed home.

In addition to working two jobs, Steven entered trade school at the Phoenix Institute of Technology, studying mechanical work on automobile engines. Despite Steven's efforts, he and Shanda were destitute, barely scraping by. Their housing situation was unstable, moving in with a friend of Steven's from the trade school and then disappearing a few weeks later. Shanda's parents paid for them to move into a rental home, and Steven's sister Sandy occasionally gave them money. Steven, though, was financially reckless. Over time, he spent less time at school and more with Lightning. The bikers came over to Steven's place whether they were invited or not, bringing alcohol and drugs and encouraging Steven to spend less time on his future

and more on his addiction. Shanda realized they only cared about partying and excess, but Steven could not see that they were using him.

After a round of antibiotics nullified her birth control, Shanda unexpectedly became pregnant. Young and impoverished, she and Steven were not prepared for a child. But although Shanda wanted to relinquish the child for adoption, Steven was vehemently opposed. Having been so adversely impacted by his own adoption, Steven begged Shanda to keep the child. This additional strain was a tipping point. Steven believed he had nothing to live for, no future, and no one who cared about him. He was tormented by the memory of Diana's death and was devastated when Shanda insisted on surrendering their child. Unable to escape these feelings, his substance use worsened. He appeared suicidal.

As Steven's mental state deteriorated, his physical appearance changed. He got tattoos and shaved off his characteristic long hair. He lacked motivation for anything outside of drugs. He was hungover every morning and used cocaine and meth so heavily that he could no longer hide it from Shanda. He used needles to shoot up.

By now, Lightning and his group were over every night. Steven and Shanda's rental house was gradually torn apart. Lightning and the others defaced and punched holes in the walls and destroyed the furniture. They talked about tearing down the walls. When Shanda's parents visited and saw the damage, they promptly kicked Shanda and Steven out. At an emotional and financial breaking point, Shanda moved back in with her parents – effectively ending their marriage. Steven was left homeless.

In desperation, Steven followed a woman he had met at a party, Heidi, and an acquaintance of hers named Dale, who invited him to Wisconsin. He felt like Heidi was unhealthy, but did not know what else to do to avoid sleeping on the street. On the way in Missouri, Heidi had a medical emergency involving her appendix. When Steven suggested she go to the hospital, Heidi admitted the police were looking for her. Steven insisted she go to the hospital, and the police indeed showed up for Heidi.

Dale agreed to take Steven to Illinois, to stay with his former girlfriend and Diana's friend, Suzanne. However, Suzanne turned out to be involved with cocaine dealers. Steven told her she needed to get out of the trade, even though he couldn't conquer his own addiction. He didn't want to be part of her downfall. Steven and Dale continued to Wisconsin, but as soon as they got there, Dale's parents took him to rehab and Steven was left alone in an unfamiliar city with less than \$100. When he returned to Arizona soon after, he was detached and disconnected from life. He looked awful, covered in tattoos, exhausted, and clenching his teeth as he did when high. He said Suzanne had told him about a job in Wisconsin. While Steven refused to talk about the specifics of what had happened, his friends pieced together that something traumatic had happened.

Steven continued to spiral, smoking meth for three days straight with Lightning. He began hallucinating, seeing people on the street who were not there. He was desperate for a change but seemed completely lost and stuck. He wound up homeless again, sleeping on park benches but being unable to rest because he was constantly under threat of attack on the street. The recent deinstitutionalization movement meant

an influx of mentally ill individuals on the streets around Steven. He was hypervigilant and wracked with self-loathing, not able to comprehend that he had gone from having a wife, home, job, and car to being “in the gutter”. It had been so easy to become homeless, but was so hard to get out of it. He survived on food from the local dumpsters, and was crushingly lonely. His depression felt paralyzing.²³

Steven remained transient until meeting Kyle White through another acquaintance.

*Life with Kyle and Steven’s Further Decline*²⁴

Kyle White had a dominant personality. He was arrogant and felt superior to anyone and everyone around him. He was bright and naturally charismatic, but enjoyed playing mind games and pushing people’s buttons to get into their heads. He was highly manipulative, doing whatever it took to get what he wanted or mess with

²³ The circumstance of homelessness itself causes traumatic stress in several ways: (1) The event of becoming homeless – including loss of routines, social standing, and stable shelter (whether sudden or gradual) – is traumatic; (2) The ongoing conditions of homelessness (loss of safety, predictability, and control) erodes coping capabilities and is traumatic; (3) Homelessness can exacerbate mental symptoms among people with histories of past trauma. See Goodman et. al, *Homelessness as Psychological Trauma*, 46 Amer. Psychologist 1219 (1991)(Appendix C). Because the person experiencing homelessness must adapt to the traumatic circumstance in order to survive, this has a significant impact on how he thinks, feels, relates to others, and may cause behavior that is confusing or out-of-place in future situations. See Introduction, National Center on Family Homelessness: Trauma-Informed Organizational Toolkit for Homeless Services (2009) available at https://www.air.org/sites/default/files/downloads/report/Trauma-Informed_Organizational_Toolkit_0.pdf.

²⁴ This information has been obtained and corroborated by 2021 interviews of the following witnesses: Marc Christmas (co-defendant of Steven Stein); Christina Nobles (formerly Moss) (former girlfriend of Steven Stein); and Sandra Sidas (wife of Kyle White). Trial and initial-review collateral counsel failed to speak with Sandra Sidas, and failed to elicit the information from any of these witnesses in prior legal proceedings, despite Christina Moss being a mitigation witness at trial and despite Marc Christmas being willing to speak with initial-review collateral counsel and sign an affidavit on Mr. Stein’s behalf.

someone's psyche. He had a way with words to keep others unbalanced, and liked to use them to make people feel like they were less than him and that everything he said was right and what others said was wrong. When mind games did not work, he threatened physical violence.

Kyle bounced between so many jobs, his wife, Sandra, couldn't keep track of them. He worked in restaurants, stores, trucking, but was unable to keep a job due to his personality. He could not handle being in a position where he had a supervisor. Kyle always had to be in charge, and always had to have the upper hand. He couldn't tolerate someone giving him orders or having a higher position than him, and would get fired for disobeying instructions or disrespect. He had previously been kicked out of the Army for an altercation with a superior officer while stationed in Korea.

Kyle was unfaithful to Sandra, often sleeping with other women and occasionally men. He was physically, psychologically, and sexually abusive towards Sandra, believing she would not leave him because they had a child. He constantly made Sandra move around, in Arizona prior to Florida – it was a way of controlling her and keeping her away from friends and family. He would then leave her alone for days or weeks at a time. He admitted that he took pleasure in the idea of keeping Sandra pregnant and barefoot in their home. He wanted to keep her hostage. Sandra escaped three times, but each time he tracked her address down and showed up unexpectedly.

Sandra tried to report Kyle to the police for physical abuse, including a time when he bit her, puncturing her skin and causing her to bleed. The police never

intervened. Kyle would even use the police to his advantage – one time when Sandra left him, Kyle found out where she lived, called the police in their area telling them Sandra was dead and being kept hidden in the apartment. He became increasingly sadistic, telling Sandra he looked forward to their daughter getting older so she could have slumber parties and he could see her friends in panties. He enjoyed mentally goading and torturing Sandra. He told her he had taken three life insurance policies out on her. The insinuation was that he could kill her and collect money for her.

When Kyle and Sandra were living in Arizona, Kyle made a point of finding homeless or otherwise marginalized and vulnerable individuals off the street and bringing them to live with them. When Kyle worked as a truck driver, he would pick people up while on the road – usually hitchhikers – and have them come to stay. Sandra protested because she did not feel safe with all of the strangers he brought in, but as usual, Kyle always got his way. He refused to explain why he was recruiting people, but he seemed to be doing something with them. He would keep them around for days or weeks at a time, and then have them disappear. He never allowed Sandra to have contact with them, until he brought in Steven Stein.

Kyle brought Steven home in 1990. Again, Sandra protested. Again, Kyle did not care. Unlike Kyle's other recruits, though, he kept Steven around. Kyle was focused on Steven due to his Aryan appearance and because he had been adopted by Jewish parents. Steven was kind to Sandra, but had odd mannerisms and seemed off-kilter.

Kyle was an outspoken racist towards anyone non-white. He kept a set of books that included a Bible, as well as Nazi and Satanic literature. He made racially derogatory remarks and used offensive labels to describe non-white people. He tried to indoctrinate everyone he picked up off the street, saying they had to choose sides: “the whites” versus everyone else. He told them they needed to do something as a white race to “combat colored people” and that they could not “interbreed” with other races (even though he had two children by Sandra, who was half-Asian). He used to racially humiliate Sandra in front of others, calling her “Gook” and demeaning her physically to show how subservient she was and that he had control over her.

Kyle would make fun of Steven, and goad others into affirming the taunting. He liked to show he could control him, ordering him around. Whatever he commanded of Steven, Steven would comply. Kyle was trying to start a group with himself as the leader. He bragged that he had led biker gangs in the past, knowing that would influence Steven, who had an affinity for bikers. Steven jumped to do anything Kyle wanted, feeling he owed Kyle for getting him off of the streets. Then, about six weeks after Steven had come home with Kyle, Kyle decided to move everyone to Jacksonville.

Kyle moved everyone into a trailer in Jacksonville that was owned by Kyle’s uncle. They had little furniture – a couple mattresses and a couch. He spent some money Steven had given him out of a sense of obligation on half a dozen guns, including pistols, rifles, and boxes of ammunition. He stored the guns in a side bedroom, and kept the ammunition out in the open inside the house.

In late 1990, Sandra gave birth to another child by Kyle – a son, Christian. After he was born, he had to stay in the NICU at Shands Hospital. They didn't fully understand what was wrong with Christian. Occasionally, when Sandra could not be at the NICU, she asked Kyle to check up on their son. Instead of doing so, Kyle ordered Steven to do it.

When Christian was home, Kyle's abuse went rampant. Sandra tried to lock herself in the trailer, but Kyle would push and pull her around. He forced Sandra to strip naked and used cigarettes to burn her inner thighs, leaving marks. He raped her while keeping a pistol to her head. Sandra finally took one of the pistols from Kyle's weapon supply to protect herself, but Kyle found it and took it back. He said it was a .22 pistol. Kyle was furious, claiming she stole it and had no right. He grabbed her clothes and other belongings, tossing them outside and burning them in a pile. Again, Sandra called the police and they did nothing. Desperate, Sandra escaped with the children to her stepfather's home – also in Jacksonville.

Kyle took yet another short-lived job as a manager at a nearby Pizza Hut, but again was unable to keep the job. Steven, who worked as a cook at the Pizza Hut, was the most consistently employed but made very little money. What money he had went toward food, water, heat, and other necessities for everyone living in the trailer. Steven was so desperate for money to support Kyle and Kyle's family that he pawned items.

Soon, Steven found himself supporting Kyle's newest recruit, Marc Christmas. Marc had been on probation work release for several months, but had struggled to maintain employment because he lacked any motivation to continue his jobs. He had

been living day by day, with nowhere to go. He was involved with a married woman who had been his boss at Pizza Hut, Kimberly Brinson. Kimberly had introduced him to Steven, and they quickly bonded.

Steven and Marc were both deeply depressed, and turned to substance abuse to escape from their emotions. They both wanted to make lives for themselves, and felt they would be a burden to their loved ones if they asked for help. They were both outcasts, and didn't see a point to anything. They felt they had no future, and were exhausted by the sheer effort of getting by each and every day. They understood each other. The biggest difference between them was that Marc had a past violent history, whereas Steven did not and was the complete opposite – he did everything he could to avoid violent situations. Marc felt like Steven was one of the only people who cared about him.

Kyle's behavior worsened as Steven and Marc became close friends. Kyle appeared to resent that Steven had connected with someone other than him. Kyle had again been fired from Pizza Hut and often argued with Steven and Marc about who would pay for what. He demanded that Steven and Marc come up with money for him, even though no one except Steven was working. Kyle began increasingly agitated, but handled it differently with Steven and Marc. Where he ostracized Marc, he was more aggressive with Steven. He constantly complained to Steven, using him for money and threatening that he would kick Steven out to go back on the streets.

But Kyle, as a master manipulator, knew the best way to control people was to mix tyranny with hope. Amidst all the stress he put Steven under, Kyle also introduced

Steven to Christina Moss. Steven and Christina “clicked instantly” and talked all night. The following day, Steven took Christina to McDonald’s, showing his affection by splurging to purchase the “big breakfast” menu item for her. They began a relationship, although the other men in the trailer were put off by Christina’s appearance and thought Steven “could have done better”. Steven didn’t care about that – he genuinely liked Christina.

Christina grew up in a wealthy family. Her father was an influential figure in Jacksonville local government. At the time she was introduced to Steven, Christina was in a rebellious stage. She was immediately attracted to Steven’s biker-like appearance and tattoos. Her family did not like Steven, which bothered him but only drew her to him more.

Steven was desperate to impress Christina. Christina came from an affluence he could not match, so instead he accentuated his toughness to fit into her rebellion. He claimed to have been an airborne ranger in the military before being dishonorably discharged. This claim impressed Christina, and even her grandfather. However, the more he spoke about it, the more things did not add up. Eventually, Steven admitted his lie – he wanted so badly for her to like him, and felt like he had nothing real to be proud of.

Steven said little about his true background. He disclosed that he was adopted, but his family was a sour topic. The most he would say was that he had trouble fitting in with his family, did not feel like he belonged, and often fought with his father due

to opposing personalities. He refused to describe the experience of being homeless; only that he had been until moving in with Kyle.

With Christina and her son, Tyler, Steven was gentle. He cared for Tyler as though he was Steven's own son, always playing with him, getting him to smile and laugh. He bought shoes and diapers for him, and took photos with him in which they looked like a family.

Around others, Steven acted like a tough guy and a braggart – but he was consistently struggling. He was addicted to cigarettes and marijuana. He did not have enough money to afford them, but Christina purchased them for him. He was paranoid, especially after smoking marijuana. He developed conspiracy theories, and believed he was being persecuted. Despite being unable to afford basic necessities, Steven was so dependent on alcohol that he needed to drink daily to maintain a buzz. He was so desperate to make ends meet while being a slave to his addictions, he resorted to bringing leftover pizza from his job to feed everyone.

Kyle's behavior kept worsening. He tried to re-enlist in the Army, claiming he wanted to “bag him some ragheads” in the Gulf War. He kept boasting how much smarter he was than Steven and Marc. He did everything he could to put Steven down and show his superiority. On top of Steven being the sole provider for the group, Kyle forced him to clean the trailer, care for Kyle's children when they were around, and go retrieve food. Steven began trying to push back, but was worn down by Kyle. Marc had an easier time ignoring him, because Kyle wasn't as fixated on Marc.

Kyle was more knowledgeable about guns than Steven, which made it easier for him to assert his “superiority” and get Steven to latch on to his words. Kyle stockpiled bullets that he hollowed out himself. Steven became increasingly paranoid and unsettled by Kyle’s behavior. When Steven and Christina would sit down in a public, he insisted on facing the entrance and told Christina that if he told her to get down, she needed to get down immediately.

Kyle became increasingly threatening about putting Steven and Marc back on the streets. Kyle began to lead discussions of committing robberies, and said in every conversation that no witnesses could be left. He suggested several places, but decided on Pizza Hut. Kyle untruthfully disavowed his participation and lead in planning the crimes when he was questioned by police, making it seem as though he became privy to Steven and Marc’s conversation about committing a robbery by happenstance.

The day after the crime for which Steven and Marc stand convicted, Kyle took significant cash from Marc. Then, when Steven and Marc were arrested, Kyle stood and screamed “that’s them, that’s them!” while pointing his finger. Kyle had never before seemed so eager to please anyone as he was to please the police. Kyle never faced any consequences related to the crimes.

Leading up to the trial, Steven was increasingly paranoid. He consistently thought his attorney was in on a conspiracy against him with the state attorney and judge. He believed he was entirely alone and everyone was against him. He seemed more and more isolated. He wanted to take the fall for everything, hoping it would help Marc to avoid punishment. Ultimately, both Steven and Marc were convicted

and sentenced to death after a judicial error in finding that the murders were especially heinous, atrocious, and cruel. Marc's death sentence was overturned to life imprisonment on direct appeal after the Florida Supreme Court disapproved of a judicial override of the jury's life recommendation. Marc has always believed that Steven did not deserve a worse punishment for a crime Steven was no more culpable for.

Steven's Mental Health

As to mental health mitigation, trial counsel again was woefully inept in preparation and presentation. Dr. Harry Krop, who was appointed to assist in the defense case, was not asked to evaluate Mr. Stein for mitigation until just under a month before trial (Appendix D). Morrow claimed the reason he did not call Dr. Krop was that Dr. Krop could not help him with mitigation (PC-R Vol. I, 32, 72-73, 94). However, the reality is that counsel prevented Dr. Krop from being able to assist by failing to provide him with the background materials he requested (Appendix D).

Despite trial counsel's apparent awareness that mental health mitigation is some of the best possible mitigation there is (PC-R Vol. I, 34), and despite claiming to have hired Dr. Krop for his neuropsychological expertise (PC-R. Vol. I, 94), Morrow did not request that Dr. Krop conduct any neuropsychological testing. Further, having failed to obtain and present Dr. Krop with background materials, and failing to clarify the parameters of Dr. Krop's work, Morrow did not obtain or present Dr. Krop with any collateral sources who could speak to Mr. Stein's life history and mental health. As a result, other than meeting with Mr. Stein, Dr. Krop only briefly spoke to Ms.

Griffin and Ms. Moss when they came in for Mr. Stein's trial (Appendix D). Morrow obstructed Dr. Krop's role as a consulting mental health expert, and sacrificed valuable mitigating evidence as a result.²⁵

*Steven Stein suffers from brain damage*²⁶

In 1995, Steven's initial-review collateral counsel retained Dr. Barry Crown, Ph.D, to examine Steven. Dr. Crown's evaluation indicated a neurological impairment attributable to brain damage. Dr. Crown opined that Steven's brain damage may have been the result of prenatal, perinatal, or early childhood conditions, including the possibility of a genetic or genetic mutation injury. Steven's abstract reasoning abilities were akin to an eleven year old child, despite Steven's chronological age of 27 years old. There was no evidence that Steven was malingering with regard to any of the testing. However, for inexplicable reasons, prior to Dr. Crown completing his scoring of neuropsychological testing and prior to preparation of a report, initial-review collateral counsel directed Dr. Crown to stop work on the case.²⁷ Despite Dr. Crown's ability and willingness to provide favorable information to initial-review collateral counsel, counsel neither utilized Dr. Crown in the postconviction evidentiary hearing, nor presented any other mental health expert in his absence.

²⁵ Dr. Krop was not presented at the postconviction evidentiary hearing. Had he been, he could have refuted Morrow's claims that he could not be helpful in mitigation, as well as any claim that Morrow was acting strategically in obstructing his expert's efforts.

²⁶ Unless specifically noted, all information comes from the April 9, 2021, and July 9, 2021, reports of Dr. Barry Crown, Ph.D. (Appendix E and F).

²⁷ Dr. Crown cannot finish scoring the prior testing from 1995, because the scoring instruments are now out of print.

Habeas counsel retained Dr. Crown in 2021. In his April 2021 report following record review, Dr. Crown was able to expand upon his original opinions. He concluded that Steven likely experienced Fetal Alcohol Syndrome, which over time became Fetal Alcohol Effects. Consistent with neurological impairments, variations in Steven's school achievements indicate particular struggles in abstraction and reasoning details, as opposed to strengths in memory and recall. Dr. Crown also concluded that Steven likely had undiagnosed concussions as a result of his automobile accidents, and he may have had a frontal orbital injury.

On June 15, 2021, Dr. Crown evaluated Steven in person at Union Correctional Institution. He conducted neuropsychological testing and was able to solidify many of his prior preliminary opinions. Most significantly, Dr. Crown has concluded that Steven suffers from a "Cognitive Disorder: Not Otherwise Specified ("NOS") and Diffuse Brain Injury with resulting neurocognitive disorder due to multiple etiologies." These conditions are due to a combination of brain damaging situations including his biological mother's consumption of alcohol while pregnant, Steven's malnutrition as an infant, Steven's use of a combination of drugs as a child and adolescent, and numerous traumatic head injuries during a crucial neurocognitive developmental period. In other words, these insults and injuries to the brain happened while Steven's brain was still developing.

Steven's neuropsychological testing results demonstrate significant brain damage affecting his general reasoning, judgment, language-based critical thinking, and memory functions. This predated Steven's offense, which took place prior to age

25, when Steven's brain was not yet fully developed. Indeed, Steven's brain development was likely delayed due to the multiple brain traumas he endured *in utero* and throughout childhood and adolescence. Dr. Crown opined that at the time of the crime for which Steven stands sentenced to death, his brain was significantly impaired and he was suffering from severe cognitive deficits.

In spite of Steven's deficits, it appears he has thrived in the structured prison setting, and is functioning at a much higher level than he was in prior years. In fact, whereas Steven's ability to reason abstractly at 27 years old was that of an eleven year old, he now tests in the 75th percentile – high average reasoning ability. This improvement is consistent with the brain damage diagnosis, as a primary therapeutic recommendation for individuals with brain damage is a structured environment and routine.

This progress amidst impairment is significant. At the time of Steven's crime and trial, his brain was not operating in the same manner as a mature adult. Thus, his participation in a capital-charged crime is less indicative of a lifelong predisposition to violence than if his brain had already been fully developed at that time. By virtue of the continued development of Steven's brain and the structure of the carceral setting, Steven has matured, changed, and become less vulnerable to external stressors. He has become a responsible and trusted adult.

*Developmental trauma put Steven at heightened risk*²⁸

There is a profound correlation between an individual's developmental experiences and their likelihood to abuse drugs, engage in juvenile delinquency, or commit violent offenses as an adult. The interplay between risk factors (particular types of adverse experiences) and protective factors is critical to understanding how an individual becomes associated with a capital crime. Not everyone who undergoes extreme trauma has a tragic outcome, but those who rise out of traumatic adversity are typically surrounded with the presence of protective influences in the child or adolescent's life. Psychological trauma is linked to functional as well as structural brain abnormalities, which results in inadequate coping skills to deal with adult or pressured environments.

Dr. Castillo's evaluation of Steven and review of his background revealed 29 adverse developmental factors among five broad categories: transgenerational, neurodevelopmental, family/parenting, community, and disturbed trajectory. Her review also uncovered a severe lack of protective factors. The risk factors Steven faced far exceeded any protective factors available to him, compromising his ability to think critically, manage the challenges of daily life, modulate his reactions, and effectively navigate relationships. This put Steven at heightened risk for social maladjustment, deficits in judgment and impulse control.

²⁸ Unless specifically noted, all information comes from the April 23, 2021, and July 25, 2021, reports of Dr. Yenys Castillo, Ph.D. (Appendix G and H).

Transgenerational factors impact an individual through genetic predispositions, sequential damage (such as to developing neurons), and faulty modeling. Steven was exposed to (1) transgenerational family dysfunction and (2) transgenerational family distress via his mother's traumatic history as relayed in the Affidavit of Jan Newhoff. Further, there are red flags of (3) an inherited predisposition to substance abuse in Jan Newhoff's accounts.

Neurodevelopmental factors are problems associated with damage to one's nervous system. Steven was exposed to multiple adverse neurodevelopmental factors, including (1) his biological mother's lack of prenatal care for approximately seven months of her pregnancy and (2) his biological mother's alcohol use, malnutrition, and exposure to second-hand smoke throughout her pregnancy. These factors can lead to birth complications, cognitive deficiencies and behavioral difficulties in children. There are indicators of (3) perinatal and postnatal complications in Jan's recounting of Steven's birth, as well as the recorded information regarding Steven's jaundice and chronic pyloric spasms. Steven's childhood hyperactivity and reckless spontaneity suggest (4) impaired executive function and (5) possible genetic brain deficits, as Dr. Barry Crown noted.

Further, Steven was exposed to childhood (6) drug use and (7) head injuries, including at least five serious head injuries spanning his developmental years. Steven was dropped on his head as a young toddler, and was hit on the head with a baseball. At the age of ten, he lost consciousness for several minutes after falling and hitting his

head on concrete. He experienced severe mood changes after the fall, prompting his parents to send him to a psychologist.

Then, at seventeen years of age, Steven was in a series of car accidents, including two over the span of approximately one month that required hospital treatment. Steven's demeanor markedly changed after the first accident, causing increased impulsivity. In the second accident, Steven's head shattered the windshield and he had to be airlifted to the hospital. His behavior changed even further after this accident, attributable both to the physical injury and Steven's exposure to (8) chronic stress and exposure to traumatic incidents involving actual or threatened death and serious injury.

Adverse family and parenting factors are problems originating in the family context. Steven was exposed to (1) abandonment by his biological father and relinquishment for adoption by his biological mother, and (2) instability of caregivers during the first year of life. Multiple lay witnesses recount that Steven struggled with the fact of his adoption, feeling abandoned, unloved, and stuck with parents who were too different from him. There are myriad indicators of Stan and Estella's (3) emotional and psychological neglect, (4) educational neglect, and (5) inadequate supervision and guidance. Despite Steven putting forth effort to gain his parents' attention, they remained cold and uninvolved, and often ignored him.

Community risk factors are problems stemming from social contexts. In Steven's case, there are red flags of (1) alienation and rejection by peers, including frequent unkindness toward Steven and teasing due to his almost albino-like

appearance, coupled with (2) lack of support from teachers and other adults. Further, as Steven aged, he increasingly (3) associated with individuals reputed to be “seedy” or drug dealers. The more Steven was exposed to high-risk associates, the more unrecognizable he became to his peers.

Disturbed trajectory factors are conditions or events that derail individuals from healthy developmental pathways. Steven experienced (1) social and emotional disturbances beginning in childhood, exhibited reckless behavior, and showed signs of mental immaturity and failure to think things through. He felt abandoned and unloved, and craved attention. He adopted the personalities of people he met in an attempt to please others, acting tougher in hope that it would help him to fit in. He went along with anything anyone wanted, just so he would be included. He attempted to hide his emotions but suffered periodic outbursts of anger, although he was never violent. This was coupled with the fallout of (2) his mother’s physical illness and (3) his father’s depression.

Although Steven displayed signs of a personality change after falling and hitting his head at about age ten, he was not treated until the age of 13. This, in conjunction with his other injuries and lack of treatment, indicates (4) possible deficient early interventions. Steven had trouble concentrating and received increasingly low grades throughout his school years before ultimately (5) dropping out of school in the tenth grade. He (6) left home at age eighteen, without the necessary skills to navigate life independently and bounced between housing situations based on where he could find a place to stay. His drug use and immaturity contributed to the (7) loss of his child to

adoption and (8) divorce from his wife, which was a tipping point for Steven and appears to have led him to suicidality.

Exacerbating all pre-existing issues, Steven (9) became homeless and resorted to living on the streets of Phoenix and sleeping in a park, making him vulnerable to chronic stress, sleep deprivation, malnutrition, poor health, loneliness, victimization, and increased difficulties with mental health, substance abuse, and employment prospects. It was during this period of homelessness and isolation that Steven (10) met and associated with Kyle White. Kyle White lavished praise on Steven for his previously-mocked appearance and helped him obtain housing and employment. When Mr. White relocated to Florida, Steven followed him, losing contact with his loved ones.

DSM Diagnoses²⁹

Contrary to what the penalty phase and state postconviction factfinders heard, Steven suffered from multiple mental health conditions. In addition to Dr. Crown's diagnosis of a neurocognitive disorder requiring "greater effort, compensatory strategies, or accommodation[,]"³⁰ Steven also meets the diagnostic criteria for the following conditions.

²⁹ Unless specifically noted, all information comes from the April 23, 2021, and July 25, 2021, reports of Dr. Yeny Castillo, Ph.D. (Appendix G and H).

³⁰ American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, 605 (2013).

Bipolar Disorder

Steven suffers from Bipolar II Disorder, a mood disorder characterized by fluctuations between extreme highs and lows. Bipolar disorder is most prevalent in individuals with family histories of mood disorders, which has been corroborated by Steven's biological mother. During the "high" periods of hypomania, Steven experiences periods of racing thoughts, inflated self-esteem, grandiosity, insomnia, being more talkative than usual, distractibility, agitation, and excessive involvement in activities with high potential for painful consequences (recklessness). The hypomanic episodes are alternated with major depressive episodes lasting at least two weeks in which Steven experiences sadness, diminished interest in activities and initiation, lack of energy and motivation, excessive sleeping, inability to concentrate, and suicidality.

Individuals suffering from bipolar disorder may also experience "mixed" episodes, in which Steven experiences feelings of extreme sadness, guilt, and worthlessness simultaneously with high energy, overactivity, and racing thoughts and speech. In a mixed episode, moods can shift drastically and dangerously in a matter of moments.³¹

Bipolar disorder is correlated with impairments in executive function, such as attention and concentration, which when taken with Steven's other psychiatric and

³¹ American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, 122-136 (2013).

neuropsychological conditions, was exponentially detrimental to his ability to adapt and function under the pressures he was under at the time of his crime.

Post-Traumatic Stress Disorder

Steven also suffers from Post-Traumatic Stress Disorder (PTSD) following the fatal car accident that claimed the life of Steven's young friend, and nearly killed Steven as well. PTSD is characterized by four categories of symptoms: (1) intrusion, (2) avoidance, (3) alterations in cognition and mood, and (4) alterations in arousal and reactivity.

Intrusion and alterations in cognition and mood are thought based, while avoidance and alterations in arousal and reactivity are more behaviorally based. Intrusive thoughts include recurrent, involuntary memories of the accident, nightmares, vivid flashbacks that feel as though Steven is reliving the accident, and marked physiological reaction to internal and external cues. Alterations in cognition and mood involve negative thoughts which progress to ongoing and often distorted beliefs, either about the cause (i.e. unwarranted self-blame, such as Steven blaming himself for Diana's death despite being a passenger himself, because he had invited her to go out with him that day) or about the survivor himself (i.e. Steven believing he deserved to die instead of Diana). These are strong enough to create distortions regarding how one views himself in the world, and to create diminished interest in other activities in the world, difficulty concentrating, difficulty experiencing positive emotions at all, and estrangement or detachment from other people.

Avoidance is an attempt to prevent these thoughts through resisting talking about what happened and staying away from people, places, and situations that may trigger distressing memories. In Steven's case, this manifested in sleep disturbances and drug and alcohol use to numb the horrific thoughts and feelings. Paradoxically, alterations in arousal and reactivity may cause irritability, angry outbursts, and reckless and self-destructive behavior (such as Steven driving recklessly after the accident and getting into several additional accidents).

As mentioned above, PTSD is correlated with impairments in executive function, such as attention and concentration, which when taken with Steven's other psychiatric and neuropsychological conditions, would exponentially impact his functionality.

Substance Use Disorder

Steven's drug and alcohol use rose to the level of Substance Use Disorder in regard to several of the drugs he used; namely, Alcohol, Cannabis (Marijuana), Cocaine, Methamphetamines, and Opioids. This was characterized by Steven taking the above drugs in larger amounts and over a longer time period than he meant to, and being unable to stop using despite wanting to. Substance Use Disorder is drastically different than experimentation or rebellion. It is a physical and mental dependency that is debilitating and feels insurmountable despite the negative consequences of the addictions. Steven spent the majority of his late adolescence getting, using, or recovering from drugs. He craved them, was physically dependent, and continued to use them despite the drug use causing problems in his relationships and academic and

professional life. In conjunction with his co-morbid psychological conditions, this rendered Steven particularly vulnerable.

Additional Considerations

In addition to the diagnoses Dr. Castillo has been able to provide to a reasonable degree of clinical certainty, Dr. Castillo found indicators of Neurocognitive Disorder that corroborates Dr. Crown's diagnosis of Cognitive Disorder Not Otherwise Specified. Further, there are indicators that Steven suffers from Fetal Alcohol Spectrum Disorder (FASD), a group of conditions that occur as a result of prenatal alcohol exposure. Steven exhibits red flags of FASD due to his mother's alcohol usage during the first trimester of her pregnancy. FASD is correlated with behavioral issues, learning deficits, hyperactivity, impaired attention, learning difficulties, and poor reasoning and judgment.

Consistency with Prior and Concurrent Evaluations³²

Dr. Castillo's conclusions paint a vivid and comprehensive picture of Steven's mental health issues. Although Dr. Krop did not diagnose Steven with a mental health disorder during the 1991 pretrial period, he was unable to perform a comprehensive, professionally reasonable evaluation. Because of this, Dr. Krop missed out on vital information that would have given rise to several potential mental health diagnoses at that time.

³² Unless specifically noted, all information comes from the April 9, 2021, and July 9, 2021, reports of Dr. Barry Crown, Ph.D. (Appendix E and F), and the April 23, 2021, and July 25, 2021, reports of Dr. Yenys Castillo, Ph.D. (Appendix G and H).

Steven's trial counsel provided Dr. Krop with police reports about the crime, but did not provide information about Steven's life history. Dr. Krop never received school records, medical records, adoption records, employment records, or depositions. He was provided almost no access to collateral sources, and only briefly spoke with Christina Moss (Steven's girlfriend at the time of trial) and Sandra Griffin (Steven's sister).

Despite reports of serious head injuries causing loss of consciousness, Dr. Krop did not perform any neuropsychological testing. This deprived Dr. Krop of the chance to discover the presence, nature, and severity of any cognitive dysfunction generated by the risk factors discussed in Dr. Castillo's report. This dysfunction could have included neurocognitive deficits such as frontotemporal impairment, which has a significant effect on impulse control, judgment, problem solving, and other executive functions.

Dr. Barry Crown's 1995 evaluation of Steven indicated a neurological impairment attributable to brain damage. At that time, Dr. Crown opined that Steven's brain damage may have been the result of prenatal, perinatal, or early childhood conditions, including the possibility of a genetic or genetic mutation injury.

In his 2021 record review, Dr. Crown was able to expand upon his original opinions. He concluded that Steven likely experienced Fetal Alcohol Syndrome, which over time became Fetal Alcohol Effects. Consistent with neurological impairments, variations in Steven's school achievements indicate particular struggles in abstraction and reasoning details, as opposed to strengths in memory and recall. Dr.

Crown also concluded that Steven likely had undiagnosed concussions as a result of his automobile accidents, and he may have had a frontal orbital injury.

IV. Conclusion

Trial counsel in this case was woefully deficient. Not only did he fail to perform a professionally reasonable investigation, he failed even to take the most basic steps of speaking with Mr. Stein's parents and close friends, asking an expert to perform a neuropsychological evaluation, or providing the expert with records about his client's life. Although initial-review collateral counsel raised the issue of trial counsel's ineffectiveness during state review, they similarly rendered deficient performance by failing to contact readily available witnesses with crucial information about Mr. Stein's background and mental health. More egregious, initial-review collateral counsel failed to present a single expert to tie information to Steven's declining mental health and show how a previously nonviolent person with no significant criminal history became involved in a capital crime.

Had counsel performed in a professionally reasonable manner, they would have had at their fingertips a wealth of powerful mitigation evidence regarding the myriad physical and emotional traumas Steven Stein endured from the moment he entered this world. Counsel could have changed the balance of aggravating and mitigating factors, and made a vastly more compelling case for mercy. The fact-finders in Mr. Stein's case would have received a wholly different impression of who Mr. Stein was, and he would not be on death row.

Exhaustion of Ground I in state courts:

- 1) **Did you raise Ground I in the Florida Supreme Court on a direct appeal of your conviction?** No.

- 2) **After your conviction, did you raise Ground I in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850?** This ground for relief was raised and presented to the state courts. However, collateral counsel failed to present Section III to the state courts.
 - a) **If your answer is “yes”, then state:**
 - i. **Date motion filed:** 11/15/95, amended on 6/21/96 and 5/3/02.
 - ii. **Whether you received an evidentiary hearing:** Yes.
 - iii. **Result:** Denied.
 - iv. **Date of Result:** 5/2/06.

 - b) **If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida?** Yes.
 - i. **If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why:** N/A
 - ii. **Date appeal filed, result of appeal, date of result:** Notice of appeal filed on 5/25/06. the Florida Supreme Court affirmed the denial of relief on 9/25/08. *Stein v. State*, 995 So. 2d 329 (2008), rehearing denied 11/19/08, mandate issued 12/5/08.

- 3) **Have you raised Ground I in any other petition, application, or motion filed in the state courts of Florida?** No.

GROUND II

THE COURT'S DENIAL OF MR. STEIN'S NEWLY DISCOVERED EVIDENCE CLAIM VIOLATES THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, WHICH PROHIBITS THE ARBITRARY OR IRRATIONAL IMPOSITION OF THE DEATH PENALTY.

At the time of Mr. Stein's trial, his co-defendant, Marc Christmas, had yet to proceed to trial. After Mr. Stein's conviction and sentence of death, Christmas went to trial and was found guilty as charged. Subsequent to Christmas' penalty phase proceeding, the jury recommended a life sentence as to the two counts of first-degree murder (CT. 1558). At the sentencing hearing, the trial court found that the jury's recommendation of life was unreasonable (CT. 1626). In sentencing Christmas to death, the court held that virtually no reasonable person could differ on the appropriateness of the death penalty and that to follow the recommendation of the jury would result in an unwarranted disparity in the sentences of the two co-defendants:

The Court finds that under the circumstances, the jury's recommendation of life imprisonment is unreasonable. **Marc Anthony Christmas planned the Pizza Hut robbery with his co-defendant. He initiated the plan to eliminate the witnesses, the witnesses would know Christmas and not Stein, and Christmas held a gun on the victims in the bathroom as they were shot by Stein.**

Further, the co-defendant, Steven Stein, was sentenced to death for these murders. Based on the totality of the circumstances in this case, virtually no reasonable person could differ on the appropriateness of the death penalty for Marc Anthony Christmas and **following the recommendation of the jury would result in an unwarranted disparity in sentences.**

(CR. 557) (emphasis added). On direct appeal, the Florida Supreme Court reversed Christmas' death sentences and instead imposed life sentences for the murders of Bobby Hood and Dennis Saunders. *Christmas v. State*, 632 So. 2d 1368 (Fla. So. 2d 1994).

The life sentence of Mr. Stein's co-defendant, who the trial court found to be at least equally culpable, was never known by Mr. Stein's judge or jury at the time of his penalty phase. Given that the sentencing court previously determined that both Mr. Stein and Christmas should receive the same sentence, then Mr. Stein's current death sentences can only constitute an arbitrary imposition of the death penalty. Here, habeas relief is warranted.

Exhaustion of Ground II in state courts:

- 1) **Did you raise Ground II in the Florida Supreme Court on a direct appeal of your conviction?** No.
- 2) **After your conviction, did you raise Ground II in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850?** Yes.
 - a) **If your answer is "yes", then state:**
 - i. **Date motion filed:** 11/15/95, amended on 6/21/96 and 5/3/02.
 - ii. **Whether you received an evidentiary hearing:** Yes.
 - iii. **Result:** Denied.
 - iv. **Date of Result:** 5/2/06.
 - b) **If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida?** Yes.

- i. **If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why:** N/A
 - ii. **Date appeal filed, result of appeal, date of result:** Notice of appeal filed on 5/25/06. the Florida Supreme Court affirmed the denial of relief on 9/25/08. *Stein v. State*, 995 So. 2d 329 (2008), rehearing denied 11/19/08, mandate issued 12/5/08.
- 3) **Have you raised Ground II in any other petition, application, or motion filed in the state courts of Florida?** No.

GROUND III

THE TRIAL COURT ERRED IN ADMITTING MR. STEIN'S STATEMENTS INTO EVIDENCE SINCE THEY WERE OBTAINED IN VIOLATION OF HIS RIGHTS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Prior to trial, Mr. Stein moved to suppress statements he had given to Detectives Carl Thorwart and Quinn Baxter (T. 79-116, R. 178). During the hearing on the motion to suppress, Detective Baxter testified that he and Thorwart began interviewing Mr. Stein on the day of his arrest at 11:30 p.m. (T. 80-81). Baxter testified that Thorwart advised Mr. Stein of his constitutional rights and Mr. Stein signed a waiver of rights form (T. 81-83).³³ Thorwart advised Mr. Stein that he was under arrest for two counts of murder (T. 84). Mr. Stein stated, "I got to talk to a lawyer. I am in a lot of trouble. I am in real bad trouble here. I think I need to consult with a lawyer." (T. 84). Thorwart told Mr. Stein that was his right (T. 84); Mr. Stein then said, "I'd like to

³³ The form was introduced into evidence as State's exhibit #1 for the hearing (T. 83).

talk. I am a new Christian, approximately been a new Christian for approximately a year.” (T. 84-85).

At that point, Baxter said “[t]hat the good thing about a God, he would forgive people for what they have done.” (T. 85). After that, Mr. Stein said, “I’d like to talk, can you give me a minute?” (T. 85). Thorwart then advised Mr. Stein that they could not legally talk to him because he invoked his rights to a lawyer (T. 85). Thorwart and Baxter left the room and allowed Mr. Stein to smoke a cigarette (T. 85).

Baxter testified that they had no intent of going back into the room (T. 85). He stated that he spoke to Mr. Stein about God forgiving people because he was Christian, and it was an off-hand comment (T. 85). Baxter said he did not make the comments with the intent to persuade Mr. Stein to talk (T. 85-86).

When the detectives left the room, they advised Mr. Stein that they could not talk to him unless he wanted to talk to them (T. 86). Mr. Stein was not transported back to the jail immediately (T. 86). Around 11:55 p.m., Mr. Stein knocked on the door where the two detectives were located (T. 86). Mr. Stein said, “I want to talk about part of it.” (T. 86). The detectives re-advised Mr. Stein of his constitutional rights and had him execute a second rights form (T. 87-88). There was a notation on the second rights form written by Thorwart stating that Mr. Stein asked to talk to the detectives (T. 88-89). Baxter said the note was placed on the form before Mr. Stein

executed it (T. 89). Mr. Stein then gave the statement which was introduced during the trial (T. 89).³⁴

Mr. Stein, who also testified at the hearing on the motion to suppress, stated that he drank a twelve pack of beer the day of his arrest (T. 97-98). He recalled seeing and signing a form advising him of his rights (T. 98). On signing the first form, Mr. Stein stated he wanted a lawyer (T. 98). He said he asked for a lawyer at least three times (T. 99).

Mr. Stein testified that the detectives told him that an attorney could not help him and that the attorney would tell him not to talk. The detectives said they already had enough evidence to put him in Raiford and that all he could do by talking was to help himself (T. 99-100). When the detectives left the room for a short time, Mr. Stein asked for a lawyer again (T. 99). He said the detectives were out of the room for about five minutes, saying they were going to give him time to think about whether he wanted to talk or not (T. 99).

When the detectives came back into the room, Mr. Stein again asked for a lawyer. Although he signed a second rights form, he asked for a lawyer at that time (T. 100). Mr. Stein said he did not know why he did not get a lawyer (T. 100).

³⁴ During the trial, Baxter testified that he asked Mr. Stein what happened in the Pizza Hut that night (T. 718). Mr. Stein responded that he and Marc Christmas planned to rob the restaurant and that one of the victims, Bobby Hood, knew Christmas because he had worked in that restaurant in the past (T. 718-19). Baxter asked how much money was obtained in the robbery and Mr. Stein responded \$900 (T. 719). Mr. Stein was asked who got the money and he said that Christmas obtained the money (T. 719). Mr. Stein said that the two of them bought a motorcycle paying \$500 and spent the rest of the money on items for the trailer (T. 719-20). According to Detective Thorwart, Mr. Stein said that he and Christmas and the two victims were the only ones present in the restaurant (T. 720). When asked about why so many shots were fired, Mr. Stein said the robbery went bad (T. 720, 731-34).

The detectives here failed to honor Mr. Stein's request for counsel. The subsequent confession should have been suppressed. According to Baxter's testimony, Mr. Stein requested counsel immediately upon being advised of the charges against him. Baxter testified about the exchange as follows:

A. Basically Detective Carl Thorwart advised him that he was under arrest for two counts of first degree murder and armed robbery.

Q. And what was his response?

A. Mr. Stein stated I got to talk to a lawyer. I am in a lot of trouble. I am in real bad trouble here. I think I need to consult with a lawyer.

Q. And what if anything did you or Thorwart say at that time?

A. Detective Thorwart stated that that was definitely his right. At that time the defendant stated I'd like to talk. I am a new Christian, approximately been a new Christian for approximately a year.

Q. And what if anything was said after that and by whom?

A. I talked to him about this. He said that the good thing about God he would forgive people for what they have done.

(T. 84-85). The prosecutor asked Baxter why he spoke to Mr. Stein about God. Baxter responded as follows:

Q. What was your purpose in telling him about God forgiving people for their sins?

A. Basically he brought up God, and I just responded because I am, too, a Christian and it was just an offhanded comment to be honest with you.

Q. Was it made with the intent to persuade Mr. Stein to talk to you and waive his right to counsel?

A. Certainly not, no sir.

(T. 85-86).

Instead of honoring Mr. Stein's request for counsel, Baxter's comment about God forgiving sins was continued interrogation. The statement made in these circumstances of a custodial interrogation was of the type which would elicit an incriminating response. Mr. Stein clearly invoked his right to counsel and then explained to the detectives that he would like to talk because he was a Christian. However, Mr. Stein's expression of a desire to talk was not an abandonment of his request for counsel. Therefore, Baxter's comments about God forgiving sins directly undermined Mr. Stein's unequivocal request for counsel. Instead of ceasing all interrogation, Baxter's comments played directly to Mr. Stein's religious beliefs and suggested he should confess his sins and be forgiven. Here, habeas relief is warranted.

Exhaustion of Ground III in state courts:

- 1) **Did you raise Ground III in the Florida Supreme Court on a direct appeal of your conviction?** Yes.
- 2) **After your conviction, did you raise Ground III in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850?** No.
 - a) **If your answer is "yes", then state:**
 - i. **Date motion filed:** N/A.
 - ii. **Whether you received an evidentiary hearing:** N/A.
 - iii. **Result:** N/A.
 - iv. **Date of result:** N/A.

- b) **If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida?** N/A.
- i. **If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why:** N/A
- ii. **Date appeal filed, result of appeal, date of result:** N/A.
- 3) **Have you raised Ground III in any other petition, application, or motion filed in the state courts of Florida?** No.

GROUND IV

THE TRIAL COURT ERRED IN ALLOWING A HEARING ON THE MOTION TO SUPPRESS EVIDENCE TO PROCEED IN THE ABSENCE OF MR. STEIN'S COUNSEL WHO WAS CALLED AWAY ON A FAMILY EMERGENCY THEREBY DEPRIVING MR. STEIN OF HIS RIGHT TO COUNSEL AT THE HEARING.

Mr. Stein and his co-defendant, Marc Christmas, filed motions to suppress evidence seized from their residence (R. 116). At the hearing on the motions, Christmas' attorney, Alan Chipperfield, handled the presentation of the testimony (R. 116-174). After Chipperfield concluded the direct examination of the only witness, Detective Thorwart, who had executed the search warrant, the court took a brief recess (R. 151). Mr. Stein's lawyer, Jeff Morrow, then announced that he had nothing further to add to the motion to suppress and waived his appearance at the remainder of the hearing:

THE COURT: All right. Gentleman [sic], let's take about five minutes the come back and we will resume at that time. Gentleman [sic], before we take a recess Mr. Morrow wanted to state something.

MR. MORROW: There is nothing further that I was going to add on the motion to suppress that Mr. Chipperfield has, and so I waive my appearance.

THE COURT: You want to take Mr. Stein back at this time?

MR. MORROW: Yes.

MR. CAMPION [PROSECUTOR]: I am not -- I didn't have an opportunity to cross examine the witness, Judge. You want him present for that or not?

MR. MORROW: There is no need for that. We can waive that, Judge.

THE COURT: Okay. All right. With that let's take a five-minute recess then we will come back, Mr. Morrow.

(R. 151-52).

After the recess, Mr. Stein was present, but his lawyer was gone (R. 152). Apparently, Morrow's daughter was ill and he left (R. 152). The court inquired of Mr. Stein's wishes concerning his right to be present during the remaining part of the hearing as follows:

THE COURT: Well, I guess I better talk to Mr. Stein. He told me that his daughter was ill and that he was asked, so I was kind of expecting him to come back or -- I saw he and Mr. Stein go into the back, but I thought they were going to discuss it.

MR. CHIPPERFIELD: I didn't even know his daughter was sick. I didn't even know she was sick.

THE COURT: Let's bring Mr. Stein out. Mr. Stein, if you will -- Mr. Stein, I was going to take a break because we had been going for the last hour-and-a-half or so and so I just took a break and when we -- I took the break Mr. Morrow came up to the bench here and he showed me a -- somebody had called him that his daughter had taken ill and somebody had called him. I don't know who it was, that he needed to go and tend to her. Did he discuss this with you?

THE DEFENDANT: Yes, he did. That's pretty much what he told me, too.

(R. 153). The court then asked Chipperfield to examine the motion filed in Mr. Stein's case (R. 153). He did and responded that the motion Morrow filed was "similar or more identical" to the one he filed (R. 153). Chipperfield also stated that he did not know if there were any differences in the motions (R. 153). The Judge then asked Mr. Stein if he wanted to remain during the remainder of the hearing (R. 153). Mr. Stein replied, "Sir, I wouldn't mind staying here if the court don't mind, listening to what is going on." (R. 154). The prosecutor cross-examined the witness, Chipperfield conducted a redirect examination, and the hearing was concluded (R. 154-71).

Here, Mr. Stein was left to represent himself during the remainder of the suppression hearing. However, the court never made any inquiry as to Mr. Stein's desire to waive his lawyer's presence or his desire to represent himself. None of the requirements for waiving counsel were met.

Moreover, although Mr. Stein's co-defendant's lawyer, Alan Chipperfield, conducted the rest of the suppression hearing, he was not representing Mr. Stein (R. 153). Chipperfield had not been asked to represent Mr. Stein for the hearing (R. 153). He did not even know the content of Mr. Stein's motion to suppress until he read it at the court's request (R. 153). Further, since the defendants in this case had competing interests, Chipperfield could not have undertaken representation of Mr. Stein for the remainder of hearing if asked to do so. Clearly, Mr. Stein was simply left unrepresented during the hearing. As a result, Mr. Stein was denied his right to counsel and his right to due process.

Exhaustion of Ground IV in State Courts:

- 1) **Did you raise Ground IV in the Florida Supreme Court on a direct appeal of your conviction? Yes.**
- 2) **After your conviction, did you raise Ground IV in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850? No.**
 - a) **If your answer is “yes”, then state:**
 - i. **Date motion filed: N/A.**
 - ii. **Whether you received an evidentiary hearing: N/A.**
 - iii. **Result: N/A.**
 - iv. **Date of result: N/A.**
 - b) **If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida? N/A.**
 - i. **If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why: N/A.**
 - ii. **Date appeal filed, result of appeal, date of result: N/A.**
- 3) **Have you raised Ground IV in any other petition, application, or motion filed in the state courts of Florida? No.**

GROUND V

THE TRIAL COURT ERRED IN NOT DECLARING A MISTRIAL AFTER TWO WITNESSES MADE REFERENCES WHICH IMPLIED THAT MR. STEIN MAY HAVE BEEN A MEMBER OF A HATE GROUP AND THAT ANOTHER PERSON, MENTIONED IN CONVERSATION IN CONNECTION WITH A DISCUSSION ABOUT A ROBBERY, MAY HAVE BEEN ON A “HIT LIST”.

Comments two witnesses made during Mr. Stein’s trial improperly suggested that Mr. Stein was a member of a racial hate group and may have been involved in irrelevant collateral crimes. First, Kyle White testified that one of Marc Christmas’ robbery plans included killing a Pizza Hut manager named Jope Vandenberg (R. 611). Christmas allegedly said they could then “kill two birds with one stone.” (R. 611). White then explained that Vandenberg was on “a hit list of some sort.” (R. 611).

Second, during Detective Scott’s testimony in a deposition to perpetuate his testimony, he referred to Mr. Stein as a “skin head” thereby suggesting to the jury that Mr. Stein was a member of a white supremacist group characterized by their short hair (R. 669-70). There was no evidence that the subject of either of these comments was true, and even if true, the information had no relevance to the issues at trial.

Mr. Stein’s character was attacked in violation of his right to due process. His jury was prejudiced with the suggestion that he may have been involved in other crimes, including other murders. Furthermore, evidence of his membership in a racist organization, if true, violated his right to freedom of speech and association as

guaranteed by the First and Fourteenth Amendments to the United States Constitution.

The prosecutor realized that the witnesses' comments were irrelevant and prejudicial, and he had made efforts to prevent them (R. 611-14, 669-70). The detectives involved in this case believed that Christmas and Mr. Stein were involved in a white supremacist organization (R. 146). Recognizing that this was not an issue in this case, the prosecutor attempted to prevent the detectives' beliefs from being communicated to the jury. Both the state and the defense had agreed that Detective Scott's reference to Mr. Stein as a "skin head" in his deposition would not be read to the jury (R. 669-70). Unfortunately, the reader mistakenly read the comment (R. 669-70).

Further, when Kyle White made the "hit list" comment, the prosecutor, at the court's direction over defense counsel's objections, had White try to explain the "hit list" comment away as referring only to the robbery plan the men were then discussing (R. 611-14). These efforts were unsuccessful and the jury was prejudiced. As a result, Mr. Stein was denied his rights to due process, a fair trial and freedom of speech and association. Habeas relief is warranted.

Exhaustion of Ground V in state courts:

- 1) **Did you raise Ground V in the Florida Supreme Court on a direct appeal of your conviction?** Yes.
- 2) **After your conviction, did you raise Ground V in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850?** No.

- a) If your answer is “yes”, then state:
- i. Date motion filed: N/A.
 - ii. Whether you received an evidentiary hearing: N/A.
 - iii. Result: N/A.
 - iv. Date of result: N/A.
- b) if your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida? N/A.
- i. If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why: N/A.
 - ii. Date appeal filed, result of appeal, date of result: N/A.
- 3) Have you raised Ground V in any other petition, application, or motion filed in the state courts of Florida? No.

GROUND VI

THE PROSECUTOR IMPROPERLY SUGGESTED TO THE JURY TO CONSIDER LACK OF REMORSE AS AN AGGRAVATING FACTOR IN REACHING ITS SENTENCING DECISION.

During his penalty phase argument to the jury, the prosecutor suggested that the jury consider Mr. Stein’s lack of remorse as an aggravating factor in reaching its sentencing decision. His argument, in pertinent part, was as follows:

Look at the actions of the defendant just a few minutes after those executions. A few minutes ago you heard the defendant’s girlfriend on the stand state that within half an hour or an hour of those brutal executions the defendant came back to the trailer and was acting --

MR. MORROW: Your Honor, I object to that as improper comment and on the same grounds I have raised.

THE COURT: All right. I will overrule the objection.

MR. BATEH: Thank you, your Honor. That he was acting normally; went out, bought beer, potato chips and came back to the trailer; socialized, listened to music and I would submit to you that that clearly shows that these murders were consciously [sic] and pitilessly carried out in an unnecessarily tortuous manner to both Mr. Saunders and to Mr. Hood, but especially to Mr. Saunders. I would submit to you that these murders were especially heinous, atrocious[sic], and especially cruel by any standard of those words.

(R. 887-88).

Emphasizing the testimony of Mr. Stein's girlfriend that he allegedly acted normally at one point after the shooting, the prosecutor implied that Mr. Stein lacked remorse and invited the jury to consider that in sentencing (R. 887-88). The prosecutor's improper comment deprived Mr. Stein of his right to a fair trial.

Exhaustion of Ground VI in state courts:

- 1) **Did you raise Ground VI in the Florida Supreme Court on a direct appeal of your conviction? Yes.**
- 2) **After your conviction, did you raise Ground VI in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850? No.**
 - a) **If your answer is "yes", then state:**
 - i. **Date motion filed: N/A.**
 - ii. **Whether you received an evidentiary hearing: N/A.**
 - iii. **Result: N/A.**
 - iv. **Date of result: N/A.**
 - b) **If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida? N/A.**

- i. If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why: N/A.
- ii. Date appeal filed, result of appeal, date of result: N/A.
- iii. Have you raised ground vi in any other petition, application, or motion filed in the state courts of Florida? No.

GROUND VII

MR. STEIN'S DEATH SENTENCES VIOLATE THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Based on the reasons set forth in his memorandum of law, Mr. Stein submits that the Florida Supreme Court's decision in *Hurst v. State* must be applied to his case.

Exhaustion of Ground VII in state courts:

- 1) Did you raise Ground VII in the Florida Supreme Court on a direct appeal of your conviction? No.
- 2) After your conviction, did you raise Ground VII in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850? Yes.
 - a) If your answer is "yes", then state:
 - i. Date motion filed: 1/9/17.
 - ii. Whether you received an evidentiary hearing: No.
 - iii. Result: Denied.
 - iv. Date of result: 2/15/17.
 - b) If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida? Yes.
 - i. If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why: N/A.

ii. **Date appeal filed, result of appeal, date of result:** Notice of appeal filed on 8/14/17. on 1/31/18, the Florida Supreme Court affirmed the denial of relief. *Stein v. State*, 237 So. 3d 919 (Fla. 2018). The mandate issued on 2/26/18. Certiorari was denied on October 1, 2018. *Stein v. Florida*, No. 17-9545 (2018).

3) **Have you raised Ground VII in any other petition, application, or motion filed in the state courts of Florida?** No.

GROUND VIII

MR. STEIN WAS DEPRIVED OF HIS RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND HIS RIGHTS UNDER THE FIFTH, SIXTH AND EIGHTH AMENDMENTS BECAUSE THE STATE WITHHELD EVIDENCE THAT WAS MATERIAL AND EXCULPATORY IN NATURE.

At Mr. Stein's capital trial, Ralph Kyle White, who went by Kyle, testified that he knew Mr. Stein and at the time of the crime they were roommates (T. 597). White proceeded to testify that a week before the crimes, he had an "unusual conversation" with Mr. Stein and Christmas (T. 600). White told the jury that the conversation occurred in the trailer where the three lived (T. 609). He explained that he overheard Christmas comment: "[W]e need to keep it to ourselves, we can't trust him" (T. 609). White asked Christmas what was going on and Christmas asked him about the alarm system of the Pizza Hut on Lem Turner (T. 609-10). They were discussing ways to commit a robbery.

While discussing the alarm system, Mr. Stein brought up the Pizza Hut in Edgewood (T. 610). At some point, the discussion moved to killing the Pizza Hut manager at the bank when he was making his deposit (T. 611, 614). In raising this

idea, Christmas used the word “hit”. By “hit” Christmas meant “to kill him, eliminate him” (T. 611). White cautioned against the idea because there was too great a chance of being caught (T. 615). Christmas then mentioned the Pizza Hut in Edgewood because it did not have an alarm system, but Mr. Stein did not believe that they could remain in the Pizza Hut for the time needed in order for the safe to open (T. 611, 616).

White related that the conversation turned again to Christmas suggesting that they “take out” the manager on his way to the bank (T. 616). White told them that “you don’t have to ... kill them” because the manager would give them the money without any resistance (T. 616). However, they did not want any witnesses (T. 617).

Christmas asked if he could use White’s motorcycle to follow the manager for a week in order to determine the best place for the robbery (T. 617). White testified: “[A]t that point ... I realized it was getting way out of hand and this was becoming more serious ... ” (T. 617). White told Mr. Stein and Christmas that they could not use his motorcycle and he did not want to know about it or ever find out that they did it (T. 617). White said he left the room (T. 617).

White also testified that on the night of the crimes, Mr. Stein and Christmas left the trailer about 9:15 or 9:30 and said they were going to sell Mr. Stein’s rifle to Christmas’ dad (T. 618-19). Mr. Stein left with his Marlin .22 rifle (T. 620).

Mr. Stein and Christmas returned just before midnight and they proceeded to go to the Pizza Hut on Lem Turner with White, Christine Moss and her son (T. 623). The Pizza Hut was closed and Mr. Stein was not needed to clean the ovens, so the group went to the gas station and purchased beer, snacks and cigarettes (T. 624). They then

went back to the trailer (T. 624). Throughout this timeframe Mr. Stein and Christmas did not appear intoxicated (T. 624).

In the days following Mr. Stein's arrest, White contacted law enforcement and turned over keys to the Pizza Hut that he found in Christmas' room and three .22 caliber long expended cartridges that had been fired from the front porch of the trailer on New Year's Eve (T. 628). He, Mr. Stein and Christmas had all fired the weapon that day. He found them on the porch (T. 629). The bullets were used to link Mr. Stein and his .22 Marlin rifle to the crimes. The jury heard that the expended cartridges White turned over matched the expended cartridges from the crime scene and "were all fired by a single firearm and fired in the same firearm" (T. 701-2). Mr. Stein's .22 Marlin had not been recovered at the time he went to trial.³⁵

During closing argument, the State argued that Mr. Stein planned the homicide based on the testimony of White (T. 761). The State told the jury:

Steven Stein and Marc Christmas planned the robbery together. You recall the testimony of Kyle White that about a week or so before the killing, before the robbery and the murders he had a conversation, a very unusual conversation with Stein and Christmas wherein they planned to rob a Pizza Hut Restaurant and wherein they specifically planned to kill any witness to the robbery. That, ladies and gentlemen, is evidence of Stein's premeditated intent that the victims be killed. It's also evidence that he knew what was going to happen because he and Marc Christmas were acting as partners in this, they were conspiring together.

Now, Kyle White used the phrase hit. They talked about hitting the manager on the way to the bank. They talked about hitting

³⁵ In July, 1991, after Mr. Stein's trial, Kimberly Brinson provided the State with information about the whereabouts of the Marlin .22. She had obtained the information from Christmas who told her to use the information to negotiate a plea agreement to a lesser sentence on her own criminal charges relating to conspiracy to have her husband killed (CT. 1052-54). FDLE Analyst David Warniment testified at Christmas' trial that the cartridge casings found at the crime scene had been fired from the recovered Marlin .22 (CT. 1104).

employees, and he told you what that meant was they intended to kill him. Even after Kyle White said to them that is not necessary, hey, guys that is not necessary, I used to work at that Pizza Hut. You don't need to kill them, you don't need to kill them because the policy of Pizza Hut is that the managers and the employees give the money over. They don't resist, they give the money over and they keep their mouths shut and that is the policy, and they knew that. Steven Stein knew that, he knew that there was not going to be any resistance before he went in there and he decided and Christmas decided to kill the witnesses strictly to eliminate them as witnesses. That is evidence of from premeditation. That is evidence that the robbery just didn't get out of hand, and that's not what happened. When one says the robbery went bad it didn't get out of hand. That was something that was an intended consequence of their plan to kill the two victims.

(T. 775-76). The jury convicted Mr. Stein of premeditated and felony first degree murder (T. 841-42).

During the penalty phase, the State again referenced White's testimony about his conversation with Mr. Stein and Christmas the week before the crimes in urging the jury to recommend death sentences (T. 877-78). Indeed, the State primarily relied on White's testimony in arguing that the aggravator that the murder was committed to avoid arrest was established (T. 881-82). The State told the jury:

That was the whole motive behind executing those two young men. The defendant a week or two before the murder while talking to Kyle White, Kyle White tried to talk this defendant out of committing murder but the defendant wouldn't listen. We can't leave any witnesses, and it almost worked.

(T. 881-82). The State also argued that the aggravator was "very weighty" and "cries out for the justification of the death penalty in this case" (T. 882).

Additionally, the State relied on White's testimony to establish the cold, calculated and premeditated aggravating factor:

One week before, one or two weeks before the murders you heard Kyle White testify that the defendant and his partner were planning these murders, planning the robbery. They ignored any advice to the extent that it would be unnecessary to kill.

(T. 888). Again, the State told the jury that the aggravator “calls out for the death penalty” (T. 891).

The jury recommended a death sentence for the murders by a vote of 10-2. The trial court sentenced Mr. Stein to death and relied on White’s testimony in finding that the murders were committed for the purpose of avoiding or preventing a lawful arrest (T. 934, 938), and that the murders were committed in a cold calculated and premeditated manner (T. 940).

However, what the jury and trial judge did not hear was that White was concerned that he may face charges for the crimes that occurred at the Pizza Hut. Shortly after Mr. Stein and Christmas were arrested, White called Sandra Sidas, the mother of his children, and advised her not to come by the trailer. He told her that he was in serious trouble and had made a deal to assist the State. He described the deal as: he would provide inculpatory information and evidence and in exchange he would not be charged with any crime. White revealed that he provided information about the location of the murder weapon.

Exhaustion of Ground VIII in state courts:

- 1) **Did you raise Ground VIII in the Florida Supreme Court on a direct appeal of your conviction?** No.
- 2) **After your conviction, did you raise Ground VIII in the state circuit court that sentenced you by filing a motion under Florida Rule of Criminal Procedure 3.850?** No.

- a) If your answer is “yes”, then state:
- i. Date motion filed: N/A.
 - ii. Whether you received an evidentiary hearing: N/A.
 - iii. Result: N/A.
 - iv. Date of result: N/A.
- b) If your Rule 3.850 Motion was denied, did you file an appeal of that denial with the Supreme Court of Florida? N/A.
- i. If you failed to appeal the denial of your Rule 3.850 Motion, explain briefly why: N/A
 - ii. Date appeal filed, result of appeal, date of result: N/A.
- 3) Have you raised Ground VIII in any other petition, application, or motion filed in the state courts of Florida? No. Mr. Stein recently discovered the basis for this claim during an investigation conducted by his federal habeas counsel.
.....
- 17) Have you previously filed any petitions, applications, or motions with respect to your judgment and conviction in any federal court? No.
- 18) If your answer to 17 was “yes,” give the following information: 1) Name of court; 2) Nature of proceedings and date action filed; 3) Grounds raised. N/A.
- 19) Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? No.
- 20) If you have previously filed a petition for writ of habeas corpus related to this conviction and sentence in federal court, you must first move in the appropriate court of appeal for an order authorizing the federal district court to consider the application. have you filed such a motion? N/A.
- 21) Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

a) At preliminary hearing:

Jefferson W. Morrow.

b) At arraignment, plea and pre-trial:

Jefferson W. Morrow.

c) At trial:

Jefferson W. Morrow.

d) At sentencing:

Jefferson W. Morrow.

e) on appeal:

W.C. McLain.

f) In any postconviction proceeding:

Capital Collateral Regional Counsel; Harry Brody; Jeffrey Hazen; Linda McDermott.

g) On appeal from any adverse ruling in postconviction proceeding:

Capital Collateral Regional Counsel; Harry Brody; Jeffrey Hazen; Linda McDermott.

22. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes.

23. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? No, death.

a) If so, give name and location of court which imposed sentence to be served in the future: N/A.

b) Date and length of sentence to be served in the future: N/A.

- c) **Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?**

N/A.

CONCLUSION

For the reasons stated herein, the judgements and sentences of Mr. Stein should be reversed.

Respectfully submitted,

/s/ Linda McDermott
LINDA MCDERMOTT
Chief, Capital Habeas Unit
Fla. Bar No. 0102857

/s/ Katherine Blair
KATHERINE BLAIR
Office of the Federal Defender for
the Northern District of Florida
Tallahassee, FL 32301-1300
Linda_mcdermott@fd.org
Katherine_blair@fd.org
(850) 942-8818

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been furnished by electronic service to all counsel of record on this 26th day of July, 2021.

/s/ Linda McDermott
LINDA MCDERMOTT

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

STEVEN EDWARD STEIN,

Petitioner,

v.

CASE NO. 3:09-cv-1162-MMH-PDB

SECRETARY,
FLORIDA DEPARTMENT OF
CORRECTIONS, et. al.,

Respondents.

CAPITAL CASE

_____ /

APPENDIX TO
SECOND AMENDED PETITION FOR
WRIT OF HABEAS CORPUS

STRICKEN

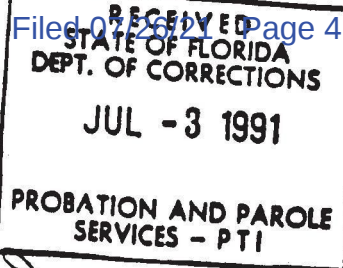
INDEX TO APPENDIX

| Appendix | Description |
|-----------------|--|
| A | June 27, 1991, Letter from Stan Stein to Judge Wiggins |
| B | Affidavit of Jan Newhoff |
| C | Goodman et. al, <i>Homelessness as Psychological Trauma</i> , 46 Amer. Psychologist 1219 (1991) |
| D | May 11, 2021, Letter from Dr. Harry Krop to Linda McDermott |
| E | April 9, 2021, Letter-Report of Dr. Barry Crown, Ph.D. |
| F | July 9, 2021, Report of Dr. Barry Crown, Ph.D. |
| G | April 23, 2021, Report of Yenys Castillo, Ph.D. |
| H | July 25, 2021, Report of Yenys Castillo, Ph.D. |

STRICTLY CONFIDENTIAL

STRICKEN

APPENDIX A



6-27-91

Judge Wiggins :-

My wife and I are enumerating items that we feel have made Steve a good individual.

- 1 - Steven was adopted at the age of two months from the New Jersey Childrens Aid and Adoption Agency.
- 2 - From that time till he was one year old he had a sickness called pyloric stenosis. This meant that as soon as food was placed in his mouth he rejected it and he had to be continually held to stop the rejection. We were told that as long as we continued to hold him for one year he would outgrow the disease and he did.
- 3 - We lived in Maywood, N.J. which was a small city in northern N.J. which had a lot of young couples and young children. He therefore had a lot of friends and a lot of love.
- 4 - As soon as he was old enough, he joined the Cub Scouts and partooked in all the events that make you a good scout.
- 5 - When he was three he acted as ring bearer in his cousins wedding.
- 6 - When he was five he went to kindergarten, without any fuss or bother.
- 7 - He went thru grammar school with good marks and partooked in inter mural sports, in which he excelled.
- 8 - He has a sister who is eight years his senior and was also adopted at birth.

9. He got along well with his nephews.
10. He was confirmed at age thirteen and started high school.
11. While watching T.V. in our family room, when he was 13½, he fell and hit his head on the concrete floor.
12. At this point his personality seemed to have changed from a good boy to a moody boy, which also interfered with school work.
13. We had him to a doctor who found nothing wrong with him.
14. ~~We~~ We then took him to a psychologist and for the next two years they had sessions together. At the end of this period the doctor felt he was alright.
15. He left high school in his sophomore year.
16. He was a passenger in a auto accident. With the money he received from this accident, he continued his schooling with a two year course in automotial repair at Phoenix Institute of Technology.
17. He also received his G.E.D. from Glendale Community College.
18. He received a large amount of speeding tickets.
19. He robbed a convenience store of a 6 pack of beer.
20. He also damaged a wall by hitting a hole in it.
21. He then moved from Arizona to Florida, to start a new life.
22. He met a young woman and fell in love with her.

23. Your Honor I don't know what got into him to make him murder.

When he writes to us, he is remorseful and apologetic for the wrong that he did.

He can't seem to be that way, when he speaks to other people.

STRICKEN

STRICKEN

APPENDIX B

State of Ohio)
)
County of Ashtabula) SS

AFFIDAVIT/DECLARATION OF JAN NEWHOFF

PURSUANT TO 28 U.S.C. § 1746

I, JAN NEWHOFF, having been first duly sworn or affirmed, do hereby depose and say:

1. My name is Jan Newhoff. I reside in Ashtabula, OH. Steven Stein is my biological son. The birth name that I gave him was David Scott Newhoff. He was born on March 6, 1968 at the Margaret Hague Maternity Hospital in Jersey City, NJ. I gave him up for adoption as soon as he was born.
2. I was adopted, like Steven. I was adopted by my Uncle, John Newhoff, and his wife, Ruth Newhoff. They had one biological child together, Jill. Jill was born several years after me. We were raised as Methodists in a middle-class home. Before I was eleven years old, I had the chicken pox, measles, and mumps.
3. My adoptive parents' marriage was filled with violence. The few memories I had of them together were of constant arguments and fights. Ruth often instigated, assaulting John and once trying to stab him with a knife. My father was a family man and tried to reconcile with my mother but her behavior did not change. They eventually divorced when I was ten or eleven years old, my mom receiving full parental rights. I was allowed to visit my dad on Saturdays.
4. Both John and Ruth were heavy smokers. Ruth smoked at least three packs of cigarettes a day, the type without filters. When I was over at my dad's house, he would also smoke. The smell of cigarette smoke was constant in both my parents' houses.

5. Ruth was a domineering mom. She raised hell if I ever broke her rules. If I did something not allowed or something she did not like, she would shame me or pound the furniture as a way to show she was angry. Then she would buy something for me that I would like as a way to apologize and all would be well for a little while.
6. After my parents divorced, my mom brought over several boyfriends. One of them was Robert Whitehurst when I was eleven years old. He seemed to be around my mom's age. He sometimes worked at a country club as a caddy and claimed to have been with the Merchant Marines. He was about 5'10", and was round and heavyset. Probably two-hundred and fifty pounds. After only months of them dating, my mom invited him to live with us. As soon as he moved in, Robert began to show an interest in me that made me uncomfortable. He was too friendly towards me, more than any other adult man.
7. One day my mother told me to ride with Robert. He was going to pick up some money someone owed him. He instead drove to a liquor store and bought a bottle of whiskey and a bottle of peach Brandy. He coaxed me into drinking the Brandy while the whiskey was for him. I was young and curious about alcohol. He drove around town as both of us drank from our bottles. After we drank a bit he drove to a part of town I had never been to before and stopped at a bar. By that time I felt tipsy from the liquor. Robert then came on to me. He tried to get me to have sex with him. I refused, and was in shock by what he asked. He got out of the car and went inside the bar. He returned, demanding I get out and forced me inside the bar. Inside were mostly black male customers. In the 1960s a lot of places, like bars and restaurants, were divided by race, and I had not had contact with people of other races, so I was afraid. Robert bent down and spoke into my ear, telling me that if I did not agree to have sex with him, he would sell me to these men, and they

would have their way with me. I believed him. I agreed to his demands. We returned to the car where he raped me.

8. This was not the end of Robert's sexual abuse – he continued to sexually abuse me for years. My mom had a part-time job and would be gone for hours at a time. Robert stayed home when the weather was poor or raining, and especially during the colder months. If Robert was home with me he would force me to have sex with him. He would threaten that I did not agree he would physically hurt my mom and sister, that he would break their arms. He was much bigger in size than any of us and far more intimidating. I believed he would do it. I had no choice but to agree every time he asked. It happened so much it was almost a routine with him. It became normal. School was my escape and something I looked forward to as I did well in my classes and I was away from Robert.
9. I was ashamed because I could do nothing to stop Robert. I did not know what to do. After I had been abused several times by Robert, I eventually found the strength to tell my mom that he was sexually abusing me. She immediately dismissed it, claiming I was trying to steal Robert for myself. How was I to cope when my own mom called me a liar and cheat? I was devastated that my mom would do nothing to help me. I felt all hope had vanished.
10. In the fall of 1967, when I was fifteen years old, I found out I was pregnant with Steven. I was two or three months into the pregnancy. Before realizing I was pregnant, I regularly drank alcohol, usually vodka mixed with sweet drinks. I started drinking when I was eleven years old. For me, drinking was a way to cope and escape the pain from Robert's abuse. My mom kept several bottles of liquor in our home, both light and dark liquors. Nearly every week when she was not home, I would drink to the point of blacking out –

about four or five shots – waking up the following day. I stopped drinking as soon as I found out I was pregnant. After suffering through recurring morning sickness and noticing my belly was larger, I knew I was pregnant from Robert’s abuse.

11. At first when I knew I was pregnant, I hid it from my mom. If my life was as hopeless as it was from Robert’s sexual abuse, it would be made even worse if she knew I was pregnant by him. Being an unmarried, adolescent pregnant girl in the 1960s was taboo, especially one brought up by a Methodist family. I didn’t know where to turn.
12. One day in class at school, as an assignment, the teacher asked us to write about anything we wanted. I chose to write about a young girl enduring pregnancy after a sexual encounter. My own mom chose not to hear me out, so this was my way of describing what happened to me. The following day I was called into the administrative office where I was confronted by the teacher, principal, and school psychologist. The teacher had told the principal about my story. The psychologist spoke to me alone and asked me why I wrote it. I was reluctant at first because I dreaded the thought of my mom finding out. I then told the psychologist I was pregnant, and was told they had no choice but to tell my mom. I continued to see the psychologist daily for a week.
13. Instead of having my mom find out from the school about my pregnancy, I decided to tell her myself in October or November of 1967. With no hesitation, she told me I was going to abort the child. She shamed me. She knew Robert made me pregnant. Instead of admitting the truth, she made wild accusations that my cousin’s husband or uncle got me pregnant. She ostracized me from my family.
14. My mom asked Robert, my rapist, to take me to a doctor to have an abortion. I had no choice but to accept. In November of 1967, Robert drove me into the city but we did not

arrive at a doctor's office. I do not know where he drove. After parking at a place I did not recognize he got out and returned not long afterward. When he returned he gave me two pills, claiming they would cause me to abort the child. I still felt I had no choice and took the pills. We returned home. Within a day of taking the pills, I was spotting blood vaginally. Up to that date, I had not yet seen a doctor to evaluate me.

15. Despite spotting blood, I was still pregnant. Instead of giving in to an abortion, I fought my mom, refusing to go through with it. I loved my child, despite its father, and wanted to give it the love that I did not have growing up. My mom came around and changed her mind about the abortion, and instead demanded that I give up the child for adoption. She said if I decided to keep it, I would be thrown out of the house, without financial support, and would have to live in the projects. Having grown up in a middle-class home and oblivious to the outside world, I had no idea what was in the projects, but I knew she meant I would live in squalor.

16. It was during this conversation that I learned I was not Ruth's biological daughter. In pressuring me to give up my child for adoption, my mom revealed that I was adopted and said I turned out well for myself being adopted and raised in a stable home. I was shell-shocked by this information and could not believe I was adopted. In my mind, everything that was happening seemed like something that could happen to other people but not me. I was overwhelmed and felt like I had no choice in what was happening. I gave in to the pressure to give up my child for adoption.

17. In December of 1967, Ruth took me to the Salvation Army's Door of Hope, a maternity home in Jersey City, NJ. The maternity home was designed to house mostly unwed adolescent pregnant girls and help facilitate adoption with an adoption agency after birth.



My mom took me there because she was unwilling to care for me as an unwed, pregnant young girl. She was ashamed of the social stigma it would bring her – what our family, neighbors, and parents at my school would think of her, not me. She kept news of the pregnancy from my father. By January of 1968, I was in the care of the Door of Hope.

18. Before moving into the Door of Hope, I had a yeast infection in December. I still had not seen a doctor after finding out I was pregnant. When I told the nurses at the maternity home about the infection, they gave me a suppository to clear it.
19. At the Door of Hope I lived with other girls my age and some a few years older. The Brigadier General, a woman in charge of the home, was tough but fair with us. But she was also known and seen drinking heavily at night. We were provided breakfast, lunch, and dinner but even with three meals a day the servings were so small I still felt hungry. To make matters worse, the cook was a sexual predator. In order to get better servings of food, pregnant girls would have sex with him. We also had rules to follow, including having to stay within the home at night. Some girls were caught slipping out at night. Whenever that happened, as punishment and to detract others, we were all punished by not being fed potatoes, rice, or bread for a week.
20. During my pregnancy, I weighed approximately one-hundred twenty to one-hundred twenty five pounds. I was 5'8. Compared to other girls my size, I felt underweight. At one point, a nurse noted I was too underweight, especially for being pregnant, and fed me egg nog every evening with a cookie. The extra food did nothing to help me gain weight, especially since food was often withheld from me as punishment when other girls at the home broke the rules.

21. The Door of Hope had a designated smoking room specifically for pregnant girls to smoke cigarettes. A lot of girls smoked as it was very common back then and the harmful effects to fetuses were not well known. Each of us had a job at the home and mine was to clean the smoking room every day. It looked and smelled like a smoke-filled bar.
22. The Door of Hope provided Sunday church services for us girls. It was required to attend. Every Sunday, we were told by the pastor conducting the service that we were sinners for having sex and bearing children out-of-wedlock. Because of our irredeemable actions, there was nothing we could do to receive God's forgiveness. The stress I endured was immeasurable, from when I found out I was pregnant through my time in the maternity home. Then in March of 1968, I suddenly had contractions, and was brought to the Margaret Hague Maternity Hospital nearby to deliver.
23. My contractions felt like they lasted more than half-a-day. I was placed in the labor room before being transferred to the delivery room. Delivery itself seemed like it could have almost been an hour. When the doctor and nurses attended me to deliver my child, I refused to go through with the delivery. I deeply cared for my child and knew as soon as he was delivered he would not be with me any longer. I tried to prevent the birth by holding my child inside despite the doctor telling me to push. I still did not want to let him go – I refused to push and tried everything to keep him inside. The doctor directed two nurses to stand on each side of me and repeatedly push on the sides of my stomach. As the doctor kept saying push, I said no. The doctor slapped me across the face and said I had no choice, the baby was coming out whether I wanted or not. I began drifting out of consciousness, and had an ether mask placed over my face for oxygen. I was not aware of any other instruments, including forceps, being used, but I wasn't fully conscious for the

whole delivery. I passed out for what felt like several minutes before hearing “8:13 PM” from the doctor. My son was born, and I named him David Scott. It was the last time I saw him.

24. I spent the next three or four days in the hospital before being sent back to the maternity home and then back to my mom’s house. I wanted to return to school as soon as possible to get back to some normalcy.

25. A social worker from the adoption agency spoke to me on several occasions to get information on my background, family, and my child’s father. Ruth was with me every time, except maybe once while I was at the hospital. She made it a point that I could not be spoken to without her being present. My mom directed me to lie about the child’s father – she knew it was Robert – and claim he was twenty-two years old and how we met at a party. The social worker was told this but I made it known he worked at a country club and was in the military service just like Robert had said. I was also asked if it would be okay for my child to contact me when he became an adult. My mom said no but I had had enough of her answering for me. This was the one thing I refused to give in to my mother – I told the social worker I would allow my son to contact me when he became an adult.

26. Shortly after returning home, I received a phone call from the adoption agency. The caller said my son had some health complications and Jaundice. My mom grabbed the phone from me and shouted at the caller, demanding they never call again as she wanted nothing to do with the child anymore. I could not believe she had done this. I had been through so much at this point that I decided to run away from home. I spent days riding in the

subway and getting to know a life outside the “middle-class” lifestyle. But I eventually returned home as I could not leave my sister alone with my mom and Robert.

27. When I returned home, Robert was still in a relationship with my mom and living with us. The sexual abuse did not stop. He tried to coax me by promising that if I allowed him to have sex with me, he would get my child back. It did not matter what I said, he still had power over me and forced me to have sex with him. At no point was it ever consensual. When I turned seventeen years old, I married a twenty-three year old. After suffering a decade of abuse by Robert, I finally left home for good to never turn back.
28. I have not been contacted by any representatives, attorneys, or investigators in relation to Steven’s capital case in Florida. I would have provided all this information and testified if asked.

STRICKEN

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

FURTHER AFFIANT SAITH NAUGHT.

Jan Newhoff

Jan Newhoff

Sworn to (or affirmed) and subscribed before me this 29th day of March, 2021 by Jan Newhoff who is personally known to me or who has provided the following identification:

OH. DR. LIC #PF231225.

Lisa M Spring
Notary Public, State of OHIO

SEAL:

STRIKED



LISA M SPRING
Notary Public
State of Ohio
My Comm. Expires
January 12, 2025

STRICKEN

APPENDIX C

Homelessness as Psychological Trauma

Broadening Perspectives

Lisa Goodman
Leonard Saxe
Mary Harvey

Boston University
Brandeis University
Cambridge Hospital

Most mental health literature on homelessness has focused on characteristics that may be risk factors for homelessness. The authors of this article argue that homelessness itself is a risk factor for emotional disorder and use the construct of psychological trauma—focusing on social disaffiliation and learned helplessness—to understand the potential effects of homelessness. Psychological trauma is likely among homeless individuals and families for three reasons. (a) The sudden or gradual loss of one's home can be a stressor of sufficient severity to produce symptoms of psychological trauma. (b) The conditions of shelter life may produce trauma symptoms. (c) Many homeless people—particularly women—become homeless after experiencing physical and sexual abuse and consequent psychological trauma. Research suggests that negative psychological responses to traumatic events can be prevented or mitigated by a supportive and empowering posttrauma environment. The implications of trauma theory for improving the psychosocial conditions of homeless people are discussed.

Homelessness has become a national tragedy that affects individuals and families throughout the United States, including increasing numbers of women and children (Institute of Medicine, 1988; Rossi, Wright, Fisher, & Willis, 1987; U.S. Conference of Mayors, 1986; U.S. General Accounting Office, 1988, 1989). Safe, adequate, and affordable housing is the most pressing need of homeless people. However, as the number of homeless people increases (Rossi, 1990; U.S. Conference of Mayors, 1987), it is also essential to identify and address associated mental health issues. Most recent literature on the relationship between mental health and homelessness has described attempts to identify individual characteristics that may be risk factors for homelessness (e.g., Breakey et al., 1989; Wood, Valdez, Hayashi, & Shen, 1990). In contrast, we argue that homelessness is itself a risk factor for emotional disorder (see, e.g., Dohrenwend & Dohrenwend, 1974; Institute of Medicine, 1988; Rivlin, 1986) and we propose that psychologists can play an important role in addressing the psychological consequences of homelessness, regardless of the presence or absence of prior mental health difficulties.

In this article, we use the construct of psychological trauma as a means of understanding the potential effects of homelessness on individuals and families. Psychological

trauma refers to a set of responses to extraordinary, emotionally overwhelming, and personally uncontrollable life events (Figley, 1985b; Van der Kolk, 1987a). These events may be discrete and clearly bounded, such as rape, or prolonged and ongoing, such as battering or combat (see, e.g., Figley, 1985b; Van der Kolk, 1987b). A wide range of symptoms or psychological conditions have been included under the rubric of psychological trauma, many of which involve the rupture of interpersonal trust and the loss of a sense of personal control. Each of these phenomena will be discussed in more detail later in this article.

Trauma theory and research may provide a useful lens through which to view and understand the experience of homelessness in at least three respects. First, the event of becoming homeless—of losing one's home, neighbors, routines, accustomed social roles, and possibly even family members—may itself produce symptoms of psychological trauma in some victims. Typically, the transition from being housed to being homeless lasts days, weeks, months, or even longer. Most people living on the street or in shelters have already spent time living with friends or relatives and may have experienced previous episodes of homelessness (see, e.g., Shinn, Knickman, & Weitzman, 1989, 1991; Sosin, Piliavin, & Westerfelt, 1991). The loss of stable shelter, whether sudden or gradual, may produce symptoms of psychological trauma. Second, among those who are not psychologically traumatized by becoming homeless, the ongoing condition of homelessness—living in shelters with such attendant stressors as the possible loss of safety, predictability, and control—may undermine and finally erode coping capabilities and precipitate symptoms of psychological trauma. Third, if becoming homeless and living in shelters fail to produce psychological trauma, homelessness may exacerbate symptoms of psychological trauma among people who have histories of victimization. For these people, homelessness may constitute a formidable barrier to recovery.

We do not attempt to prove that homelessness causes psychological trauma. Rather, we draw on psychological trauma theory to elucidate preliminary empirical and

Lisa Goodman is currently at the American Psychological Association as a James Marshall Public Policy Research Fellow, sponsored by the Society for the Psychological Study of Social Issues.

Correspondence concerning this article should be addressed to Leonard Saxe, Heller School, Brandeis University, Waltham, MA 02254.

anecdotal findings, to highlight the benefits of applying psychological theory to the study of homelessness, and to offer potentially fruitful avenues for further research. In the first section of this article we review selected literature on psychological trauma and consider in greater depth its relationship to homelessness. In the second section we examine the mental health and social policy implications of viewing homelessness as a cause of, or contributor to, psychological trauma. We argue that mental health professionals can use their understanding of psychological trauma to make shelters and other settings more responsive to the needs of homeless people. We conclude that improving the conditions of shelter life could prevent the development of psychological trauma or mitigate its most damaging symptoms.

Psychological Trauma as a Consequence of Homelessness

The category *psychological trauma* has been used to explain a variety of symptoms and conditions commonly found among victims of extraordinary stress (see, e.g., Figley, 1985b; Van der Kolk, 1984, 1987b). Many of these symptoms have been grouped to form the diagnostic entity *posttraumatic stress disorder* (PTSD) in the revised third edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R*; American Psychiatric Association, 1987). This diagnosis captures the constellation of symptoms common among victims of an acute traumatic event, including persistent reexperiencing of the traumatic event through intrusive recollections, dreams, or dissociative states; a numbing of general responsiveness manifested by a restricted range of affect or a markedly diminished interest in significant activities; and persistent symptoms of increased arousal, such as irritability, angry outbursts, hypervigilance, and sleep disturbances. Other symptoms included under the more general rubric of *psychological trauma*, and common among victims of chronic or ongoing trauma, include substance abuse, self-mutilation, intolerance of intimacy, a general sense of helplessness, and a sense of isolation and existential separateness from others (Figley, 1985a; Harvey, 1991).

Individual reactions to potentially traumatic events vary widely, depending on complex interactions between person, event, and environmental factors (Harvey, 1991; Koss & Harvey, 1991; Toro et al., 1991). The nature and duration of the event or events, the age and predisposing attributes of the victim, and the reaction of the larger community each play a role in determining the nature and extent of a victim's response (Green, Wilson, & Lindy, 1985; Harvey, 1991).

Recently, Smith (1991) investigated the prevalence of PTSD among a sample of 300 randomly selected homeless single women and mothers in St. Louis, Missouri. Using the Diagnostic Interview Schedule (DIS; Robins, 1981; Robins & Helzer, 1984), she found that 53% of the respondents could be diagnosed as exhibiting full-blown cases of PTSD. In addition, data from clinical observations, self-reports, and empirical studies suggest

that at least two commonly reported symptoms of psychological trauma—social disaffiliation and learned helplessness—are highly prevalent among homeless individuals and families. These phenomena are discussed below, first in the context of trauma theory and then in the context of homelessness. The relationship between preexisting psychological trauma and current homelessness is also explored.

Social Disaffiliation

A key feature of psychological trauma is the felt and real experience of social disaffiliation. Bowlby (1969, 1973) described the human need for intimate and long-lasting attachments as a biological imperative that results from long-term evolutionary development. According to this theory, feelings of safety and connection are essential for children to attain the emotional security necessary to develop self-reliance, autonomy, and self-esteem. In adulthood, relationships with others continue to provide a fundamental sense of existential meaning and self-worth.

Building on Bowlby's work, Van der Kolk (1987a) proposed that the essence of psychological trauma is the perceived severance of secure affiliative bonds, which damages the psychological sense of trust, safety, and security. "Trauma occurs," he wrote, "when one loses the sense of having a safe place to retreat within or outside oneself to deal with frightening emotions or experiences" (p. 31). Janoff-Bulman and Frieze (1983) described the same phenomenon from a social cognition perspective. They noted that trauma victims "no longer perceive themselves as safe and secure in a benign environment" because they "have experienced a malevolent world" (p. 5).

Trauma victims' sense of being without sanctuary in a world filled with malevolent forces is often compounded by actual failures of social support networks and by the social withdrawal of those on whom the victims have relied for support. People often react to victims by rejecting them. Some people are unsympathetic because they see victims as somehow responsible for their fate (Lerner, 1970; Ryan, 1971). Others do not want to associate with victims because they perceive them as "losers" (Bard & Sangrey, 1979). Still others perceive victims as depressed and therefore unpleasant to be with (Coates, Wortman, & Abbey, 1979). These and various other reactions can confirm and amplify victims' subjective feelings of isolation and so become obstacles to recovery from psychological trauma.

Homelessness, like other traumas, may produce a psychological sense of isolation or distrust as well as the actual disruption of social bonds. Anecdotal accounts (e.g., Hirsch, 1989; Kozol, 1988) reveal how becoming homeless strips people of most of their accustomed social roles. In most cases, homeless people can no longer fulfill their obligations as workers, neighbors, friends, or caregivers (Kozol, 1988). Many shelters and transitional facilities separate husbands from wives and teenage boys from their parents (Molnar, 1989), thereby diminishing the opportunities for homeless people, particularly family

members, to perform their accustomed social roles. Patterns of relating to others, developed over a lifetime, are interrupted. Homeless people can lose faith in their own ability to care for themselves and in the willingness of others to help them, and may develop an abiding sense of distrust of others.

A number of empirical studies have provided evidence that social disaffiliation, a core feature of psychological trauma, is characteristic of many homeless individuals. Some researchers have suggested that social disaffiliation often precedes homelessness. Studies conducted in three cities demonstrated that homeless respondents were nearly twice as likely never to have married than were respondents who were not homeless (Farr, Koegel, & Burnam, 1986; Fischer, Shapiro, Breakey, Anthony, & Kramer, 1986; Roth, Bean, Lust, & Seveanu 1985). In another study comparing 536 domiciled and homeless persons in Chicago, Sosin, Colson, and Grossman (1988) found that the homeless respondents were more likely to have experienced out-of-home placement as children and were more likely to have lived alone as adults than had their domiciled counterparts.

Other research evidence, particularly in the area of family homelessness, suggests that homelessness may also precipitate or exacerbate feelings of interpersonal distrust and foster social isolation. In a recent study comparing the quantity and quality of social relationships among a sample of 50 homeless mothers and 50 housed mothers receiving Aid to Families with Dependent Children (AFDC), Goodman (in press) found that the homeless women scored significantly lower on a measure of degree of trust of others as sources of help. Although the relationship between homelessness and distrust revealed in this study was correlational rather than causal, qualitative sections of respondent interviews support the idea that a large proportion of the homeless mothers felt less able to trust others because they had not been protected from homelessness by friends, relatives, and social service providers.

Further evidence comes from a comparison of two studies, each of which investigated the social networks of homeless mothers at different points in the transition to homelessness. Shinn et al. (1989, 1991) found that newly homeless mothers (i.e., those making first-time requests for shelter) were actually more likely than housed mothers on AFDC to have a living mother, grandmother, or close relative and to have seen these contacts recently. In contrast, Bassuk and Rosenberg (1988) found that mothers who had been homeless for a longer period of time reported significantly fewer supports than did their housed counterparts. When asked to name up to three individuals on whom they could count in times of stress, 74% of the housed and only 26% of the homeless women were able to name three adults. A comparison of these studies reveals relatively higher levels of social isolation among mothers who have spent time in shelters than among women just entering the shelter system, suggesting that homelessness may precipitate or coincide with a rapid disintegration of social networks.

Learned Helplessness

Although Van der Kolk (1987a) emphasized the relational ruptures wrought by a traumatizing event or series of events, other researchers have stressed the sense of helplessness that often ensues from such events (e.g., Flannery, 1987; Peterson & Seligman, 1983; Walker, 1978; Wilson, Smith, & Johnson, 1985). These authors viewed the sense of helplessness as a core element of psychological trauma and used the construct of learned helplessness (e.g., Seligman, 1975) to understand the diminished sense of efficacy and self-worth that is prevalent among trauma victims (Figley & McCubbin, 1983; Walker, 1978). People are said to experience learned helplessness, a phenomenon that is often accompanied by profound depression, when they lose the belief that their own actions can influence the course of their lives (Seligman, 1975). Research indicates that learned helplessness is most likely to occur when people hold themselves personally responsible for their situations, perceive the situations as long-term, or believe that the situations are caused by global rather than specific factors (Garber & Seligman, 1980). However, it should be noted that some behaviors that appear to reflect learned helplessness may actually be adaptive responses to an environment that does not offer alternatives to continued victimization (Flannery & Harvey, 1991).

Behaviors indicative of learned helplessness may be consequences of homelessness because, like other traumas, becoming homeless frequently renders people unable to control their daily lives. Homeless people, whether they live in the streets, in cars, in shelters, in welfare hotels, or in other temporary accommodations, experience daily assaults on their sense of personal control. They may depend on help from others to fulfill their most basic needs, such as eating, sleeping, keeping clean, guarding personal belongings, and caring for children. Although the poverty that precedes most homelessness (Rossi, 1990) is itself likely to engender feelings of homelessness and depression (e.g., Holzer et al., 1986), homelessness, by adding a new dimension of deprivation, is likely to greatly exacerbate these feelings.

Although researchers have not yet directly investigated the extent of learned helplessness among homeless people, they have documented high rates of depression, a component of learned helplessness, among the homeless. For example, in Breakey et al.'s (1989) survey of homeless people in Baltimore, affective disorders were the most frequently identified *DSM-III-R* Axis I diagnoses other than substance abuse. In a study of homeless women in New York City, D'Ercole and Struening (1990) reported that on a commonly used measure of depression, their respondents obtained a mean score well above that used as a cutoff for clinical depression. These findings are not proof that homelessness leads to depression, as depression has also been shown to precede homelessness (see Breakey et al., 1989; Koegel, Burnam, & Farr, 1988). However, they are consistent with the theory that becoming homeless and living in a shelter can exacerbate a person's sense of helplessness and thus heighten the risk of depression.

Anecdotal accounts provide further support. In a poignant description of homeless families in New York City shelters and hotels, Kozol (1988) recorded one mother's sense of helplessness and despair:

There's a crucifix on the wall. I ask her: "Do you pray?" "I don't pray! Pray for what? I been prayin' all my life and I'm still here. When I came to this hotel I still believed in God. I said: 'Maybe God can help us to survive.' I lost my faith. My homes. And everything. Ain't nobody—no God, no Jesus—gonna help us in no way. God forgive me. I'm emotional . . . I'm scared to sleep. If I eat, I eat one meal a day. My stomach won't allow me. I have ulcers. I stay in this room. I hide." (p. 67)

Learned helplessness theory suggests that the real absence of control in the lives of homeless people eventually can engender a generalized passivity. The ongoing experience of helplessness may lead to an apparent unwillingness on the part of some homeless people to fight for themselves or to utilize the often meagre services available to them. Some may come to view their daily difficulties with apparent indifference, as if they do not expect to move into better circumstances, whereas others may become overly dependent on social service or mental health professionals. In either case, as the stressors inherent in being homeless persist, feelings of helplessness and the passivity these feelings engender can become entrenched and pervasive (Flannery, 1987).

Trauma Histories Among Homeless People

A growing body of literature suggests that a significant proportion of homeless people, especially women, have histories of traumatic victimization. In an investigation of the rates of victimization experiences among homeless women with and without children in New York City (D'Ercole & Struening, 1990), 43% of 141 respondents reported being raped by a family member or other adult, 74% reported being physically abused, and 25% reported being robbed. In a study comparing homeless and housed mothers in Boston, Bassuk and Rosenberg (1988) found that 41% of the homeless and only 5% of the housed respondents reported physical abuse in their childhoods; 41% and 20% respectively reported that they had been battered in at least one adult relationship. And in a study comparing newly homeless and housed mothers in New York City, Shinn, Knickman, and Weitzman (1989, 1991) found that 11.4% of the shelter requesters, compared with only 6.5% of the housed mothers, reported childhood histories of physical abuse; 9.9% and 4.2%, respectively, reported childhood sexual abuse; and 27% and 16.6%, respectively, reported having been abused or threatened as adults.

Finally, in a recent study comparing the prevalence of histories of physical and sexual abuse among 50 homeless mothers and 50 housed mothers receiving AFDC in two New England cities, Goodman (1991) found that although there were no significant differences between the two groups on three of the four types of abuse investigated, the prevalence of abuse among both groups was extraordinarily high. Fifty-seven percent of the total sample re-

ported having been physically abused in childhood, 46% reported having been sexually abused in childhood, 67% reported adult physical abuse, and 37% reported adult sexual abuse. Indeed, 89% of the total sample had experienced some form of physical or sexual abuse in their lifetimes.

Many homeless women may therefore bring symptoms of psychological trauma to their new circumstances. Some may present with clear diagnoses of PTSD, others with histories of alcohol and substance abuse, and still others may suffer from social disaffiliation and learned helplessness. Thus, even when becoming homeless or living under the extraordinary stress of shelter life do not produce symptoms of psychological trauma, homeless people may nevertheless manifest such symptoms. For these people, homelessness may exacerbate existing psychological difficulties and complicate the recovery process. The traumatic effects of abuse and homelessness may compound each other to produce even greater psychological damage.

Treatment and Policy Implications

Viewing homelessness as a psychologically traumatic experience has a number of implications for psychologists and other mental health practitioners. Given that the presence and severity of psychological trauma depends in large part on community response to victims and the overall environment in which they function (see, e.g., Green et al., 1985), improving the psychosocial conditions of shelter life could mitigate or even prevent the development or exacerbation of psychological trauma.

In this section, we offer some examples of services and systemic interventions that might result from the application of trauma theory to the understanding of homelessness. Several of the examples we cite are drawn from initiatives that have been undertaken by innovative shelter providers throughout the country (Goodman, 1989). Shelters and other settings in which homeless individuals and families reside and function must promote social connections among homeless people and between homeless people and their communities. Routines must be developed that ensure safety, offer support, encourage mastery, and preserve, enhance, or restore feelings of self-worth and efficacy. Such efforts should be part of a comprehensive service program that includes, at minimum, case management (to coordinate services and link them with the housing search process), job training, child care, medical care, substance abuse treatment, psychological and educational services for children, and transportation to needed services (Bassuk, Carman, & Weinreb, 1990).

Several caveats to this discussion should be noted. First, because researchers have not yet addressed the processes by which homelessness affects people, and systematic studies of programs for homeless individuals and families have not been conducted (Saxe & Goodman, 1990), the suggestions that follow are offered tentatively, as guidelines for services and interventions that should

be tested empirically for their effectiveness. Second, these suggestions are not aimed at homeless people who suffer from major mental illnesses such as schizophrenia, as they are likely to require a more specialized array of services. Third, the present discussion focuses on homeless people in emergency or transitional shelters rather than on those who live on the streets or stay with friends. Fourth, the specific effects of homelessness on children are not addressed here, although children may suffer most from the deleterious conditions of shelter life (Bassuk & Rosenberg, 1990; Bassuk, Rubin, & Lauriat, 1986; Molnar, Klein, Knitzer, & Ortiz-Torres, 1988; Rafferty & Rollins, 1989). Finally, although the following comments focus on improving shelter conditions, people who have suffered the trauma of homelessness may continue to need psychological and other supportive services even after they regain permanent housing.

Social Support

As we noted earlier, many homeless people experience actual disruption of their social bonds as well as feelings of distrust and existential separateness. Researchers have demonstrated that positive social support following a traumatic event can help victims reestablish psychological well-being by enhancing self-esteem and a sense of connection to others (e.g., Janoff-Bullman & Frieze, 1983; Van der Kolk, 1987c). Furthermore, without a support network on which to rely in times of crisis, homeless people may have more difficulty returning to permanent housing and are at higher risk for repeated episodes of homelessness. Helping homeless individuals and families reestablish their relationships and their links to the community will enable them to take full advantage of housing opportunities when these arise.

As a first step, every attempt should be made to help homeless individuals and families enter shelters in their own communities. The effort and expense of travel can impede the maintenance of social ties among homeless people who are removed from their neighborhoods. Physical distance may engender a sense of psychological distance that increases the sense of isolation. Shelter providers should encourage and help homeless residents maintain social networks, thereby building on strengths rather than focusing on deficits (Bassuk, 1990). In many cases, homeless people will have stayed with relatives before becoming homeless, straining and sometimes even exhausting these ties (see, e.g., Shinn et al., 1989, 1991). Once the daily pressure of living together is lifted, social bonds often can be rejuvenated (Goodman, 1989).

Service providers must also help create a sense of interdependence and community within shelters. Staff should ensure that the shelter environment is physically safe and secure, because violence, substance abuse, and other disturbances in the shelter may inhibit occupants from establishing or maintaining social connections. Further, shelter staff can facilitate formal and informal opportunities for residents to share common experiences and develop a sense of mutuality and trust. Comfortable common rooms, such as kitchens or dining rooms, allow

residents to congregate and talk, play games, or share housing information. Peer support groups offer more formal opportunities for building supportive relationships. As Van der Kolk (1987c) noted, "Often fellow victims provide the most effective short-term bond because the shared history of trauma can form the nucleus for retrieving a sense of communality" (p. 154). Group members can learn not only that others are trustworthy, but also that they themselves are useful to other people. These groups may be especially helpful to people with abuse histories who need a safe place in which to reveal past experiences (Browne, 1990). Groups may continue even after shelter guests move into permanent housing, thereby supplementing other attachments in the community.

Finally, shelter staff should make every effort to involve residents of local communities in working with their homeless neighbors. Most shelters for homeless individuals and families are not staffed by residents of the immediate neighborhood, because community members are often fearful, distrustful, or even hostile. As a result, homeless people in shelters are stigmatized and further isolated. Some shelters have been successful in enlisting the help of local community members, especially volunteers residing in the same area in which the homeless people formerly lived (Goodman, 1989). These volunteers can help reintroduce homeless individuals into the community.

Personal Control

In addition to enhancing homeless people's sense of community, interventions should be designed to reduce helplessness and increase a sense of personal control. Although some trauma researchers have addressed the importance of helping victims alter their beliefs concerning their own helplessness (e.g., Hartman & Burgess, 1985), others have emphasized the need to make real changes in the post-trauma environment (e.g., Flannery, 1987). In the case of homelessness, we propose that individuals must not only be helped to develop the internal resources to cope with stressful conditions, but also must be provided with as much real control as possible in order to increase autonomy and reduce the possibility of perpetuating traumatic conditions.

For example, shelter residents should have as much of the responsibility for organizing shelter life as they are able and willing to take. Within reasonable limits, residents should negotiate shelter rules among themselves. These rules might govern visiting hours, eating and sleeping times, who may visit the shelter, how and to what extent shelter residents should cooperate in performing chores (such as meal preparation and child-care tasks), and even how shelter funds should be spent. Meetings might also be held to plan upcoming events, to share housing information, or to discuss emerging shelter problems or conflicts.

To help shelter residents gain some control in the world outside the shelter, service providers should give residents as much information as possible about their entitlement to benefits. Shelter staff, moreover, should

collaborate with residents to develop a feasible set of goals, often called a *service plan*, based on clients' needs and wishes and on available resources (Bassuk, 1990). Such a plan should include a reasonable strategy for obtaining permanent housing. Kozol (1988), in his account of homeless families in New York, described the sense of futility and despair that homeless people experience when their goals and daily activities are imposed by unreasonable bureaucracies. For example, they may spend their days searching for an affordable apartment that they know does not exist, driven by the fear that their benefits will be cut if they do not try. Impossible requirements such as these should be eradicated and replaced by goals generated by the clients that are consistent with available services and resources.

Finally, to ensure that available resources actually reach the intended clients, case management should be made available to all shelter residents who may be vulnerable to falling through the cracks of an increasingly complex and fragmented service delivery system. These case managers should be ready to assume a variety of roles including "that of service broker, counselor, ombudsman, and advocate" (Bassuk, 1990, p. 25).

Conclusion

Most discussions of the mental health issues associated with homelessness address intrapsychic and interpersonal risk factors for homelessness. The psychological effects of losing one's home and entering the ranks of the homeless are less well understood. Given the suggestive research evidence presented in this article and the implications of psychological trauma theory, we believe that many homeless individuals and families may be suffering both short- and long-term psychological devastation wrought by homelessness itself. This disturbing but as yet inconclusive evidence makes a more systematic research approach imperative. To assess accurately the unique psychological effects of homelessness, researchers should use an ecological framework (Bronfenbrenner, 1979; Koss & Harvey, 1991; Milburn & D'Ercole, 1991; Toro et al., 1991) that examines individual outcomes in the context of prior psychological resources, social context (including ethnic or racial membership, family and community support, and political climate), community response to homeless individuals and families, and the nature of the recovery environment developed in shelters. Furthermore, for their findings to be useful to service providers and policymakers, researchers should seek to identify the special characteristics or resources of those who respond adaptively to the trauma of homelessness and should examine the nature of recovery environments that seem to prevent or mitigate negative outcomes.

There is widespread agreement that services to the homeless severely mentally ill population must be comprehensive and coordinated and provide for clients' mental health, housing, and support needs (Levine & Rog, 1990). Our analysis suggests that coordinated and comprehensive services should be offered to all people who reside in emergency and transitional shelters. Further,

mental health consultation from clinicians and community and social psychologists is essential in the early stages of shelter planning. Training programs should be developed to help shelter staff work effectively with homeless people with diverse needs, many of whom may be suffering from social disaffiliation, learned helplessness, and other aspects of psychological trauma. Such programs increase knowledge and enhance skills among service providers and provide support to staff, thus reducing burnout and high turnover rates (Bassuk, 1990). Involvement of mental health practitioners may lead to shelters that are better designed to empower and support those who must suffer through the indignities of being without a home.

REFERENCES

- American Psychiatric Association. (1987). *Diagnostic and statistical manual of mental disorders* (3rd ed. rev.). Washington DC: Author.
- Bard, M., & Sangrey, D. (1979). *The crime victim's book*. New York: Basic Books.
- Bassuk, E. L. (1990). General principles of family-oriented care: Working effectively with clients. In E. L. Bassuk, R. W. Carman, & L. F. Weinreb (Eds.), *Community care for homeless families: A program design manual* (pp. 25-31). Washington, DC: Interagency Council on the Homeless.
- Bassuk, E. L., Carman, R. W., & Weinreb, L. F. (1990). *Community care for homeless families: A program design manual*. Washington, DC: Interagency Council on the Homeless.
- Bassuk, E. L., & Rosenberg, L. (1988). Why does family homelessness occur? A case control study. *American Journal of Public Health, 78*, 1097-1101.
- Bassuk, E. L., & Rosenberg, L. (1990). Psychosocial characteristics of homeless children and children with homes. *Pediatrics, 85*, 257-261.
- Bassuk, E. L., Rubin, L., & Lauriat, A. (1986). Characteristics of sheltered homeless families. *American Journal of Public Health, 76*, 1097-1101.
- Bowlby, J. (1969). *Attachment and loss: Vol. 1. Attachment*. New York: Basic Books.
- Bowlby, J. (1973). *Attachment and loss: Vol. 2. Separation*. New York: Basic Books.
- Breakey, W. R., Fischer, P. J., Kramer, M., Nestadt, G. N., Romanoski, A. J., Ross, A., Royall, R. M., & Stine, O. C. (1989). Health and mental health problems of homeless men and women in Baltimore. *Journal of the American Medical Association, 262*, 1352-1357.
- Bronfenbrenner, U. (1979). *The ecology of human development: Experiments by nature and design*. Cambridge, MA: Harvard University Press.
- Browne, A. (1990). Family violence and homelessness. In E. L. Bassuk, R. W. Carman, & L. F. Weinreb (Eds.), *Community care for homeless families: A program design manual* (pp. 119-128). Washington, DC: Interagency Council on the Homeless.
- Coates, D., Wortman, C. B., & Abbey, A. (1979). Reactions to victims. In I. H. Frieze, D. Bar-Tal, & J. S. Carroll (Eds.), *New approaches to social problems: Applications of attribution theory* (pp. 21-52). San Francisco: Jossey-Bass.
- D'Ercole, A., & Struening, E. (1990). Victimization among homeless women: Implications for service delivery. *Journal of Community Psychology, 18*, 141-152.
- Dohrenwend, B. P., & Dohrenwend, B. S. (1974). *Stressful life events: Their nature and effects*. New York: Wiley.
- Farr, R. P., Koegel, P., & Burnam, A. (1986). *A study of homelessness and mental illness in the Skid Row Area of Los Angeles*. Los Angeles: County Department of Mental Health.
- Figley, C. R. (1985a). From victim to survivor: Social responsibility in the wake of a catastrophe. In C. R. Figley (Ed.), *Trauma and its wake: The study and treatment of post-traumatic stress disorder* (pp. 398-415). New York: Brunner-Mazel.
- Figley, C. R. (Ed.). (1985b). *Trauma and its wake: The study and treatment of post-traumatic stress disorder*. New York: Brunner-Mazel.

- Figley, C. R., & McCubbin, H. I. (Eds.). (1983). *Stress in the family: Volume II. Coping with catastrophe*. New York: Brunner-Mazel.
- Fischer, P. J., Shapiro, S., Breakey, W. R., Anthony, J. C., & Kramer, M. (1986). Mental health and social characteristics of the homeless: A survey of mission users. *American Journal of Public Health*, 76, 519-524.
- Flannery, R. (1987). From victim to survivor: A stress management approach in the treatment of learned helplessness. In B. A. Van der Kolk (Ed.), *Psychological trauma* (pp. 217-233). Washington, DC: American Psychiatric Press.
- Flannery, R., & Harvey, M. (1991). Psychological trauma and learned helplessness: Seligman's paradigm reconsidered. *Psychotherapy*, 28, 374-378.
- Garber, D. S., & Seligman, M. E. P. (1980). *Human helplessness*. New York: Academic Press.
- Goodman, L. A. (1989). *Community of Hope*. Unpublished manuscript.
- Goodman, L. A. (1991). The prevalence of abuse in the lives of homeless and housed poor mothers: A comparison study. *American Journal of Orthopsychiatry*, 61, 489-500.
- Goodman, L. A. (in press). The relationship between social support and family homelessness: A comparison study of homeless and housed mothers. *Journal of Community Psychology*.
- Green, B. L., Wilson, J. P., & Lindy, J. D. (1985). Conceptualizing post-traumatic stress disorder: A psycho-social framework. In C. R. Figley (Ed.), *Trauma and its wake: The study and treatment of post-traumatic stress disorder* (pp. 53-69). New York: Brunner-Mazel.
- Hartman, C. R., & Burgess, A. W. (1985). Illness-related post-traumatic stress disorder: A cognitive behavioral model of intervention with heart attack victims. In C. R. Figley (Ed.), *Trauma and its wake: The study and treatment of post-traumatic stress disorder* (pp. 338-355). New York: Brunner-Mazel.
- Harvey, M. R. (1991). *An ecological approach to the treatment of trauma victims*. Manuscript submitted for publication.
- Hirsch, K. (1989). *Songs from the alley*. New York: Ticknor & Fields.
- Holzer, C., Shea, B., Swanson, J., Leaf, P., Myers, J., George, L., Weissman, L., & Bednarski, P. (1986). The increased risk for specific psychiatric disorders among persons of low socioeconomic status. *The American Journal of Social Psychiatry*, 6, 259-271.
- Institute of Medicine. (1988). *Homelessness, health, and human needs*. Washington, DC: National Academy Press.
- Janoff-Bulman, R., & Frieze, I. H. (1983). A theoretical perspective for understanding reactions to victimization. *Journal of Social Issues*, 39(2), 1-17.
- Koegel, P., Burnam, A., & Farr, R. K. (1988). The prevalence of specific psychiatric disorders among homeless individuals in the inner city of Los Angeles. *Archives of General Psychiatry*, 45, 1085-1092.
- Koss, M. P., & Harvey, M. R. (1991). *The rape victim. Clinical and community interventions* (2nd ed.). Newbury Park, CA: Sage.
- Kozol, J. (1988). *Rachel and her children: Homeless families in America*. New York: Ballantine Books.
- Lerner, M. (1970). The desire for justice and reactions to victims: Social psychological studies of some antecedents and consequences. In J. Macaulay & L. Berkowitz (Eds.), *Altruism and helping behavior* (pp. 205-229). San Diego, CA: Academic Press.
- Levine, I. S., & Rog, D. J. (1990). Mental health services for homeless mentally ill persons: Federal initiatives and current service trends. *American Psychologist*, 45, 963-968.
- Milburn, N., & D'Ercole, A. (1991). Homeless women: Moving toward a comprehensive model. *American Psychologist*, 46, 1161-1169.
- Molnar, J. (1989, August). *A developmental profile of children and families in poverty*. Paper presented at the 97th Annual Convention of the American Psychological Association, New Orleans, LA.
- Molnar, J., Klein, T., Knitzer, J., & Ortiz-Torres, B. (1988). *Home is where the heart is: The crisis of homeless children and families in New York City*. New York: Bank Street College of Education. (ERIC Document Reproduction Service No. ED 304 228)
- Peterson, C., & Seligman, M. E. P. (1983). Learned helplessness and victimization. *Journal of Social Issues*, 2, 103-116.
- Rafferty, Y., & Rollins, N. (1989). *Learning in limbo: The educational deprivation of homeless children*. New York: Advocates for children of New York, Inc.
- Rivlin, L. G. (1986, Spring). A new look at the homeless. *Social Policy*, 3-10.
- Robins, L. (1981). National Institute of Mental Health Diagnostic Interview Schedule. *Archives of General Psychiatry*, 38, 381-389.
- Robins, L., & Helzer, J. (1984). *PTSD section for the Diagnostic Interview Schedule*. Unpublished manuscript, Washington University, St. Louis, MO.
- Rossi, P. H. (1990). The old homeless and the new homelessness in historical perspective. *American Psychologist*, 45, 954-959.
- Rossi, P. H., Wright, J. D., Fisher, G. A., & Willis, G. (1987). The urban homeless: Estimating composition and size. *Science*, 235, 1336-1341.
- Roth, D., Bean, J., Lust, N., & Seveanu, T. (1985). *Homelessness in Ohio: A study of people in need*. Columbus: Ohio Department of Mental Health.
- Ryan, W. (1971). *Blaming the victim*. New York: Vintage Books.
- Saxe, L., & Goodman, L. (1990). Research issues for homeless families. In J. P. Morrissey & D. L. Dennis (Eds.), *Homelessness and mental illness: Toward the next generation of research studies* (pp. 88-93). Washington, DC: National Institute of Mental Health.
- Seligman, M. E. P. (1975). *Helplessness: On depression, development and death*. San Francisco: Freeman.
- Shinn, M., Knickman, J., & Weitzman, B. (1989, August). *Social relationships and vulnerability to becoming homeless among poor families*. Paper presented at the 97th Annual Convention of the American Psychological Association, New Orleans, LA.
- Shinn, M., Knickman, J. R., & Weitzman, B. C. (1991). Social relationships and vulnerability to becoming homeless among poor families. *American Psychologist*, 46, 1180-1187.
- Smith, E. (1991). [Patterns of alcoholism in subsamples of the homeless]. Unpublished raw data.
- Sosin, M. R., Colson, P., & Grossman, S. (1988). *Homelessness in Chicago: Poverty and pathology, social institutions and social change*. Chicago: University of Chicago School of Social Service Administration.
- Sosin, M. R., Piliavin, I., & Westerfelt, H. (1991). Toward a longitudinal analysis of homelessness. *Journal of Social Issues*, 46(4), 157-174.
- Toro, P. A., Trickett, E. J., Wall, D. D., & Salem, D. A. (1991). Homelessness in the United States: An ecological perspective. *American Psychologist*, 46, 1208-1218.
- U.S. Conference of Mayors. (1986). *The continued growth of hunger, homelessness, and poverty in America's cities*. Washington, DC: Author.
- U.S. Conference of Mayors. (1987). *Status report on homeless families in America's cities: A 29-city survey*. Washington, DC: Author.
- U.S. General Accounting Office. (1988). *Homeless mentally ill: Problems and options in estimating numbers and trends*. Washington, DC: Author.
- U.S. General Accounting Office. (1989). *Homelessness: Homeless and runaway youth receiving services at federally funded shelters*. Washington, DC: Author.
- Van der Kolk, B. A. (Ed.). (1984). *Post-traumatic stress disorder: Psychological and biological sequelae*. Washington, DC: American Psychiatric Press.
- Van der Kolk, B. A. (1987a). The psychological consequences of overwhelming life experiences. In B. A. Van der Kolk (Ed.), *Psychological trauma* (pp. 1-31). Washington, DC: American Psychiatric Press.
- Van der Kolk, B. A. (Ed.). (1987b). *Psychological trauma*. Washington, DC: American Psychiatric Press.
- Van der Kolk, B. A. (1987c). The role of the group in the origin and resolution of the trauma response. In B. A. Van der Kolk (Ed.), *Psychological trauma* (pp. 153-172). Washington, DC: American Psychiatric Press.
- Walker, L. E. (1978). Battered women and learned helplessness. *Victimology*, 2, 525-534.
- Wilson, J. P., Smith, W. K., & Johnson, S. K. (1985). A comparative analysis of PTSD among various survivor groups. In C. R. Figley (Ed.), *Trauma and its wake: The study and treatment of post-traumatic stress disorder* (pp. 142-172). New York: Brunner-Mazel.
- Wood, D., Valdez, B., Hayashi, T., & Shen, A. (1990). Homeless and housed families in Los Angeles: A study comparing demographic, economic, and family function characteristics. *American Journal of Public Health*, 80, 1049-1052.

STRICKEN

APPENDIX D

Community Behavioral Services

Psychological Forensic Services
1212 NW 12th Avenue, Suite B
Gainesville, FL 32601
(352) 372-6645
Fax: (352) 373-1237
Email: combehserv@gmail.com

Harry Krop, Ph.D., Director
Licensed Psychologist

May 11, 2021

Linda McDermott, Esquire
Chief Assistant, Capital Habeas Unit
227 North Bronough
Suite 4200
Tallahassee, FL 32301

RE: STEVEN STEIN
CASE NO(S): 3:09 CV 1162-MMH-PDV

Dear Ms. McDermott:

Pursuant to your request, I have reviewed my file from my psychological evaluation of Mr. Stein in 1991. It appears that I was initially asked by his attorney, Jefferson Morrow, to evaluate Mr. Stein to assess his Competency to Proceed. To this purpose, I met with Mr. Stein on April 10, 1991 and provided a report to counsel on that same date indicating that he was Competent and that I saw no evidence to support the use of an insanity defense. I did note that if Mr. Morrow requested any further assessment to explore possible mitigating factors, I would need to see Mr. Stein again, speak to family members, and review additional materials including school records, medical records, and all depositions. Accordingly, I was requested to conduct an additional evaluation to pursue an exploration of possible mitigating factors and, accordingly, I met with Mr. Stein on May 23 and June 13, 1991. I also briefly spoke to Christine Moss, Mr. Stein's girlfriend as well as his sister, Sandy Griffin.

While it appears that I was provided some police reports, I was not provided with additional materials relating to Mr. Stein, such as school records, medical records, adoption records (Mr. Stein and his sister informed me he was adopted), employment records, and depositions. I would expect that these types of background materials were easily obtainable and, based on my vast experience with death penalty cases, are usually necessary to provide opinions with regard to mitigation issues. Notably, I was not asked to administer neuropsychological testing which could certainly be helpful to determine the presence, nature, and severity of any cognitive dysfunction. A neuropsychological assessment is often relevant in determining whether there are underlying neurological issues which may have contributed to the Defendant's behavior. In this regard, evidence of neurocognitive deficits, particularly frontotemporal impairment, has a significant effect on an individual's impulse control, judgment, problem solving, and other executive functions. This testing would likely have been especially informative in that both Mr. Stein and his sister reported a history of head injuries which included falling and hitting his head on a concrete floor in 1984, resulting in a loss of consciousness and, according to Mr. Stein, significant

STEIN, Steven

May 11, 2021

Page 2

sequelae. Mr. Stein also informed this examiner that he had been in an auto accident in 1986 during which he possibly sustained a head injury requiring hospitalization.

Mr. Stein also reported prior psychological intervention by a Dr. McFarland, a psychiatrist in Phoenix. He was not provided medication by Dr. McFarland and although he saw him 10-12 times, no records were ever provided for my review. Other areas of possible mitigation to be explored were the Defendant's history of alcohol and substance abuse and the Defendant's mood disturbance around the time of the crime as he was about to become homeless. Mr. Stein reported that around the time in question, he was drinking at least a twelve pack of beer, noting that he had consumed at least 2-3 beers around the time of the alleged offense. He had also been using crystal meth for a 2-3 year period as well as marijuana. In my final meeting with Mr. Stein, he expressed remorse for the crime, which appeared to be genuine.

Please note that I did not author a final report and I did not document any opinions or conclusions as I was likely waiting for additional background materials that I had requested. There is no notation in my file to indicate any substantive conferences or consultations with trial counsel.

I hope this information is informative but please do not hesitate to contact me if I can provide any additional information.

The opinions and recommendations expressed in this report reflect my conclusions based upon the currently available information. Additional information or new facts might significantly alter my professional opinion and/ or change my recommendations. Please be advised my opinions are offered with a reasonable degree of psychological certainty and are independent of the requesting agent.

Harry Krop Ph.D.

Harry Krop, Ph.D.

Licensed Psychologist

FL License No. PY2364

HK/vb/ha

STRICKEN

APPENDIX E

Barry M. Crown, Ph.D. and Associates, P.A.

105 E. Gregory Square – Suite 2A

Pensacola, Florida 32502

Telephone: (850) 439-5550 Fax: 1 (877) 483-4856

bmcrown@barrycrown.com

April 9, 2021

Katherine A. Blair, Esq.
Office of the Federal Public Defender
227 N. Bronough Street – Suite 4200
Tallahassee, FL 32301

RE: Steven Stein

Dear Ms. Blair:

At your request I have reviewed various records and documents pertaining to Mr. Steven Stein (March 6, 1968).

I had previously examined Mr. Stein at the Union Correctional Institution on December 1, 1995. I still have those examination records in my possession. Findings of that examination indicate a neuropsychological impairment (brain damage).

On December 15, 1995, I executed a sworn affidavit indicating that it was essential that, because Mr. Stein was adopted, it was essential to obtain biological parent and birth records. I had previously concluded that Mr. Stein's brain damage may very well have been the result of prenatal, perinatal and other early conditions, including those with a genetic or genetic mutation injury.

I have also now reviewed a packet of records of Mr. Stein's early life through adolescence and young adulthood.

In Miami: 9990 S.W. 77th Avenue – Suite 301, Miami, FL 33156 Telephone: (305) 665-0771

RE: STEIN, Steven – Page 2

His biological mother was only 16 years old, used drugs, consumed alcohol, and received little to no prenatal care. The biological father was 22 years old. Mr. Stein was named “David “ and placed for adoption. He wound up in multiple foster homes because of health consideration, before being adopted by an older couple. At about age 8, he moved from New Jersey to Arizona with his family which included a sister.

He was distant from his family as he grew up, hung out with the “wrong crowd”, drank alcohol and used drugs and engaged in juvenile activities. He apparently felt alienated and sought a group to identify with.

Mr. Stein was involved in two accidents that left him with facial and head injuries including to the orbits. He likely had concussions which went undiagnosed as was the practice of the time. Similarly, there was no exploration of a possible frontal orbital injury.

He dropped out of school, but did receive a GED. His lowest score was in mathematics at the 37th percentile while his social studies score was at the 98th percentile. The low mathematics score reflects an inability to deal with the abstraction and reasoning details inherent in mathematical manipulations. Social studies requires little of this and requires memory and recall.

Based upon my current review, Mr. Stein is likely to have experienced Fetal Alcohol Syndrome which over time has become Fetal Alcohol Effects. Additionally, genetic components have not been explored.

Mr. Stein is now over 50 years old. At this time, further exploration of fetal alcohol components as well as genetic components should be explored. Neuropsychological testing was well known at the time that I saw him in 1995, however the field has developed further. For example, we now know that the brain does not fully develop until young adulthood and that early injuries and early drug use have further long-term effects.

RE: STEIN, Steven – Page 3

If you have any questions or if I can be of any additional assistance, please don't hesitate to contact me.

Very Truly yours,

Barry M. Crown, Ph.D.

FL PY002131

Barry M. Crown, Ph.D.
Diplomate, American Board of
Professional Neuropsychology

Added Qualifications in
Forensic Neuropsychology
and
Developmental Disabilities

Certified Addictions Specialist

Electronically signed by Barry M. Crown, Ph.D. on April 11, 2021 at 1:26PM, CST

STRICKEN

STRICKEN

APPENDIX F

Barry M. Crown, Ph.D. and Associates, P.A.

105 E. Gregory Square – Suite 2A
Pensacola, Florida 32502
Telephone: (850) 439-5550
Fax: (877) 483-4856
bmcrown@barrycrown.com

NEUROPSYCHOLOGICAL EVALUATION

July 9, 2021

STEIN, Steven

Date Seen: June 15, 2021

Date of Birth: March 6, 1968

Current Age: 53

Steven Stein, a 53 year-old male, is seen for neuropsychological evaluation at the Union Correctional Institution. He was convicted of first-degree murder and sentenced to death. There was concern that he has brain damage resulting in neuropsychological/neurocognitive impairments.

I. SUMMARY OPINION

It is my opinion, to a reasonable degree of neuropsychological certainty, that Mr. Stein suffers from Cognitive Disorder: Not Otherwise Specified (“NOS”) and Diffuse Brain Injury with resulting neurocognitive disorder due to multiple etiologies. Mr. Stein has suffered significant insult to the brain through a combination of significant perinatal deprivations that may include Fetal Alcohol Effects (FAE) and marasmus, polysubstance abuse, and traumatic head injuries during the crucial neurocognitive developmental period: before approximately age 25. This period may be extended, particularly due to early trauma.

II. IDENTIFYING DATA

Steven Stein was born in New Jersey to a 16 year old unwed mother. He was turned over to foster care where he was moved from home to home because of nutritional and behavioral issues. He was eventually adopted by an older couple that raised him in the Jewish faith. There was also an adopted sister. The family moved to Arizona where Steven spent his childhood and adolescent years. Adoptions records and the name of his biological mother were obtained only relatively recently by his lawyers.

Mr. Stein has incurred multiple incidences of head trauma and reports several serious injuries leading to unconsciousness during his youth. He has been hospitalized for treatment of head trauma. This has been corroborated by other people’s recall and statements as well as external records.

He left school in the 11th grade, but did receive a GED. He attended automotive school, but didn't complete the program.

As an adolescent, he engaged in polysubstance use and abuse on a regular basis. His adoptive parents had difficulty controlling him. (They are now both deceased.)

He eventually made his way to Jacksonville, Florida where he was "making pizza". Prior to that, he was homeless.

He has been on Florida's death row for approximately 30 years.

Mr. Stein was originally seen by me on December 1, 1995. For unknown reasons the full test materials were not processed and the evaluation was discontinued. At the time, his abstract reasoning had an age equivalency of 11 years, 5 months. At the time his chronological age was 27.

Mr. Stein was involved in the killings at a young age and his crimes occurred during the brain developmental period.

Mr. Stein has now been incarcerated for about 30+ years. He states that he has been clean and sober.

He has gastric reflux problems for which he takes medication. He had surgery for a right knee injury and is awaiting a surgical procedure for a left shoulder injury. He is given cortisone.

He has been married and divorced and is the father of an adult female, living in California. Testing has identified cognitive impairments (organic brain damage). None of Mr. Stein's prior testing is indicative of malingering.

III. EXAMINATION PROCEDURES

A. Testing

Test of General Reasoning Ability (TOGRA); Comprehensive Trail-Making Test-2 (CTMT2); Repeatable Battery for the Assessment of Neuropsychological Status (Update RBANS-A); Rey 15 Figure Test; Sensonics Smell Test; Rey 15 Figure Test; clinical interview and behavioral observation.

The Rey 15 Figure Test is a measure of performance validity and malingering. Mr. Stein's responses were within normal limits with good effort and no indications of "faking" or malingering.

The Sensonics Smell Test was used as a Covid-19 test and as a malingering measure. It was within normal, valid limits.

B. Documents Reviewed

I have reviewed records related to Mr. Stein's legal proceedings (prior testimony) and earlier records related to adoption, diagnosis, care, and treatment were reviewed as well as affidavits.

RESULTS OF EXAMINATION

IV. INTELLECTUAL AND COGNITIVE FUNCTIONING

The Test of General Reasoning Ability placed Mr. Stein at the 75th percentile with a Standard Score of 110. This represents high-average reasoning ability in sharp contrast to his 1995 abstraction score of 11 years, 5 months.

V. NEUROPSYCHOLOGICAL FINDINGS

The Repeatable Battery for the Assessment of Neuropsychological Status produced the following profile:

| Factor | Percentile |
|-----------------------------|-------------|
| Immediate Memory | 50.0 |
| Visuospatial/Constructional | 5.0 |
| Language | 25.0 |
| Attention | 73.0 |
| Delayed Memory | 34.0 |
| TOTAL (composite) | 25.0 |

This is an impaired RBANS profile, indicative of a neuropsychological disturbance—organic brain damage. The impairments are consistent with a diffuse, long-standing impairment(s).

The Comprehensive Trail-Making Test involves visual scanning, initiation and maintenance of set, and conceptual flexibility. Mr. Stein's functioning in these areas is now within normal limits.

All of this data reveals that Mr. Stein has organic brain damage and has notable cognitive impairments which occurred during the crucial neurodevelopmental period and before the commission of his capital crime.

VI. IMPRESSIONS

Mr. Stein has a significant neuropsychological impairment (brain damage) that impacts reasoning, judgment, language-based critical thinking, and memory functions. It is my opinion, to a reasonable degree of neuropsychological certainty, that Mr. Stein suffers from **Cognitive Disorder: Not Otherwise Specified (“NOS”)**.

The appropriate diagnoses under the ICD-10 are: **Diffuse Brain Injury with resulting neurocognitive disorder due to multiple etiologies.**

These neuropsychological impairments are likely to have their origins in the perinatal or neonatal period and were further aggravated by significant head trauma and excessive polysubstance abuse beginning in adolescence and continuing through the late neurodevelopmental period. Thus, I believe that Mr. Stein’s cognitive impairments very much pre-date the offenses which led to his incarceration.

The following factors are significant for forming my professional opinion of Mr. Stein:

1) Mr. Stein’s Brain Was Injured During Childhood both by Trauma and Substance Abuse.

Mr. Stein experienced significant childhood trauma through the neglect and “abandonment” of his mother and placement in multiple foster care homes. It is clear from her affidavit that his biological mother, age 16, engaged in alcohol use during the pregnancy.

There were incidents of head trauma during adolescence.

He engaged in polysubstance abuse during the developmental period.

2) Mr. Stein Has a Significant History of Head Trauma in Adolescence and Young Adulthood.

There are reports of head trauma and head trauma with hospitalization.

3) Mr. Stein’s Brain Was Significantly Impaired and Not Fully Developed When He Committed His Crimes of Violence.

Mr. Stein was only within the brain development period when he committed the homicides. Recent neuroscientific and psychological consensus demonstrates that the brains of juveniles and young adults, especially those that are impaired by prior traumatic injury, do not operate in the same manner as that of a mature adult. Studies have shown that because brain development is not complete until at least the mid-twenties, the behavior of people in their late teens and early

twenties is markedly distinct from that of fully-matured adults. Additionally, violent or criminal behavior present in the young adult or juvenile period is considered less indicative of a life-long predisposition to violence than it is in those with fully developed brains. Further, Mr. Stein's brain would not have developed along the typical maturity pathways because of his history of early childhood trauma and adolescent polysubstance abuse (both major factors that delay, or even stunt, normal brain development).

Current neuropsychological research continues to reinforce that there are three developmental characteristics of juveniles and young adults which should influence decisions regarding punishment and culpability—their immaturity, their vulnerability, and their changeability. These characteristics render them, as a group, very different from fully-developed mature adults.

CONCLUSIONS

Current understanding of brain development is that neurodevelopment is not complete until what has been classified as late adolescence or early young adulthood. Perinatal and neonatal problems, trauma, and polysubstance abuse will typically delay neurodevelopment and can cause significant neuropsychological impairments. Additionally, head injury can cause significant impairment to neurocognitive function. This is the case for Mr. Stein. By the time Mr. Stein committed his capital crime, his brain was significantly impaired and he was suffering from severe cognitive deficits.

However, based on my clinical interview and the associated records I reviewed in Mr. Stein's case, I believe Mr. Stein has matured significantly, and has further benefitted from the safe and structured environment at Union Correctional.

It is my professional opinion that the present findings indicate that Mr. Stein has become a responsible and trusted adult despite his cognitive limitations originating very early in his development and exacerbated by both trauma and polysubstance abuse.

Barry M. Crown, Ph.D.

Barry M. Crown, Ph.D.
Diplomate, American Board of
Professional Neuropsychology

Added Qualifications in
Child and Adolescent Neuropsychology
Forensic Neuropsychology
Neurodevelopmental Disorders
Rehabilitation Neuropsychology

Certified Addictions Specialist

STRICKEN

APPENDIX G

YENYS CASTILLO, PH.D.

Clinical and Forensic Psychologist
12555 Orange Drive, Suite 234 | Davie, FL 33320 | dryenyscastillo@yahoo.com
Tel. 786-234-4579 | Fax. 786-524-5966

SUMMARY OF PRELIMINARY FINDINGS (CONFIDENTIAL)

Defendant: Mr. Steven Stein
Date of Birth: 3/6/1968 (53 years old)
Case Number: 3:09cv1162-MMH-PDB
Examiner: Yenys Castillo, Ph.D.
Document Date: 4/23/2021
Attorney: Katherine A. Blair, Esq.
Capital Habeas Unit
Office of the Federal Public Defender
227 N. Bronough Street
Suite 4200
Tallahassee, FL 32301

REFERRAL

Pursuant to the request of Katherine A. Blair, Esq., I conducted a record-based assessment of Mr. Stein to formulate preliminary opinions about the steps necessary to assess traumatic, adverse, and developmental factors that could have impacted Mr. Stein's brain functioning and behavior throughout his lifetime. The following is a preliminary report on these issues based on my evaluation to date. There is a considerable amount of data still missing in this case. Hence, my findings, inferences, and opinions are preliminary and could be supplemented or revised as new information becomes available.

SOURCES OF INFORMATION

I based my preliminary findings, inferences, and opinions on the following sources:

- Phone Conference with Attorney (3/15/2021, 1.2 hours; 4/2/2021, 18 minutes)
- Affidavit/Declaration of Jan Newhoff (3/29/2021; 10 pages)
- Life History Interview Memorandum by Nels Roderwald (4/8/2021; 9 pages)
- Steven Edward Stein Life History (7 pages; Unknown Date and Author)
- Background Information for Steven Stein by Kathy Harris, LCSW of Children's Aid & Family Services Inc. (10/4/1995; 3 pages)
- Letter to Judge Wiggins by Stanley and Estella Stein, Mr. Steven Stein's Adoptive Parents (6/27/1991; 3 pages)
- Letter to Unknown Receiver by Sandra Griffith, Mr. Steven Stein's Sister (5/7/91; 2 pages)
- Three Letters to Christie by Mr. Steven Stein (unclear date; 7 pages)
- School Transcript from Washington Elementary, Phoenix, Arizona (2 pages)
- School Transcript from Washington High School, Phoenix, Arizona (2 pages)

2 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

- Official Transcript of Arizona High School Equivalency: GED (9/18/1987; 1 page)
- Transcript from Phoenix School of Technology (1 page)
- Records by Licensed Psychologist Harry Krop, Ph.D. including Summary, Notes, and Psychological Testing Data (4/10/1991; 22 pages)
- Investigator Case Activity Summary (4 pages)
- Notes of Interview with Mr. Doug Vacha (neighbor; (1/23/2006; 1 page)
- Notes of Interview with Mr. Jason Coleman (neighbor; 1/23/2006; 1 page)
- Notes of Interview with Ms. Shanda Johnson-Mann (ex-wife; 1/23/2006; 2 pages)
- Notes of Interview with Ms. Donna Reachmack Nolz (neighbor and school acquaintance; 1/24/2006; 1 page)
- Notes of Interview with Ms. Sandy Bates (adoptive sister; 1/24/2006; 1 page)
- Notes of Interview with Mr. Rob Super (school acquaintance; 1/25/2006; 1 page)
- Notes of Interview with Mr. Michael Roinestad (childhood friend; 1/26/2006; 4 pages)
- Notes of Interview with Ms. Sari Roinestad (mother of Mr. Stein's friend Michael Roinestad; 1/26/2006; 1 page)
- Affidavit of Barry Crown, Ph.D., neuropsychologist (12/15/1995; 2 pages)
- St. Joseph's Medical Records (176 pages)

FINDINGS REGARDING ADVERSE DEVELOPMENTAL FACTORS

A substantial body of research has confirmed that developmental experience plays a critical role in a person's likelihood to abuse drugs and engage in juvenile delinquency and adult violent offending. Studies sponsored by the U.S. Department of Justice, the National Academy of Sciences, and other institutions consistently reveal that cumulative "risk" and "protective" factors largely explain people's path towards delinquency, criminality, and violence. An analysis of Mr. Stein's background revealed the **possible presence of 27 toxic formative influences or adverse developmental factors**, which can be grouped into five categories: Transgenerational, Neurodevelopmental, Family/Parenting, Community, and Disturbed Trajectory.

TRANSGENERATIONAL FACTORS (3)

Transgenerational factors act across multiple generations through genetic predispositions, sequential damage, and faulty modeling. The records I reviewed did not contain much information regarding Mr. Stein's biological inheritance except that his mother was 16 years old at his birth and stayed in a maternity home after disclosing the pregnancy to her mother. After reviewing records, I told Katherine Blair, Esq., that interviewing Mr. Stein's biological parents could help identify transgenerational factors absent from the records. Given that Mr. Stein showed an irritable temperament at birth and heredity is a risk factor for trauma, mood, and substance-use disorder, I wondered specifically whether Mr. Stein's parents endured psychological trauma, suffered family dysfunction, and used drugs. Katherine Blair, Esq., notified me that Mr. Stein's biological mother had made herself available to Mr. Stein and his legal team. The attorney further indicated that Mr. Stein's birth mother revealed a history of family dysfunction, distress, and substance use. A next step in my evaluation of Mr. Stein would involve interviewing his mother to identify factors in her family history which may have impacted Mr. Stein's

3 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

subsequent development and behavior. According to my findings, Mr. Stein's transgenerational factors were:

1. Possible transgenerational family dysfunction
2. Transgenerational family distress
3. Possible predisposition to substance abuse

Possible transgenerational family dysfunction. In her Affidavit/Declaration, Mr. Stein's mother Jan Newhoff reported being adopted by her biological uncle and his wife. When her adoptive parents divorced, Ms. Newhoff stayed with her adoptive mother. It is not clear why Ms. Newhoff was adopted, and there is no mention of other family members.

Transgenerational family distress. Maternal trauma and stress can contribute to physical, neurological, behavioral, and psychiatric problems in children. In her Affidavit, Ms. Newhoff said her adoptive parents would constantly fight and argue, and her mother attacked her father with a knife once. When Ms. Newhoff was ten or eleven years old, her parents divorced, and she stayed with her adoptive mother. Then, her mother's boyfriend, Robert Whitehurst, moved into the house and began raping her. When she disclosed the abuse, her adoptive mother dismissed her claims. So, the sexual abuse went on for the next four years, and Ms. Newhoff coped with her emotional pain by drinking heavily.

At age 15, Mr. Stein was conceived as the product of rape. Ms. Newhoff's mother sent her to get an abortion, accompanied by Mr. Whitehurst. Instead of taking her to a clinic, Mr. Whitehurst gave her two pills that caused her to bleed but did not end the pregnancy. Ms. Newhoff's mother then sent her to Door of Hope, a maternity home for girls, so she could give birth and relinquish the child for adoption. At Door of Hope, residents attended mandatory religious services where a pastor called them sinners for bearing children out of wedlock. Also, staff would not feed girls properly and would withhold food as a form of punishment. Ms. Newhoff revealed that the facility's cook took advantage of pregnant girls by exchanging food for sex. Ms. Newhoff remarked, "the stress I endured was immeasurable, from when I found out I was pregnant through my time in the maternity home."

Predisposition to Substance Abuse. Mr. Stein's birth mother reportedly admitted to his legal team that at around age 11, she began drinking alcohol excessively to the point of blacking out. There is no additional information regarding substance abuse within the maternal family.

NEURODEVELOPMENTAL FACTORS (9)

Neurodevelopmental factors are problems associated with damage to individuals' nervous systems. For instance, head injuries and chronic stress can derail brain development and functioning in children, and bring about social, educational, emotional, and legal problems. According to my findings, Mr. Stein's neurodevelopmental factors were:

1. Biological mother's lack of prenatal care

4 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

2. Maternal alcohol use, malnutrition, and exposure to second-hand smoke
3. Perinatal and postnatal complications
4. Possibly impaired executive functions
5. Possible genetic brain deficits
6. Drug use beginning in childhood
7. Head injuries during childhood and adolescence
8. Chronic stress and exposure to traumatic incidents

Biological mother's lack of prenatal care. According to the Life History document, Mr. Stein's mother began receiving prenatal care at the Door of Hope maternity home two months before his birth. In her Affidavit, Ms. Newhoff confirmed that she did not receive prenatal care prior to being sent to Door of Hope.

Maternal alcohol use, malnutrition, and exposure to second-hand smoke. Maternal malnutrition and prenatal exposure to intoxicants can lead to low birth weight, early birth, cognitive deficiencies, and behavioral difficulties in children. During the first trimester of pregnancy, alcohol use can be particularly dangerous for the brain of the developing fetus. Ms. Newhoff admitted to drinking heavily before knowing she was pregnant. Once Ms. Newhoff entered the maternity home, she became underweight because staff did not feed the girls properly and would withhold food as a form of punishment. At Door of Hope, Ms. Newhoff was also exposed to second-hand smoke, which could have resulted in birth complications and congenital disabilities.

Perinatal and postnatal complications. Ms. Newhoff recounted that during childbirth, she refused to push in an attempt to hold on to her child. She said the doctor slapped her across the face, and the nurses put pressure on her stomach. Ms. Newhoff drifted out of consciousness and had an ether mask placed over her face. According to the Background Information document, Mr. Stein's hospital discharge was delayed eight days because of jaundice. Ten days after his birth, the adoption agency sent Mr. Stein to his first foster home. There, he developed pyloric spasms that led to vomiting and irritability. He had difficulty adjusting to his surroundings and could not be comforted. He also lacked proper responses to people and objects. The doctor recommended placement with another foster family. On 4/24/1968, Mr. Stein arrived at his second foster home, where his vomiting, tenseness, and irritability diminished over time. On May 10, 1968, Stanley and Estella Stein adopted Mr. Stein. Years later, they explained in a letter to Judge Wiggins that Mr. Stein experienced health complications until age one and needed to be held to digest food.

Possibly impaired executive functions. According to the Life History document, Mr. Stein was hyperactive and sometimes unruly as a teenager. Mr. Doug Vacha said Mr. Stein would do odd spontaneous stuff like jumping on a chair. Ms. Shanda Johnson-Mann described Mr. Stein as reckless and prone to making spontaneous decisions and acting without regard for the consequences. Some of Mr. Stein's acquaintances indicated that he bought a Camaro with part of the money he obtained in a legal settlement. He then exchanged the Camaro for drugs.

5 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

Possible genetic brain deficits. Dr. Barry Crown reportedly conducted a neuropsychological evaluation of Mr. Stein on 12/15/1995. Results revealed organic brain deficits that were likely genetic. Dr. Crown requested access to adoption records to assess important prenatal and perinatal factors and form an opinion about Mr. Stein's biological and psychological makeup.

Drug use beginning in childhood. Mr. Michael Roinestad indicated that Mr. Stein smoked cigarettes daily as a teenager. According to various accounts, by age 14 or 15, Mr. Stein was using alcohol, marijuana, and acid. He drank regularly, his favorite drink being Jack Daniels. Mr. Michael Roinestad further noted that Mr. Stein would smoke marijuana throughout the day to maintain a buzz, ingesting an average of six to seven blunts. Mr. Jason Coleman corroborated that Mr. Stein used marijuana, alcohol, acid, cocaine, or anything he could get. Ms. Shanda Johnson-Mann reported being aware of Mr. Stein's marijuana and alcohol use. Mr. Doug Vacha stated that Mr. Stein was into go-fast drugs like cocaine and meth. He would also empty the contents of Quaaludes, prescription pain pills, and antianxiety pills onto a desk at school and snort them. Mr. Rob Super mentioned being aware of Mr. Stein's "meth thing." Mr. Doug Vacha and Mr. Jason Coleman observed that after the accident that claimed a friend's life, Mr. Stein self-medicated with any drug he could find. According to Mr. Jason Coleman, Mr. Stein took "a lot of pills" and became "hooked" on Demerol during this time.

Head injuries during childhood and adolescence. According to the Life History Interview Memorandum, Diana Schonberg, a former neighbor and family friend, revealed that Estella Stein dropped Mr. Stein on his head when he was a toddler. The Life History document noted that Mr. Stein fell from a couch at age ten and hit his head on concrete, losing consciousness for several minutes. In their letter to Judge Wiggins, Stanley and Estella Stein wrote that their son became moody after the fall. Mr. Pat Griffin, Sandra Stein's former husband, said Mr. Stein was once hit on the head with a baseball.

The Life History Interview Memorandum documents that Mr. Stein was involved in a series of car accidents all happening within a year. Mr. Michael Roinestad recounted that in May of 1985, he and Mr. Stein were involved in a car accident that resulted in a short hospital stay. According to Mr. Roinestad, Mr. Stein's demeanor changed after this accident as he began "throwing any caution he had before to the wind." His impulsivity reportedly worsened after a second car accident in June of 1985.

At age 17, Mr. Stein was the passenger in a car that crashed and killed Diane Faulkner, a girl with whom he had a budding romance. The Life History document mentions that Mr. Stein's head shattered the windshield. Mr. Stein was flown to St. Joseph Hospital for treatment. Information from his parents and the Life History document suggests that this accident changed his behavior.

Chronic stress and exposure to traumatic incidents. As defined in the Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (DSM-5), traumatic incidents involve exposure to actual or threatened death, serious injury, or sexual violence. Individuals can be traumatized by directly experiencing a traumatic incident or by witnessing or learning

6 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

that a traumatic incident occurred to someone close to them. According to the Life History document, at age 17, Mr. Rob Baker was driving Mr. Stein and Diane Faulkner to a birthday party. Mr. Baker reportedly lost control of his car and crashed. Mr. Stein reportedly saw his friend Diane Faulkner dead and sustained a broken jaw and collarbone. St. Joseph Hospital records confirm the extent of Mr. Stein's physical injuries. Ms. Shanda Johnson-Mann reported that after the accident, Mr. Stein felt guilty despite not being the driver. Mr. Vacha said the car accident left Mr. Stein "haunted" and "mentally wrecked." He reportedly believed that Ms. Faulkner's spirit was following him in a balloon and the hood of his car. Ms. Shanda Johnson observed that drugs and alcohol were the only things that seemed to calm Mr. Stein's acute feelings of guilt and the wish that he had died instead of Ms. Faulkner.

FAMILY AND PARENTING (6)

Family and parenting factors are problems originating in the family context. According to my findings, Mr. Stein's family and parenting factors were:

1. Abandonment by biological father and relinquished for adoption by biological mother
2. Possible emotional/psychological abuse
3. Possible emotional/psychological neglect
4. Possible educational neglect
5. Inadequate supervision and guidance
6. Possible instability of caregivers

Abandonment by biological father and relinquishment for adoption by biological mother. According to the Background Information and the Life History documents, Mr. Stein's father refused to be involved in Mr. Stein's life. Subsequently, Ms. Newhoff was forced to relinquish him for adoption. Mr. Stein did not receive information regarding the whereabouts of his birth mother until he reached adulthood. Ms. Shanda Johnson-Mann stated that Mr. Stein struggled with his adoption, and felt abandoned, unloved, and stuck with parents who were too different from him.

Possible emotional/psychological abuse. According to the Life History document, Mr. Stein was hospitalized with serious injuries at age 17 after he survived a fatal car accident. Ms. Sharon Roinestad observed that when the Steins arrived at the hospital, they expressed disapproval of their son instead of concern for his safety. According to the Life History document, Estella and Stanley Stein would often ridicule Mr. Stein for squandering his money and having to pay for his tools. Whether Mr. Stein's parents had a pattern of emotional/psychological abuse cannot be determined by these limited anecdotes. However, this is an area the merits further exploration.

Possible emotional/psychological neglect. According to Ms. Shanda Johnson-Mann, Mr. Stein's parents were not warm or involved. The Life History document mentioned that as Mr. Stein's sister began exhibiting troublesome behavior, Stanley and Estella Stein turned their attention to her, which made Mr. Stein feel abandoned. According to the same document, Mr. Stein would participate in activities he did not believe in to earn the

7 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

attention of his adoptive parents. Ms. Johnson-Mann said Mr. Stein and his parents were not attached, and Mr. Stein felt he had been given to the wrong parents.

Possible educational neglect. According to Ms. Donna Nolz, Stanley and Estella Stein did not exercise any parental control. Ms. Nolz remembered that Mr. Stein missed school a lot and once bragged that he had only attended seven weeks all year. Mr. Vacha noted that during 7th and 8th grade, Mr. Stein seemed to be out of school for most of the year. Mr. Robert Bertrand and Ms. Donna Nolz mentioned the Steins did not compel their son to stay in school.

Inadequate supervision and guidance. Diana Schonberg, a neighbor and family friend, commented that the Steins would either laugh off or ignore his emerging risky behaviors. According to various accounts, Mr. Stein's parents would allow their son to do "anything," offering inadequate supervision and guidance. Mr. Doug Vacha described them as "nonexistent." Mr. Robert Bertrand and Mr. Jason Coleman noted Mr. Stein had no chores or curfews. Various friends said they would sit with Mr. Stein, in full view of his parents, and use alcohol, marijuana, cigarettes, acid strops, and cocaine. The Steins would keep their attention on the TV and ignore the drug use. Ms. Donna Nolz noted that Estelle Stein would avoid doing things with her son. She also remembered Mr. Stein once said, "My mother doesn't make me do anything."

Possible instability of caregivers. According to the Life History and Background Information documents, Mr. Stein had multiple caregivers before age one. There is not much information regarding the mental stability of his adoptive parents. According to the Life History document, Mr. Stein's adoptive mother suffered seven miscarriages. It is not clear why Estella and Stanley Stein reportedly watched TV all day, uninvolved in Mr. Stein's life. An area of further exploration would be their social and emotional stability.

COMMUNITY (2)

Community factors are problems stemming from individuals' neighborhoods and other social contexts. According to my findings, Mr. Stein's community factors were:

1. Possible alienation and rejection by peers
2. Possible association with peers involved in the legal system

Possible alienation and rejection by peers. According to the Life History document, peers were often unkind to Mr. Stein and mocked him for his almost albino-like appearance. The Life History document noted that despite being called "bunny-eyes", Mr. Stein clung to his misfit crowd of friends. According to Ms. Donna Nolz, Mr. Stein was called "Albino" a lot.

Possible association with peers involved in the legal system. Mr. Doug Vacha indicated that throughout the years, he witnessed Mr. Stein's degeneration as each time he'd come back on leave from the military, Mr. Stein would be with an "even seedier" group of people and would be less recognizable. Similarly, Ms. Shanda Johnson-Mann

8 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

noted that Mr. Stein would look up to a man known as “Lightning,” who was probably a drug dealer.

DISTURBED TRAJECTORY (7)

Disturbed trajectory factors are conditions or events that derail individuals from healthy developmental pathways. According to my findings, Mr. Stein's disturbed trajectory factors were:

1. Social and emotional disturbance beginning in childhood
2. Leaving school in the 10th grade
3. Possible deficient early interventions
4. Leaving home at age 18
5. Divorcing and losing his child to adoption
6. Becoming homeless
7. Meeting and associating with Mr. Kyle White

Social and emotional disturbance beginning in childhood. Records suggest that Mr. Stein experienced social and emotional disturbances starting in childhood. According to various accounts, Mr. Stein exhibited reckless behavior and showed signs of mental immaturity. Mr. Michael Roinestad said Mr. Stein never thought things through and Ms. Sandra Griffith noted he could not get work after auto school due to a suspended driver's license and speeding tickets. Ms. Johnson-Mann noted that Mr. Stein was reckless with money.

According to Ms. Shanda Johnson-Mann, Mr. Stein struggled with being adopted and felt abandoned and unloved. Mr. Michael Roinestad noted that Mr. Stein would adopt the personalities of those he met. According to the Life History document, Mr. Stein craved attention, tried to please others, acted tougher to fit in, and went along with anybody just to be included. Mr. Doug Vacha noted that Mr. Stein would have angry outbursts without exhibiting violence and would recriminate himself afterward. Similarly, Ms. Shanda Johnson-Mann said he would kick or punch walls in anger but never lashed out at others. Mr. Rob Super indicated that Mr. Stein tended to intellectualize and hide his emotions from others.

Dr. Harry Krop, Ph.D., reportedly evaluated Mr. Stein on 4/10/1991 and found him competent to proceed and criminally responsible at the time of the offense. From the brief report, it is not clear which methods Dr. Krop used and what were the bases of his opinions. Dr. Krop opined that Mr. Stein did not have a mental illness. However, for the purpose of capital mitigation, social and behavioral maladjustments stemming from chronic adversity and trauma can constitute severe disturbances regardless of the presence of a diagnosable DSM-5 disorder. Ms. Johnson-Mann noted that Mr. Stein became depressed after she relinquished their child for adoption. At the time, she suspected he was suicidal. According to Ms. Katherine Blair, Esq., Mr. Stein told his defense team that he experiences mood swings characterized by alternating states of depression and euphoria. Mood swings characterize various DSM-5 disorders, and this is an area that merits further exploration.

9 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

Leaving school in the 10th grade. I attempted to review Mr. Stein's elementary school records, but they were barely legible. His one-page transcript from Washington High School in Phoenix, Arizona, showed he earned average and low average grades during his first year, failed biology in the second year, and failed history in the third. According to the Life History document, Mr. Stein's grades dropped dramatically at one point, and he started to have trouble concentrating. Other transcripts indicate that he obtained a GED at age 18 and graduated from automotive school at age 19. Additional records and interviews could help ascertain how Mr. Stein functioned in school, and what was the impact of leaving school prematurely.

Possible deficient early Interventions. According to the Life History document, Mr. Stein's parents took him to a psychologist at age 13 for two years because his personality had changed after falling and hitting his head. Dr. Harry Krop said Mr. Stein mentioned seeing Dr. McFarland in Phoenix when he was a teenager because of academic difficulties. It is unclear whether Mr. Stein received academic assistance and guidance or whether he received treatment to process his adoption or the trauma of being in a fatal car accident and witnessing the death of a friend.

Leaving home at age 18. According to various records, Mr. Stein left home at age 18. He reportedly lived with a variety of people based on where he could find a place to stay. Leaving home at age 18 without having the necessary skills to navigate life successfully and independently may have negatively derailed Mr. Stein's life trajectory. There was no information in the records on Mr. Stein's experiences in the home of Mr. Michael Roinestad.

Losing his child to adoption and divorcing. Mr. Stein reportedly married Ms. Shanda Johnson-Mann after leaving home of Michael Roinestad. She became pregnant and relinquished their child for adoption. Ms. Johnson-Mann explained she felt unprepared to be a mother due to their ages/immaturity and Mr. Stein's drug abuse. She said Mr. Stein asked her not to put their child up for adoption because he struggled with his adoption and wanted to have a family. However, she went through with the adoption over his strenuous objections. Ms. Johnson-Mann said the adoption was a tipping point for Mr. Stein. He believed he had nothing to live for, no future, no money, and nobody who cared for him beside her. Ms. Johnson-Mann said she suspected he was suicidal.

Becoming homeless. According to the Life History document, after his relationship with Ms. Johnson-Mann ended, Mr. Stein became homeless and ended up sleeping in a park. There is no additional information regarding his life in the streets of Phoenix. This is an important area to explore given that homeless individuals are at risk of many problems, including chronic stress, sleep deprivation, mental health problems, substance abuse, malnutrition, poor health, loneliness, vulnerability to being victimized, and difficulty finding employment.

Meeting and associating with Mr. Kyle White. Mr. Stein was reportedly homeless when he met Mr. White. According to the Life History document, Mr. White lavished much attention on Mr. Stein's Aryan appearance and made him feel fulfilled and useful. He also

10 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

helped Mr. Stein obtain employment and housing. According to the Life History document, Mr. White moved to Florida, and Mr. Stein joined him. Eventually, they both began working in a Jacksonville Pizza Hut, where they met Marc Christmas, the other co-defendant involved in the indexed offense.

PRELIMINARY CONCLUSIONS

The following are preliminary conclusions based on my evaluation to date. There is a considerable amount of data still missing in this case. Hence, my findings, inferences, and opinions could be supplemented or revised as new information becomes available.

A preliminary and tentative analysis of Mr. Stein's background suggests that there are **at least 27 possible toxic formative influences** in his life trajectory. These specific factors have been associated in the scientific literature with negative outcomes such as social maladjustment, poor impulse control, poor judgment, and a higher likelihood of criminal offending. At the time of the offense, **Mr. Steven Stein was 22 years old. Research shows that youthfulness renders individuals less capable of making mature judgments and more vulnerable to the influence of negative peers and violent communities.**

Dr. Krop concluded that Mr. Stein did not have a mental disorder, was competent to proceed, and was not insane at the time of the offense. However, it is unclear what were the bases of his opinion. He administered measures of depression, personality, and substance use, which have diagnostic limitations. For instance, Mr. Stein's low score on the Beck Depression Inventory was indicative of minimal depression. However, the BDI is a self-report measure that could be impacted by a person's tendency to minimize symptoms. Besides, The BDI measures depression occurring only within a week of administration. Individuals diagnosed with major depressive disorder experience cycles of depression followed by periods of symptom remission. Therefore, someone with major depressive disorder would not elevate the BDI unless he was in the midst of a depressive episode. Dr. Krop noted that Mr. Stein did not have a mental illness. However, for mental conditions to be mitigating in capital cases, they do not need to rise to the level of a diagnosable DSM-5 disorder in contrast to competency or sanity assessments. Trauma and adversity, even in the absence of DSM diagnoses, could result in a finding that a person was under extreme emotional disturbance at the time of the capital offense or had an impaired ability to conform his conduct to the requirements of the law.

Nevertheless, there are some disorders that I would take into account in light of Mr. Stein's history and symptoms. I would consider assessing for Fetal Alcohol Spectrum Disorders (FASDs), a group of conditions that can occur in a person whose mother drank alcohol while pregnant. Ms. Newhoff admitted to drinking heavily during the first trimester of pregnancy. Mr. Stein's behavioral issues, learning deficits, hyperactivity, impaired attention, learning difficulties, and poor reasoning and judgment could stem, in part, from FASDs. Some of these symptoms could also arise from a neurocognitive disorder due to traumatic brain injury. Neurocognitive disorders are diagnosed when there is a significant decline in cognitive function or performance. Records indicate that Mr. Stein has a history

11 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

of head injuries, which resulted in increased impulsivity and moodiness. Diagnosing a neurocognitive disorder would require a comprehensive neuropsychological assessment.

Other disorders that could be explored for Mr. Stein are Attention-Deficit/Hyperactivity Disorder (ADHD) and anxiety disturbances. Both types of disorders have symptoms of inattention. Individuals with ADHD become distracted by external stimuli whereas those with anxiety are distracted by fear or worry. An exploration of depressive and bipolar disorders is also warranted as both can impair executive functions such as attention and concentration. Bipolar disorder could also explain Mr. Stein's recklessness, immaturity, angry outbursts, possible suicidality, and mood swings alternating between states of depression and euphoria. Given that Mr. Stein survived a fatal car accident, I would investigate the possible presence of PTSD or another trauma-related disorder. I would also evaluate whether Mr. Stein had a substance use disorder because several sources observed he abused alcohol, marijuana, cocaine, meth, acid, and prescription drugs.

The records I reviewed were scarce and limited. For instance, it is unclear who wrote the Life History and what were the sources of information. It is also unclear whether some of the statements presented are facts, inferences, or conclusions. There is additional missing data in this case. Dr. Crown indicated Mr. Stein had brain deficits that were likely genetic and Mr. Stein's mother told his legal team that she used to drink excessively. It is unclear whether neuropsychological tests were used to assess the possible sequelae of his head injuries or prenatal exposure to drugs. Reading adoption and hospital records would be informative about Mr. Stein's prenatal, perinatal, and postnatal experiences. Records from other experts may also offer additional information regarding Mr. Stein's developmental traumas and adversities. In cases similar to this, I typically review records from toxicologists, neurologists, and neuropsychologists.

To complete my evaluation, a logical next step would be to interview Mr. Stein over various sessions to assess possible adverse developmental factors and traumatic incidents present in his background. It is important to conduct these interviews in person, if possible because I must inquire about sensitive information, and defendants may be less forthcoming online or over the phone. I typically alternate visits to defendants with interviews of friends and family. This allows me to consolidate the information I learn from collateral sources, explore newly found adverse developmental factors and traumatic incidents, and solve discrepancies in the data.

Finally, I would interview collateral sources to obtain further information and corroborate Mr. Stein's statements. The task of assessing trauma and adversity requires a careful review of collateral sources. Without corroborating information, I would have to rely solely on the defendant's perspective, a practice that runs contrary to basic tenets of forensic psychological evaluations. Mr. Stein may lack knowledge of adverse developmental factors present in his life and across generations or may be unwilling to discuss it. Also, relying on a single, unverified data source would limit the integrity and credibility of my testimony.

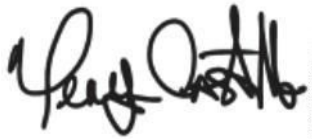
12 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (4/23/2021)

Katherine Blair, Esq., notified me that Mr. Stein's biological mother has made herself available to Mr. Stein and his legal team. Mr. Stein's birth mother is the only person, along with adoption records, who can offer information regarding transgenerational factors impacting Mr. Stein's development. Katherine Blair, Esq., notified me that Mr. Stein's adoptive parents and sister are deceased. However, there may be neighbors or family members of his adoptive family who could offer helpful information in this case. Other collateral sources that reportedly expressed a willingness to talk about Mr. Stein are Doug Vacha, Jason Coleman, Shanda Johnson-Mann, Donna Nolz, Sharon Roinestad, Michael Roinestad, and Rob Super.

To conclude, appropriate mitigation evaluations for capital sentencing involve obtaining thorough developmental information involving the defendant and the various contexts in which the defendant has been embedded. Presenting an incomplete mitigation report would exclude critical factors from being considered by the trier of fact. Best practices in trauma capital evaluations include exhaustive scope, corroboration from multiple sources, and a high level of anecdotal detail.

Respectfully Submitted,



Yenys Castillo, Ph.D.
Licensed Psychologist

4/23/2021

Date

STRICTLY CONFIDENTIAL

STRICKEN

APPENDIX H

YENYS CASTILLO, PH.D.

Clinical and Forensic Psychologist
12555 Orange Drive, Suite 234 | Davie, FL 33320 | dryenyscastillo@yahoo.com
Tel. 786-234-4579 | Fax. 786-524-5966

SUMMARY OF FINDINGS (CONFIDENTIAL)

Defendant: Mr. Steven Stein
Date of Birth: 3/6/1968 (53 years old)
Case Number: 3:09cv1162-MMH-PDB
Examiner: Yenys Castillo, Ph.D.
Evaluation Date: 6/15/2021 (4.5 hours), 6/16/2021 (5 hours), 6/30/2021 (4.7 hours)
Facility: Union Correctional Institution
Raiford, Florida
Document Date: 7/25/2021
Attorney: Katherine A. Blair, Esq.
Capital Habeas Unit
Office of the Federal Public Defender
227 N. Bronough Street
Suite 4200
Tallahassee, FL 32301

REFERRAL

Pursuant to the request of Katherine A. Blair, Esq., I conducted an assessment of Mr. Stein to assess the presence and impact of traumatic, adverse, and developmental factors in Mr. Stein's brain functioning and behavior throughout his lifetime.

SOURCES OF INFORMATION

I based my findings, inferences, and opinions on the following sources:

- Face-to-Face Interviews with Mr. Steven Stein (6/15/2021, 4.5 hours; 6/16/2021, 5 hours; 6/30/2021, 4.7 hours)
- Affidavit/Declaration of Jan Newhoff (3/29/2021; 10 pages)
- Interview of Jan Newhoff (7/24/2021; 25 minutes)
- Affidavit of Barry Crown, Ph.D., neuropsychologist (12/15/1995; 2 pages)
- Neuropsychological Evaluation by Dr. Barry M. Crown, Ph.D. (7/9/2021; 5 pages)
- Life History Interview Memorandum by Nels Roderwald (4/8/2021; 9 pages)
- Steven Edward Stein Life History (7 pages; Unknown Date and Author)
- Background Information for Steven Stein by Kathy Harris, LCSW of Children's Aid & Family Services Inc. (10/4/1995; 3 pages)
- Letter to Judge Wiggins by Stanley and Estella Stein, Mr. Steven Stein's Adoptive Parents (6/27/1991; 3 pages)
- Letter to Unknown Receiver by Sandra Griffith, Mr. Steven Stein's Sister (5/7/91; 2 pages)
- Three Letters to Christie by Mr. Steven Stein (unclear date; 7 pages)

2 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

- School Transcript from Washington Elementary, Phoenix, Arizona (2 pages)
- School Transcript from Washington High School, Phoenix, Arizona (2 pages)
- Official Transcript of Arizona High School Equivalency: GED (9/18/1987; 1 page)
- Transcript from Phoenix School of Technology (1 page)
- Records by Licensed Psychologist Harry Krop, Ph.D. including Summary, Notes, and Psychological Testing Data (4/10/1991; 22 pages)
- Investigator Case Activity Summary (4 pages)
- Notes of Interview with Mr. Doug Vacha (neighbor; 1/23/2006; 1 page)
- Notes of Interview with Mr. Jason Coleman (neighbor; 1/23/2006; 1 page)
- Notes of Interview with Ms. Shanda Johnson-Mann (ex-wife; 1/23/2006; 2 pages)
- Notes of Interview with Ms. Donna Reachmack Nolz (neighbor and school acquaintance; 1/24/2006; 1 page)
- Notes of Interview with Ms. Sandy Bates (adoptive sister; 1/24/2006; 1 page)
- Notes of Interview with Mr. Rob Super (school acquaintance; 1/25/2006; 1 page)
- Notes of Interview with Mr. Michael Roinestad (childhood friend; 1/26/2006; 4 pages)
- Notes of Interview with Ms. Shari Roinestad (mother of Mr. Stein's friend Michael Roinestad; 1/26/2006; 1 page)
- St. Joseph's Medical Records (176 pages)

FINDINGS REGARDING ADVERSE DEVELOPMENTAL FACTORS

A substantial body of research has confirmed that developmental experience plays a critical role in a person's likelihood to abuse drugs and engage in juvenile delinquency and adult violent offending. Studies sponsored by the U.S. Department of Justice, the National Academy of Sciences, and other institutions consistently reveal that cumulative "risk" and "protective" factors largely explain people's path towards delinquency, criminality, and violence (Hawkins et al., 2000; Wasserman et al., 2003). An analysis of Mr. Stein's background revealed the **presence of 29 toxic formative influences or adverse developmental factors**, which can be grouped into five categories: Transgenerational, Neurodevelopmental, Family/Parenting, Community, and Disturbed Trajectory.

TRANSGENERATIONAL FACTORS (3)

Transgenerational factors act across multiple generations through genetic predispositions, sequential damage, and faulty modeling. According to my findings, Mr. Stein's transgenerational factors were:

1. Transgenerational family dysfunction
2. Transgenerational family distress
3. Predisposition to substance abuse

Transgenerational family dysfunction. In her Affidavit/Declaration and during her interview with me, Mr. Stein's mother Jan Newhoff reported that she was abandoned by her parents and adopted by her biological uncle and his wife. When her adoptive parents divorced, Ms. Newhoff stayed with her adoptive mother.

3 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

Transgenerational family distress. Maternal trauma and stress can contribute to physical, neurological, behavioral, and psychiatric problems in children. During our interview, Ms. Newhoff said her adoptive parents would constantly fight and argue; and her mother once attacked her father with a knife. When Ms. Newhoff was ten or eleven years old, her parents divorced, and she stayed with her adoptive mother. Then, her mother's boyfriend, Robert Whitehurst, moved into the house and began raping her. When she disclosed the abuse, her adoptive mother dismissed her claims. So, the sexual abuse went on for the next four years, and Ms. Newhoff coped with her emotional pain by abusing alcohol.

At age 15, Mr. Stein was conceived as the product of rape. Ms. Newhoff's mother sent her to get an abortion, accompanied by Mr. Whitehurst. Instead of taking her to a clinic, Mr. Whitehurst gave her two pills that caused her to bleed but did not end the pregnancy. Ms. Newhoff's mother then sent her to Door of Hope, a maternity home for girls, so she could give birth and relinquish the child for adoption. At Door of Hope, residents attended mandatory religious services where a pastor called them sinners for bearing children out of wedlock. Also, staff did not feed girls properly and withheld food as a form of punishment. Ms. Newhoff revealed that the facility's cook took advantage of pregnant girls by exchanging food for sex. Ms. Newhoff remarked, "the stress I endured was immeasurable, from when I found out I was pregnant through my time in the maternity home." During our interview, Ms. Newhoff indicated that she has suffered from depression since she was an adolescent. Ms. Newhoff said she does not know much about her biological parents and saw them four or five times throughout her life. During one of these encounters, her birth mother (Mr. Stein's maternal grandmother) also revealed a history of depression. Ms. Newhoff noted she had a son who died by suicide. Also, three of her four grandchildren have been diagnosed with bipolar disorder.

Predisposition to Substance Abuse. During our interview, Mr. Stein's birth mother indicated that at around age 11, she began drinking alcohol excessively to the point of blacking out. She noted that she also drank alcohol while pregnant.

NEURODEVELOPMENTAL FACTORS (8)

Neurodevelopmental factors are problems associated with damage to individuals' nervous systems. For instance, head injuries and chronic stress can derail brain development and functioning in children, and bring about social, educational, emotional, and legal problems. According to my findings, Mr. Stein's neurodevelopmental factors were:

1. Biological mother's lack of prenatal care
2. Maternal alcohol use, malnutrition, and exposure to second-hand smoke
3. Perinatal and postnatal complications
4. Impaired executive functions
5. Brain damage
6. Drug use beginning in childhood
7. Head injuries during childhood and adolescence
8. Chronic stress and exposure to traumatic incidents

4 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

Biological mother's lack of prenatal care. In our interview, Ms. Stein's mother said she began receiving prenatal care at the Door of Hope maternity home two months before his birth. In her Affidavit, Ms. Newhoff confirmed that she did not receive prenatal care prior to being sent to Door of Hope.

Maternal alcohol use, malnutrition, and exposure to second-hand smoke. Maternal malnutrition and prenatal exposure to intoxicants can lead to low birth weight, early birth, cognitive deficiencies, and behavioral difficulties in children. During the first trimester of pregnancy, alcohol use can be particularly dangerous for the brain of the developing fetus. Ms. Newhoff admitted to drinking heavily before knowing she was pregnant. Once Ms. Newhoff entered the maternity home, she became underweight because staff did not feed the girls properly and would withhold food as a form of punishment. At Door of Hope, Ms. Newhoff was also exposed to second-hand smoke, which could have resulted in birth complications and congenital disabilities.

Perinatal and postnatal complications. Ms. Newhoff recounted that during childbirth, she refused to push in an attempt to hold on to her child. She said the doctor slapped her across the face, and the nurses put pressure on her stomach. Ms. Newhoff drifted out of consciousness and had an ether mask placed over her face. According to the Background Information document, Mr. Stein's hospital discharge was delayed eight days because of jaundice. Ten days after his birth, the adoption agency sent Mr. Stein to his first foster home. There, he developed pyloric spasms that led to vomiting and irritability. He had difficulty adjusting to his surroundings and could not be comforted. He also lacked proper responses to people and objects. The doctor recommended placement with another foster family. On 4/24/1968, Mr. Stein arrived at his second foster home, where his vomiting, tenseness, and irritability diminished over time. On May 10, 1968, Stanley and Estella Stein adopted Mr. Stein. Years later, they explained in a letter to Judge Wiggins that Mr. Stein experienced health complications until age one and needed to be held to digest food.

Impaired executive functions. According to the Life History document, Mr. Stein was hyperactive and sometimes unruly as a teenager. Mr. Doug Vacha said Mr. Stein would do odd spontaneous stuff like jumping on a chair. Ms. Shanda Johnson-Mann described Mr. Stein as reckless and prone to making spontaneous decisions and acting without regard for the consequences. Some of Mr. Stein's acquaintances indicated that he bought a Camaro with part of the money he obtained in a legal settlement. He then exchanged the Camaro for drugs. Mr. Stein corroborated that he acted impulsively and recklessly. He indicated that he bought a Camaro without thinking that it was a 60-year-old car that required time and money for frequent repairs. Hence, he ended up selling the car to a man who supplied him with drugs.

Mr. Stein indicated that he was not a good decision maker. He recounted that he once went to a party and met a woman named Heidi. A few days later, he agreed to travel with her and a man he hardly knew to Wisconsin. Mr. Stein pointed out that he traveled with less than \$100.00. When they arrived in Missouri, Heidi suffered from sharp abdominal

5 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

pains. She was reluctant to seek medical assistance because there was a warrant for her arrest for check fraud. In the hospital, Heidi underwent an appendectomy and was placed under arrest. Mr. Stein said he never saw her again.

Stuck in Missouri without money to go back to Arizona, he asked Heidi's friend, his travel companion, to take him to Illinois, where he knew a woman named Suzanne. Once in Illinois, he realized Suzanne was involved with drug dealers and decided not to stay. This is how he ended up in Wisconsin with his companion. Once in Wisconsin, his travel companion entered a drug-rehabilitation facility. Hence, Mr. Stein ended up living in the houses of two men he barely knew. Mr. Stein said he eventually called his parents, who bought him a plane ticket to return to Arizona. Once home, Mr. Stein felt embarrassed about having traveled impulsively and told his friends he had gone to Illinois because he had a job lined up.

Brain Damage. Dr. Barry Crown indicated that he conducted a neuropsychological evaluation of Mr. Stein on 12/1/1995. At the time, Mr. Stein was 27 years old but had the abstract reasoning of an 11-year-old. Impaired abstract reasoning likely compromised Mr. Stein's ability to adapt, predict, plan, understand, execute, cope, and navigate across multiple areas of his life. This finding is consistent with the account of Mr. Stein and other informants who noted he had difficulty solving everyday problems. For instance, Mr. Stein noted that he could not accomplish certain goals because nobody gave him a decent plan and he could not come up with one. Dr. Crown evaluated Mr. Stein again on 6/15/2021. Dr. Crown concluded that although Mr. Stein's abstract reasoning improved, he still has significant brain damage that impacts reasoning, judgment, language-based critical thinking, and memory functions. Dr. Crown opined that Mr. Stein has Cognitive Disorder Not Otherwise Specified and Diffuse Brain Injury with Resulting Neurocognitive Disorder due to Multiple Etiologies.

Drug use beginning in childhood. Mr. Stein revealed that at around age 12 or 13, he began smoking marijuana with his 19-year-old sister and her boyfriend. A year later, he started smoking cigarettes and using methamphetamines. Then, at around age 16 or 17, he began abusing acid and cocaine. Mr. Stein recounted that, under the influence of acid, he would have hallucinations of people walking in the street and would run after them. Mr. Stein indicated that by age 18 or 19, he developed an addiction to methamphetamines and needed higher amounts of the drugs to attain intoxication. He noted that doing drugs became a way of coping with painful emotions.

Mr. Michael Roinestad indicated that Mr. Stein smoked cigarettes daily as a teenager. According to various accounts, by age 14 or 15, Mr. Stein was using alcohol, marijuana, and acid. Mr. Michael Roinestad further noted that Mr. Stein would smoke marijuana throughout the day to maintain a buzz, ingesting an average of six to seven blunts. Mr. Jason Coleman corroborated that Mr. Stein used marijuana, alcohol, acid, cocaine, or anything he could get. Ms. Shanda Johnson-Mann reported being aware of Mr. Stein's marijuana and alcohol use. Mr. Doug Vacha stated that Mr. Stein was into go-fast drugs like cocaine and meth. Mr. Rob Super mentioned being aware of Mr. Stein's "meth thing."

6 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

He would also empty the contents of Quaaludes, prescription pain pills, and antianxiety pills onto a desk at school and snort them.

Mr. Stein indicated that after the accident that claimed the life of his friend Diana, he was hospitalized and treated with Demerol. He became addicted to this substance and experienced withdrawal effects, including sweating and insomnia, once released from the hospital. Mr. Stein said he had \$13,000 in the bank from his bar mitzvah and a settlement from an insurance company. In the streets, he spent all this money on procuring various drugs because he could not obtain Demerol. Mr. Doug Vacha and Mr. Jason Coleman corroborated that after the accident that claimed his friend's life, Mr. Stein self-medicated with any drug he could find. According to Mr. Jason Coleman, Mr. Stein took "a lot of pills" and became "hooked" on Demerol during this time.

Mr. Stein said he tried to become clean and sober when he married Ms. Shanda Johnson-Mann. However, they lived across the street from a man known as "Lightning," who sold drugs. Mr. Stein remembers there was always a party atmosphere in his house and his wife used to babysit Lightning's children. Hence, he ended up relapsing on drugs. Mr. Stein said his wife did not use drugs, and his addiction to substances strained his marriage. He noted that he was using drugs excessively, putting himself in dangerous situations. He remembers that at around age 21, he took unknown pills, felt dizzy, and suddenly fell. After his marriage ended, Mr. Stein's drug addiction worsened. Mr. Stein indicated that drugs impacted his thinking and perception. He noted that after his incarceration on the current case, he became clean. However, it took him many years to begin thinking clearly.

Head injuries during childhood and adolescence. According to the Life History Interview Memorandum, Diana Schonberg, a former neighbor and family friend revealed that Estella Stein dropped Mr. Stein on his head when he was a toddler. The Life History document noted that Mr. Stein fell from a couch at age ten and hit his head on concrete, losing consciousness for several minutes. In their letter to Judge Wiggins, Stanley and Estella Stein wrote that their son became moody after the fall. Mr. Stein indicated that he remembers sustaining a head injury at age ten. Mr. Pat Griffin, Sandra Stein's former husband, said Mr. Stein was once hit the head with a baseball. Mr. Stein indicated that he also sustained a football injury when his head collided with the head of another player. He remembers feeling buzzing in his ears and a strong headache.

The Life History Interview Memorandum documents that Mr. Stein was involved in a series of car accidents within a year. Mr. Michael Roinestad recounted that in May of 1985, he and Mr. Stein were involved in a car accident that resulted in a short hospital stay. According to Mr. Roinestad, Mr. Stein's demeanor changed after this accident as he began "throwing any caution he had before to the wind." His impulsivity reportedly worsened after a second car accident in June of 1985.

7 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

Mr. Stein indicated that at age 17, he was the passenger in a car that crashed and killed Diana Faulkner, a girl with whom he had a budding romance. Mr. Stein explained that Diana was a friend whom he hoped to date, and they were traveling to a gathering. He said they had a strong connection, and she would always cheer him up when he was sad. On the day of the accident, he was going to tell her he liked her. When they came to a curve, his friend lost control of the car. At that point, he lost consciousness and hit his head against the car's windshield with great force, shattering the windshield. While unconscious, Mr. Stein reportedly saw an old man with timeless eyes that looked a thousand years old. The man told Mr. Stein he could stay or leave with him.

Mr. Stein said he recovered consciousness at the scene. He felt a strange sensation in his mouth and realized that his teeth were pointing to the side. He had fractures in his jaw and collarbone. Mr. Stein said people passed them by, and only two bikers and a cop stopped. When he asked for Diana, the police told him she was dead and began yelling at him and the driver, saying they should not be drinking. Mr. Stein explained the driver was not drinking, but they were carrying beers to the gathering. Mr. Stein was flown to St. Joseph Hospital for treatment. Information from his parents and the Life History document suggests that this accident changed his behavior. Mr. Stein said it was difficult to recover from his injuries. He required surgeries on his shoulder and jaw. For a while, his mouth was wired shut, and he felt intense physical and psychological pain.

Chronic stress and exposure to traumatic incidents. As defined in the Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (DSM-5), traumatic incidents involve exposure to actual or threatened death, serious injury, or sexual violence. Individuals can be traumatized by directly experiencing a traumatic incident or by witnessing or learning that a traumatic incident occurred to someone close to them. According to the Life History document, at age 18, Mr. Rob Baker was driving Mr. Stein and Diana Faulkner to a gathering. Mr. Baker reportedly lost control of his car and crashed. Mr. Stein reportedly saw his friend Diana Faulkner dead and sustained a broken jaw and collarbone. St. Joseph Hospital records confirm the extent of Mr. Stein's physical injuries. Ms. Shanda Johnson-Mann reported that after the accident, Mr. Stein felt guilty despite not being the driver. Mr. Vacha said the car accident left Mr. Stein "haunted" and "mentally wrecked." He reportedly believed that Ms. Faulkner's spirit was following him in a balloon and the hood of his car. Ms. Shanda Johnson observed that drugs and alcohol were the only things that seemed to calm Mr. Stein's acute feelings of guilt and the wish that he had died instead of Ms. Faulkner.

FAMILY AND PARENTING (5)

Family and parenting factors are problems originating in the family context. According to my findings, Mr. Stein's family and parenting factors were:

1. Being abandoned by biological parents and relinquished for adoption
2. Psychological neglect
3. Educational neglect
4. Inadequate supervision and guidance

8 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

5. Instability of caregivers

Being abandonment by biological parents and relinquished for adoption. According to the Background Information and the Life History documents, Mr. Stein's biological father was not involved in Mr. Stein's life. Ms. Newhoff said she was forced to relinquish him for adoption. Per contractual agreements, Mr. Stein did not receive information regarding the whereabouts of his birth mother until he reached adulthood. Ms. Shanda Johnson-Mann stated that Mr. Stein struggled with his adoption and felt abandoned, unloved, and stuck with parents who were too different from him. In the present assessment, Mr. Stein pointed out that his adoptive parents told him they chose him. However, he grew up feeling abandoned by his biological parents.

Psychological neglect. According to Ms. Shanda Johnson-Mann, Mr. Stein's parents were not warm or involved. The Life History document mentioned that as Mr. Stein's sister began exhibiting troublesome behavior, Stanley and Estella Stein turned their attention to her, making Mr. Stein feel abandoned. According to the same document, Mr. Stein would try to earn the attention of his adoptive parents. Ms. Johnson-Mann said Mr. Stein and his parents were not attached, and Mr. Stein felt he had been given to the wrong parents. Mr. Stein corroborated that his father was not a warm person and did not talk much about feelings. He noted that he was the kind of man who thought people should carry their weight. He pointed out that the message he conveyed was "Don't cry because men don't cry." As a result, he was only able to accept that crying was acceptable in prison. Mr. Stein stated that his mother was affectionate before getting sick. However, once she became ill, she stopped being physically and emotionally available.

According to the Life History document, Mr. Stein was hospitalized with serious injuries at age 18 after he survived a fatal car accident. Ms. Sharon Roinestad observed that when the Steins arrived at the hospital, they expressed disapproval of their son instead of concern for his safety. According to the Life History document, Estella and Stanley Stein would often ridicule Mr. Stein for squandering his money and having to pay for his tools.

Educational neglect. According to Ms. Donna Nolz, Stanley and Estella Stein did not exercise any parental control. Ms. Nolz remembered that Mr. Stein missed school a lot and once bragged that he had only attended seven weeks all year. Mr. Vacha noted that during 7th and 8th grade, Mr. Stein seemed to be out of school for most of the year. Mr. Robert Bertrand and Ms. Donna Nolz mentioned the Steins did not make their son stay in school. Mr. Stein noted that his parents did not encourage or compel him to remain in school, probably because by the time he decided to quit school, they were already compromised by his mother's illness and his father's depression.

Inadequate supervision and guidance. Diana Schonberg, a neighbor and family friend, commented that the Steins would either laugh off or ignore Mr. Stein's risky behaviors. According to various accounts, Mr. Stein's parents would allow their son to do "anything," offering inadequate supervision and guidance. Mr. Doug Vacha described them as "nonexistent." Mr. Robert Bertrand and Mr. Jason Coleman noted Mr. Stein had no chores

9 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

or curfews. Various friends said Mr. Stein's parents would passively see them abusing alcohol, marijuana, cigarettes, acid, and cocaine. The Steins would keep their attention on the TV and ignore the drug use. Ms. Donna Nolz noted that Estelle Stein would avoid doing things with her son. She also remembered Mr. Stein once said, "My mother doesn't make me do anything."

Mr. Stein indicated that his parents did not offer much guidance. He noted that he grew up in an all-white neighborhood and a school that was highly segregated. He pointed out that at one point, his neighbors were collecting signatures to prevent black people from moving to the neighborhood. Mr. Stein's father did not sign but did not say why. After Mr. Stein being pressed for information, his father said that the neighbors were wrong because that was what the Nazis did against Jewish people. However, he was not open to discussing the issue further. Mr. Stein explained that throughout his life, he had to figure things on his own. Mr. Stein noted that his sister and her second husband would ask whether he wanted to have a loving relationship like theirs. However, they did not give him the steps it would take to get there. He noted, "Nobody ever gave me a decent plan."

Instability of caregivers. According to the Life History and Background Information documents, Mr. Stein had multiple caregivers before age one. There is not much information regarding the mental stability of his adoptive parents. According to the Life History document, Mr. Stein's adoptive mother suffered at least seven miscarriages. It is not clear why Estella and Stanley Stein reportedly watched TV all day, uninvolved in Mr. Stein's life. An area of further exploration would be their social and emotional stability.

COMMUNITY (3)

Community factors are problems stemming from individuals' neighborhoods and other social contexts. According to my findings, Mr. Stein's community factors were:

1. Alienation and rejection by peers
2. Lack of support from teachers and other adults
3. Association with individuals involved in illegal behavior

Alienation and rejection by peers. According to the Life History document, peers were often unkind to Mr. Stein and mocked him for his almost albino-like appearance. The Life History document noted that despite being called "bunny-eyes," Mr. Stein clung to his misfit crowd of friends. According to Ms. Donna Nolz, Mr. Stein was called "Albino" a lot. Mr. Stein corroborated that some of his classmates mocked him in school about being too pale or albino.

Lack of Support from teachers and other adults. Mr. Stein mentioned not receiving support or acceptance from his teachers. He remembers that during a class, a teacher compared Mr. Stein's unattractiveness to Cyrano de Bergerac's. He then told Mr. Stein that he could still accomplish things in life despite his appearance. Mr. Stein remembers this comment hurt him because the teacher implied he was unattractive, made him into an "other," and judged him based on his skin pigment.

10 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

Association with individuals involved in illegal behavior. Mr. Stein indicated that he had difficulty choosing friends wisely and, at times, would associate with people engaged in unlawful conduct. Mr. Doug Vacha mentioned that throughout the years, he witnessed Mr. Stein's degeneration as each time he'd come back on leave from the military, Mr. Stein would be with an "even seedier" group of people and would be less recognizable. Similarly, Ms. Shanda Johnson-Mann noted that Mr. Stein would look up to a man known as "Lightning," who was probably a drug dealer. Mr. Stein corroborated that he used to spend time with Lightning, who sold drugs.

DISTURBED TRAJECTORY (10)

Disturbed trajectory factors are conditions or events that derail individuals from healthy developmental pathways. According to my findings, Mr. Stein's disturbed trajectory factors were:

1. Adoptive mother's physical illness
2. Adoptive father's depression
3. Social and emotional disturbance beginning in childhood
4. Leaving school in the 10th grade
5. Deficient early interventions
6. Leaving home at age 18
7. Losing daughter to adoption
8. Divorce from Ms. Shanda Johnson-Mann
9. Homelessness and difficulty functioning independently
10. Moving to Florida away from supportive relationships

Adoptive mother's physical illness. Mr. Stein indicated that when he was about six years old, his mother was diagnosed with Lupus and Diabetes. Two years later, they moved to Arizona because the doctors recommended a drier climate. When Mr. Stein was about 11 or 12 years old, his mother became very sick and required several medications that left her debilitated and unable to function well. Mr. Stein said she acted like a "zombie," or a person who was "vacant" or "not there." Mr. Stein said he lost his mother because she could not interact meaningfully with others. He pointed out, "I felt my life was derailed when my mother got sick."

Adoptive father's depression. Mr. Stein noted that his father became severely depressed when he saw his wife becoming "a shell of a woman." He went from being outgoing to becoming reclusive. He also stopped going out or doing the things he used to enjoy. Furthermore, he would overeat and isolate. Mr. Stein noted that his father spent countless hours watching television with his wife, probably to keep her company.

Social and emotional disturbance beginning in childhood. According to Mr. Stein and collateral sources, he experienced social and emotional disturbances starting in childhood. According to various accounts, Mr. Stein exhibited reckless behavior and showed signs of mental immaturity. Mr. Michael Roinestad said Mr. Stein never thought things through, and Ms. Sandra Griffith noted he could not get work after auto school due to a suspended driver's license and speeding tickets. Ms. Johnson-Mann pointed out that

11 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

Mr. Stein was reckless with money. Mr. Stein acknowledged he was immature and thoughtless. He noted that while most of his friends established marriages and careers, he could never formulate plans and materialize his goals.

According to Ms. Shanda Johnson-Mann, Mr. Stein struggled with being adopted and felt abandoned and unloved. Mr. Michael Roinestad noted that Mr. Stein would be unduly influenced by those he met. According to the Life History document, Mr. Stein craved attention, tried to please others, acted tougher to fit in, and went along with anybody just to be included. Mr. Stein said he grew up feeling abandoned. He recounted his father once visited San Francisco for about a week, and he stayed crying at home. Mr. Stein pointed out, "I thought he might not be back." He noted that he stayed in toxic relationships throughout his life because he was afraid people would leave him. Paradoxically, he would sabotage good relationships like the one he had with Ms. Shanda Johnson-Mann to avoid being abandoned.

Mr. Doug Vacha noted that Mr. Stein would have angry outbursts without exhibiting violence and would recriminate himself afterward. Similarly, Ms. Shanda Johnson-Mann said he would kick or punch walls in anger but never lashed out at others. Mr. Rob Super indicated that Mr. Stein tended to intellectualize and hide his emotions from others. Mr. Stein said he always had difficulty modulating negative emotions. He noted that he ended up punching and damaging walls in one of the apartments where he lived because he was frustrated about being falsely accused of not paying rent.

Mr. Stein disclosed that he started to experience depressive episodes characterized by sadness and lack of motivation at around age six or seven. He remembers a friend invited him to play, but he refused. By the time he had enough energy to go out, his friend had left. Mr. Stein said his mother told him that this is what happens when we turn people down. Mr. Stein indicated that when he becomes depressed, everything takes so much effort that he feels as if he is walking through mud. He also sleeps and eats excessively and experiences suicidal thoughts. Mr. Stein said that while incarcerated, he became depressed after the death of his sister Sandy from cancer. He also had a girlfriend who died of cancer shortly before Sandy. Mr. Stein noted that many times, his depression emerges for no apparent reason.

Mr. Stein also endorsed a history of elevated moods that sometimes follow his depressive episodes. During these periods, he feels an intense and uncomfortable energy that pushes him to act impulsively and spend more money than usual. He also has a decreased need for sleep and a sense that his mind is racing. He also feels an inflated sense of self. For instance, he thinks he can accomplish anything without a plan. Mr. Stein indicated that his mood disturbances caused him to isolate and strained his marriage. He explained that it was hard to stay in a relationship and explain to his wife that he needed time alone because he lacked the motivation to interact with others. Mr. Stein noted that both his depressive and manic episodes are independent of drug intoxication or withdrawal.

Dr. Yenys Castillo (7/25/2021)

Mr. Stein indicated that he experienced survivor's guilt after the accident that claimed the life of his friend Diana. He felt he should have died instead of her. He felt angry at people for not stopping to help and at himself for taking Diana to the gathering. Mr. Stein noted that losing Diana was difficult and traumatic. Mr. Stein indicated that after Diana's death, his behavior became more erratic and reckless. He noted that instead of being more careful, he kept speeding and getting into car accidents.

Mr. Stein noted that for years, he experienced unwanted thoughts of the accident, which he tried to push out of his awareness. The traumatic memories cause him to experience intense physical and psychological discomfort. Mr. Stein recounted that whenever he heard a particular song from the 80s, he would become depressed. Later on, he realized this song was playing on the radio when the accident happened. Mr. Stein acquired an aversion to a particular brand of potato chips because Diana was feeding him these chips right before the accident. Furthermore, Mr. Stein became fearful of driving through curves. He also had nightmares in which he saw Diana in a field, behind a glass partition. Then, things would start happening to her. She would be bleeding and hollering, and he could not get to her to save her because of the glass partition. Suddenly, she would be gone, and he would wake up fearful and anxious. He noted that the last time he has these types of nightmares was well into his twenties. Mr. Stein also mentioned that for many years he experienced a sense of foreboding that seemed to emerge unexpectedly.

Dr. Harry Krop, Ph.D., reportedly evaluated Mr. Stein on 4/10/1991 and found him competent to proceed and criminally responsible at the time of the offense. From the brief report, it is unclear which methods Dr. Krop used and what was the basis for his opinions. Dr. Krop opined that Mr. Stein did not have a mental illness. However, for capital mitigation, social and behavioral maladjustments stemming from chronic adversity and trauma can constitute severe disturbances regardless of the presence of a diagnosable DSM-5 disorder. Ms. Johnson-Mann noted that Mr. Stein became depressed after she relinquished their child for adoption. Other informants also reported some mood disturbances. Mr. Stein's symptoms are consistent with the diagnoses of Bipolar Disorder and Posttraumatic Stress Disorder. He also meets criteria for substance use disorders involving methamphetamines, tranquilizers, cocaine, marijuana, and alcohol.

Leaving school in the 10th grade. I attempted to review Mr. Stein's elementary school records, but they were barely legible. His one-page transcript from Washington High School in Phoenix, Arizona, showed he earned average and low average grades on his first year, failed biology in the second year, and failed history in the third. According to the Life History document, Mr. Stein's grades dropped dramatically at one point, and he started to have trouble concentrating. Mr. Stein said he attended a gifted program but was kicked out because he had attentional problems, making him perform below his capacity.

Additional records and interviews could help ascertain how Mr. Stein functioned in school and the impact of leaving school prematurely. Transcripts indicate that he obtained a GED at age 18 and graduated from automotive school at age 19. Mr. Stein noted that his

13 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

parents were detached and preoccupied with their health issues when he left school. Hence, they did not compel or encourage him to finish school.

Deficient early Interventions. According to the Life History document, Mr. Stein's parents took him to a psychologist at age 13 for two years because his personality had changed after he fell and sustained a head injury. Dr. Harry Krop said Mr. Stein mentioned seeing Dr. McFarland in Phoenix when he was a teenager because of academic difficulties. During the present assessment, Mr. Stein noted that he never received psychological or psychiatric treatment of his mood swings or substance abuse problems. Furthermore, he never received trauma-specific therapy after witnessing the death of his friend Diana.

Leaving home at age 18. According to the Life History document, Mr. Stein went to live with the family of his best friend Michael Roinestad after his car accident at age 18. Eventually, he became distant from Mr. Roinestad and moved out. Leaving home at age 18 without having the necessary skills to navigate life successfully and independently may have negatively derailed Mr. Stein's life trajectory. There was no information in the records on Mr. Stein's experiences in the home of Mr. Michael Roinestad.

Losing daughter to adoption. Mr. Stein indicated that when his wife, Ms. Johnson-Mann, became unexpectedly pregnant, she decided to relinquish their child for adoption. Ms. Johnson-Mann explained she felt unprepared to be a mother due to their ages/immaturity and Mr. Stein's drug abuse. Mr. Stein asked her not to put their child up for adoption because he struggled with his adoption and wanted to have a family. However, she went through with the adoption over his strenuous objections. Ms. Stein indicated that Ms. Johnson-Mann's family sent her to Nebraska to have her daughter there. At that point, he lost contact with her. Mr. Stein explained that he was 20 years old at the time and did not know which legal actions he could take to fight for his daughter. He noted that Ms. Johnson-Mann's father had lawyers, a lot of money, and even a plane. Mr. Stein indicated he was only able to see his daughter after his incarceration on the current case. Since then, he has tried to bridge the gap of not being in her life while she grew up. Mr. Stein stated that losing his daughter was difficult and destabilizing, contributing to depression and further substance abuse.

Divorce from Ms. Shanda Johnson-Mann. Mr. Stein indicated that he and Ms. Johnson-Mann struggled financially. They were not working steadily and, at times, only had ketchup and mayo in the fridge. This caused them to feel irritable and exacerbated his mood disturbances and drug abuse. By the time Ms. Johnson-Mann became pregnant, they were already growing apart. Ms. Johnson-Mann said she relinquished their child for adoption, which was a tipping point for Mr. Stein. He believed he had nothing to live for, no future, no money, and nobody who cared for him besides her. Mr. Stein recounted that when Ms. Johnson-Mann became pregnant, they went to live with her parents so she could be more stable and eat properly. However, he had to leave the house because they went on a trip and did not want Mr. Stein to be home in their absence. Mr. Stein noted that living apart led to further problems and ultimately the dissolution of their marriage.

Dr. Yenys Castillo (7/25/2021)

Homelessness and Difficulty Functioning Independently. Mr. Stein acknowledged having difficulty living independently. When he married Ms. Johnson-Mann, they lived with his parents. Then, they moved to a house that belonged to Ms. Johnson-Mann's parents. He pointed out that her father wanted them to pay full rent and repair the home. The work became insurmountable because the place needed a lot of work, and the pool was green and contaminated. Mr. Stein said they lived there with the two roommates, one of whom was the boyfriend of Ms. Johnson-Mann's sister. Mr. Stein said they had to move because the roommates could not pay their part of the rent. They moved with Jeff, someone he knew from automotive school, not being able to afford a place independently. Then, they could move to a studio for two months and then to a two-bedroom apartment. However, financial difficulties caused them to move in with Eric Trout, another classmate from automotive school. Mr. Stein stated that after his relationship with Ms. Johnson-Mann ended, he lived with two roommates in an apartment. However, within a month, they were not able to afford rent, and he became homeless. Mr. Stein said he slept in the streets or with friends.

Homeless individuals are at risk of many problems, including chronic stress, sleep deprivation, mental health problems, substance abuse, malnutrition, poor health, loneliness, vulnerability to being victimized, and difficulty finding employment. Mr. Stein said he became depressed thinking about losing his wife and living in the streets. He explained that it was difficult to maintain employment and psychological stability while homeless. He felt stuck and lonely. He was also exposed to street violence. For instance, he once saw two men severely beating another man.

Moving to Florida away from supportive relationships. Mr. Stein was reportedly homeless when he met Mr. Kyle White. According to the Life History document, Mr. White lavished much attention on Mr. Stein and helped him obtain employment and housing. When Mr. White moved to Florida, Mr. Stein joined him. Eventually, they began working in a Jacksonville Pizza Hut, where they met Marc Christmas, the co-defendant involved in the indexed offense. Mr. Stein noted that by the time he came to Florida, his life was rapidly deteriorating. While his friends built relationships and careers, he drifted without a plan. Mr. Stein acknowledged that moving to Florida contributed to his deterioration because it isolated him from family and friends, making him more vulnerable to negative influences.

CONCLUSIONS

An analysis of Mr. Stein's background suggests the presence of 29 toxic formative influences in his life trajectory. These factors are: transgenerational family dysfunction; transgenerational family distress; predisposition to substance abuse; biological mother's lack of prenatal care; maternal alcohol use, malnutrition, and exposure to second-hand smoke; perinatal and postnatal complications; impaired executive functions; brain damage; drug use beginning in childhood; head injuries during childhood and adolescence; chronic stress and exposure to traumatic incidents; being abandoned by biological parents and relinquished for adoption; psychological neglect; educational neglect; inadequate supervision and guidance; instability of caregivers; alienation and

15 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

rejection by peers; lack of support from teachers and other adults; association with individuals involved in illegal behavior; adoptive mother's physical illness; adoptive father's depression; social and emotional disturbance beginning in childhood; leaving school in the 10th grade; deficient early interventions; leaving home at age 18; losing daughter to adoption; divorce from Ms. Shanda Johnson-Mann; homelessness and difficulty functioning independently; and moving to Florida away from supportive relationships. These factors have been associated in the scientific literature with negative outcomes, including social maladjustment, poor impulse control, poor judgment, and a higher likelihood of criminal offending.

Psychological trauma has been linked to functional and structural brain abnormalities (Cassiers et al., 2018; Ousdal et al., 2019). Survivors of childhood abuse may lack adequate coping skills to deal effectively with their environment. Childhood abuse can have far-reaching consequences (Child Welfare Information Gateway, 2019), and children are particularly susceptible to trauma and adversity because their brains are undergoing development (National Scientific Council on the Developing Child, 2020). At the time of the offense, Mr. Steven Stein was 22 years old. Research indicates that youthfulness compromises adolescents' ability to evaluate alternatives, consider consequences, and make careful decisions (Luna & Wright, 2016). Youthfulness renders individuals less capable of making mature judgments and more vulnerable to the negative influence of violent peers and communities (Cauffman & Steinberg, 2000; Gardner & Steinberg, 2005; Steinberg, 2008). Growing up in an environment marked with neglect, unpredictability, and confusion can create a lasting traumatic impact on a child while simultaneously stunting emotional, social, cognitive, and adaptive development.

Individuals may possess protective factors that buffer their risk for criminality and violent offending. Some protective factors found in the literature are female gender, intelligence, positive social orientation, resilient temperament, special bonding to positive role models, developing healthy beliefs and clear standards for behavior, and effective early interventions (U.S. Department of Justice, 1995). Mr. Stein's developmental history demonstrates a heavy concentration of risk factors and a lack of protective factors. His risk factors exceeded any protective factors available to him, compromising his ability to think critically, manage the challenges of daily living, modulate his reactions, and effectively navigate relationships.

In 1991, Dr. Krop concluded that Mr. Stein was competent to proceed and was not insane at the time of the offense. It is unclear from the records what was the basis for his opinion. Dr. Krop administered measures of depression, personality, and substance use, which have diagnostic limitations. For instance, Mr. Stein's low score on the Beck Depression Inventory was indicative of minimal depression. However, the BDI is a self-report measure susceptible to a person's tendency to minimize symptoms. Besides, The BDI measures depression occurring only within a week of administration. Individuals diagnosed with major depressive disorder or bipolar disorder experience cycles of depression followed by periods of symptom remission. Therefore, someone with such diagnoses would not elevate the BDI unless he was in the midst of a depressive episode. Dr. Krop opined that Mr. Stein did not have a mental illness. However, in contrast to competency and sanity

16 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

Dr. Yenys Castillo (7/25/2021)

assessments, mental disturbances can be mitigating in capital cases even if they do not rise to the level of diagnosable DSM-5 disorders. That is, trauma and adversity, even in the absence of DSM diagnoses, could result in a finding that a person was under extreme emotional disturbance at the time of the capital offense or had an impaired ability to conform his conduct to the requirements of the law.

The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) defines traumatic incidents as events involving "exposure to actual or threatened death, serious injury, or sexual violence." The DSM specifies that traumatization can occur when individuals directly experience the event, witness the event occurring to others, learn that the event happened to someone close to them, or experience repeated or extreme exposure to aversive details of a traumatic event. Mr. Stein's involvement in a car accident that threatened his life and claimed the life of his friend Diana constitutes a traumatic incident. Mr. Stein indicated that from the time of the incident, he experienced the following symptoms of **Posttraumatic Stress Disorder**: (1) recurrent, involuntary, and intrusive distressing memories of the accident; (2) recurring distressing dreams related to the accident; (3) intense or prolonged psychological distress at exposure to internal or external cues that symbolized or resembled aspects of the accident; (4) marked physiological reactions to internal or external cues; (5) efforts to avoid distressing memories, thoughts, or feelings about the traumatic event; (6) avoidance of external reminders of the traumatic event; (7) their system and exaggerated negative beliefs about oneself in the world; (8) unwarranted self-blame; (9) persistent horror, fear, anger, and guilt; (10) diminished interest in significant activities; (11) feelings of detachment or estrangement from others; (12) difficulty experiencing positive emotions; (13) irritability and angry outbursts; (14) reckless behavior; (15) problems with concentration; and (16) difficulty falling or staying asleep.

Mr. Stein also disclosed symptoms consistent with a diagnosis of **Bipolar II Disorder**. His symptoms include periods of depression (depressed mood, diminished interest in activities, lack of energy and motivation, difficulty initiating activities, excessive sleeping, disturbed appetite, feelings of worthlessness, diminished ability to concentrate, and suicidal thoughts) and hypomanic episodes (inflated self-esteem or grandiosity, decreased need for sleep, being more talkative than usual, a subjective sense of having racing thoughts, distractibility, agitation, and excessive involvement in activities with high potential for painful consequences). Posttraumatic Stress Disorder and Bipolar II Disorder have both been associated with impairments in executive functions such as attention and concentration.

Mr. Stein's problematic pattern of drug use is consistent with **Substance Use Disorders** involving **Alcohol, Cannabis, Cocaine, Methamphetamines, and Opioids**. His symptoms included craving drugs; (2) unsuccessful attempts to cut down drug use; (3) using drugs in larger amounts or over longer periods than intended; (4) spending a great deal of time in activities necessary to obtain or recover from drugs; (5) recurrent drug use despite failure to meet major role obligations; (6) continued drug use despite social or interpersonal problems; (7) a reduction of social and recreational activities to use drugs; (8) need for an

17 | Stein, Steven | SUMMARY OF PRELIMINARY FINDINGS

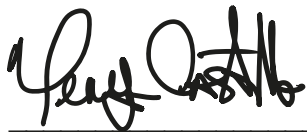
Dr. Yenys Castillo (7/25/2021)

increased dose to attain the same intoxicating effect; and (9) using drugs to avoid symptoms of withdrawal.

Dr. Barry Crown indicated that he conducted a neuropsychological evaluation of Mr. Stein on 12/1/1995. At the time, Mr. Stein was 27 years old but had the abstract reasoning of an 11-year-old. Dr. Crown conducted a second neuropsychological evaluation of Mr. Stein on 6/15/2021. He concluded that although Mr. Stein's abstract reasoning improved, he still has significant brain damage that impacts reasoning, judgment, language-based critical thinking, and memory functions. Dr. Crown opined that Mr. Stein has Cognitive Disorder Not Otherwise Specified and Diffuse Brain Injury with Resulting Neurocognitive Disorder due to Multiple Etiologies. Mr. Stein's difficulties, including fetal alcohol effects, undernourishment, polysubstance abuse, traumatic head injuries during the developmental period, and early trauma predated the indexed criminal offense.

The converging influences of traumatization and youthfulness and the absence of reliable and adequately supportive adults left Mr. Steven Stein chronically stressed and lacking sufficient internal and external resources to function effectively in society. Adverse factors acted singularly and collectively to increase the likelihood of psychological and social maladjustment, morality deficits, poor impulse control, poor judgment, and violent criminal offending.

Respectfully Submitted,



Yenys Castillo, Ph.D.
Licensed Psychologist

7/25/2021

Date

Dr. Yenys Castillo (7/25/2021)

REFERENCES

- Cassiers, L. L. M., Sabbe, B. G. C., Schmaal, L., Veltman, D. J., Penninx, B. W. J. H., & Van Den Eede, F. (2018). Structural and functional brain abnormalities associated with exposure to different childhood trauma subtypes: A systematic review of neuroimaging findings. *Frontiers in Psychiatry, 9*, Article 329.
- Cauffman, E., & Steinberg, L. (2000). (Im)maturity of judgment in adolescence. *Behavioral Sciences and the Law, 18* (6), 748-749.
- Child Welfare Information Gateway. (2019). Long-term consequences of child abuse and neglect. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.
- Gardner, M., & Steinberg, L. (2005). Peer influence on risk taking, risk preference, and risky decision making in adolescence and adulthood. *Developmental Psychology, 41*, 626- 634.
- Hawkins, J.D., Herrenkohl, T. I., Farrington, D.P., Brewer, D., Catalano, R. F., Harachi, T. W., & Cothorn, L. (2000). Predictors of juvenile violence. *Juvenile Justice Bulletin*. U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Luna, B., & Wright, C. (2016). Adolescent brain development: Implications for the juvenile criminal justice system. In K. Heilbrun, D. DeMatteo, & N. E. S. Goldstein (Eds.), *APA handbook of psychology and juvenile justice* (pp. 91–116). American Psychological Association.
- National Scientific Council on the Developing Child (2020). *Connecting the Brain to the Rest of the Body: Early Childhood Development and Lifelong Health Are Deeply Intertwined Working Paper No. 15*.
- Ousdal, O. T., Milde, A. M., Craven, A. R., Erslund, L., Endestad, T., Melinder, A., Huys, Q. J., & Hugdahl, K. (2019). Prefrontal glutamate levels predict altered amygdala–prefrontal connectivity in traumatized youths. *Psychological Medicine, 49*(11), 1822–1830.
- Steinberg, L. (2008) Adolescent development and juvenile justice. *Annual Review of Clinical Psychology, 47*, 55-56.
- U.S. Department of Justice (1995). Guide for implementing the comprehensive strategy for serious, violent, and chronic juvenile offenders, *Juvenile Justice Bulletin*, Juvenile Justice Clearinghouse, Washington, D.C.
- Wasserman, G. A., Keenan, K., Tremblay, R.E., Coie, J.D., Herrnkohl, T. I., Loeber, R., & Petechuk, E. (2003). Risk and protective factors of child delinquency. *Child Delinquency Bulletin Series*, U.S., Department of Justice, NCJ 193409.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been furnished by electronic service to all counsel of record on this 26th day of July, 2021.

/s/ Linda McDermott
LINDA MCDERMOTT
Chief, Capital Habeas Unit
Fla. Bar No. 0102857

/s/ Katherine Blair
KATHERINE BLAIR
Office of the Federal Defender for
the Northern District of Florida
Tallahassee, FL 32301-1300
Linda_mcdermott@fd.org
Katherine_blair@fd.org
(850) 942-8818

STRICTLY CONFIDENTIAL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by electronic service to all counsel of record on this 4th day of April 2023.

/s/ Dawn B. Macready
Dawn B. Macready
Florida Bar No. 542611
Drew A. Sena
Florida Bar No. 1023218
CCRC-North
1004 DeSoto Park Drive
Tallahassee, FL 32301
(850) 487-0922
Dawn.Macready@ccrc-north.org
Drew.Sena@ccrc-north.org

Counsel for Appellant

STRICTLY CONFIDENTIAL