

deficiencies) in the presence of prenatal alcohol exposure. However, the same set of CNS abnormalities seen in FAS are present in ARND. Therefore, the same guidelines developed by the CDC for FAS can be applied for the diagnosis of ARND.

There has been ample research around the United States that demonstrated no difference between FAS, FAE, PFAS, and ARND in the presentation of CNS abnormalities in neurological, neuroimaging, or neuropsychological signs.

**Cognitive Disorder, NOS and Neurodevelopmental Disorder Associated with Prenatal Alcohol Exposure:** In 1994, the American Psychiatric Association (APA) released the 4<sup>th</sup> edition of its Diagnostic and Statistical Manual (DSM-IV). This included a diagnosis of Cognitive Disorder, NOS. This diagnosis was typically made for individuals who were demonstrating significant neuropsychological impairments but were not related to specific dementias or amnesic disorders such as Alzheimer's disease or Traumatic Brain Injury. Cognitive Disorder, NOS was routinely used as the DSM-IV diagnosis to describe the neuropsychological impairments that were associated with an FASD.

In May 2013, the 5<sup>th</sup> Edition of the Diagnostic and Statistical Manual (DSM-5) was published. Included in this edition is a diagnosis directly relevant to FASD: Other Specified Neurodevelopmental Disorder (315.8/F88). The only example provided explicitly in the text for this diagnosis is Neurodevelopmental Disorder Associated with Prenatal Alcohol Exposure (ND-PAE). This diagnosis identifies an individual as having an FASD and the neuropsychological evaluation is critical in making this diagnosis. ND-PAE does not differentiate individual FASD diagnoses, not relying on the facial features associated with FAS and PFAS in making the diagnosis.

## DOCUMENTS REVIEWED

For the purposes of this report, the following records that were reviewed<sup>1</sup> focused on issues that were directly relevant to the current neuropsychological evaluation for consistency with FASD. Therefore, it primarily focused on prior psychological/neuropsychological assessments, school based testing, and school records. Prior test scores are compared with current testing results below. These included:

- Lansing School District Cumulative Records
- Moores Park School Records
- Forrest View School Records
- Psychological Evaluation by Lewis Etcoff, Ph.D., ABPN dated 9/28/1996
- Materials reviewed by Dr. Etcoff as part of his 1996 evaluation
- Trial Testimony of Dr. Etcoff (1996 and 2007)
- Declarations from the following individuals:
  - Benjamin Dean
  - Charles Dean
  - Georgette Sneed
  - James Ford

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<sup>1</sup> I was given additional records to review but have highlighted these in particular as being most relevant to this assessment. A list of all the records I reviewed are attached to this Report.

- James Wells
- Joetta Ford
- Myra Chappell-King
- Rose Wells-Canon
- Terrance Wallace
- William Earl Bonds
- William Roger Moore
- Willie Richard Chappell, Sr.

## **NEUROPSYCHOLOGICAL TESTING RESULTS**

### **TESTS ADMINISTERED**

Psychological/Neuropsychological History Interview  
 Wechsler Adult Intelligence Scale – 4<sup>th</sup> Edition (WAIS-IV)  
 Wide Range Achievement Test – 4<sup>th</sup> Edition (WRAT-4)  
 California Verbal Learning Test – 2<sup>nd</sup> Edition (CVLT-2)  
 Rey Complex Figure Test (RCFT)  
 Conners' Continuous Performance Test – 3<sup>rd</sup> Edition (CPT3)  
 Grooved Pegboard Test (GP)  
 Finger Tapping Test (FT)  
 Wisconsin Card Sorting Test- 4<sup>th</sup> Edition (WCST)  
 Delis-Kaplan Executive Function System (D-KEFS) Tower and Proverbs Subtests  
 Controlled Oral Word Association Test (COWAT)  
 Ruff's Figural Fluency Test (RFF)  
 Stroop Color and Word Test  
 Trail Making Test (TMT)  
 Auditory Consonant Trigrams Test (ACT)  
 Gudjonsson Suggestibility Scale 2 (GSS2)  
 Neuropsychological Assessment Battery: Auditory Comprehension Test (NAB: AC)  
 Advanced Clinical Solutions: Social Cognition (ACS:SC)  
 Texas Functional Living Scale (TFLS)  
 Vineland Adaptive Behavior Scale – 2<sup>nd</sup> Edition (VABS-II) (Administered to James Ford, Terry Wallace, & Myra Chappell-King)  
 Behavior Rating of Executive Function, Adolescent Version (BRIEF) (Administered to James Ford, Terry Wallace, & Myra Chappell-King)  
 Advanced Clinical Solutions: Effort Assessment Scores (ACS: Effort) Word Choices & Reliable Digit Span  
 CVLT Forced Choice (CVLT: FC)  
 CPT3 Validity (CPT3: V)  
 The Dot Counting Test (Dots)

### Behavioral Observations:

On both days of the assessment, Mr. Chappell presented as a friendly and polite man. On informal observation, though his upper lip appeared quite full, Mr. Chappell was noted to have a fairly smooth philtrum, a somewhat flattened midface, and eyes that appeared to be somewhat small. In addition, he was noted to have possible clinodactyly of the left pinky, somewhat large gaps between pinky and ring fingers, possible bilateral hockey stick creases, and a right ear that was noted for a possible railroad track pattern. Formal measurements were not obtained as part

of the current evaluation. This will be investigated formally by Dr. Davies as part of his evaluation. No tremor was noted during the course of the evaluation and he sat fairly still throughout. Throughout the course of both days he would ask me to purchase considerable amounts of food, which he would eat fairly quickly. Mr. Chappell tended to interact in a somewhat childlike manner that was not consistent with his chronological age. On interview he had difficulties remembering details of his history and would often talk around answers, not fully answering them. He would say things like “etc. etc.” to make it seem like he had more fully answered questions. In addition, he would often use large words to give the impression of sophistication. However, several of the words chosen were not accurate to the context of the discussion. There was no indication of thought disorder, homicidal or suicidal ideation.

On testing, Mr. Chappell tended to work quite slowly, thinking for a long time while performing tasks. However, he was very persistent and would continue to work hard on tasks. When tasks became difficult for him he would often smile and chuckle. At times, it appeared as though he was confused by instructions but would not often ask for clarification. In addition, he sought little feedback on his performance.

Mr. Chappell was administered several performance validity tasks designed to measure his effort. On all tasks, his performance was nearly error free. Mr. Chappell’s performance on effort tasks, combined with observations throughout the evaluation, indicated that the current assessment should be considered an accurate representation of his current neuropsychological functioning.

Intellectual Functioning:

Intellectual functioning indicated considerable variability in performance depending on the domain being assessed (see scores in Table 1). His domains of greatest strength were in Verbal Comprehension and Perceptual Reasoning where his performance was within the average range. Processing Speed was performed within the low average range. His domain of greatest weakness was in Working Memory, where his performance was within the borderline to mildly intellectually impaired range. This means that 97% of people who have taken this test performed better than Mr. Chappell in this domain. Because of the split between domain performances, Full Scale IQ, measured at 86, should not be considered an entirely accurate representation of Mr. Chappell’s overall intellectual functioning. Mr. Chappell has received IQ testing in the past (see Table: 1). When he was approximately 16 or 17, though scores were not provided, it was reported that his overall intellectual functioning was within the borderline to low average range. In later testing, he demonstrated significant splits between language-based and nonlanguage-based skills similar to current testing and his overall intellectual functioning. In prior versions of the WAIS, the working memory domain was included in the VIQ instead of being split into Verbal Comprehension and Working Memory domains as it is in the current version of the test. Mr. Chappell’s level of intellectual functioning as well as significant splits between domains is frequently seen in individuals with FASD.

Table 1: COMPARISON OF CURRENT AND PRIOR IQ TESTING

Year	Test	VCI/VIQ	PIRI/PIQ	WMI	PSI	FSIQ
10/1986						Borderline to low average
6/1996	WAIS-R	/77	/91			80
5/2016	WAIS-IV	96	96	71	86	86

When individual subtests were analyzed, Mr. Chappell's area of greatest strength was on a visuospatial task of assembling blocks to match a picture (high average range). He performed within the average range on a visuospatial task of identifying individual components of puzzles, a task of speeded visual scanning, and language-based tasks of identifying the abstract similarity between items and informational knowledge. Mr. Chappell performed within the mildly impaired range on tasks of speeded translation of information and short-term attention and memory for number sequences. His area of greatest weakness was in orally presented arithmetic, where he was performing within the mildly to moderately impaired range. On the balance of tasks, Mr. Chappell performed within the low average range.

#### Academic Functioning:

Language-based academic achievement was performed at a level that was fairly consistent with Mr. Chappell's level of language-based intellectual functioning. However, he demonstrated considerably greater difficulties in arithmetic performance than might be expected based on his overall level of intellectual functioning, though quite consistent with his performance on orally based arithmetic testing from the IQ test. As can be seen in Table 2, word reading was performed at an equivalent of the middle portions of an 11<sup>th</sup> grade level while reading comprehension was performed at the equivalent of the beginning of the 12<sup>th</sup> grade level. Spelling, Mr. Chappell's area of greatest strength, was performed at an equivalent beyond the end of high school. By contrast, Mr. Chappell's arithmetic calculation skills were performed at an equivalent of the beginning of the 4<sup>th</sup> grade level. He was able to perform most addition and subtraction tasks, and was able to perform single digit multiplication. However, he was unable to perform division, multidigit multiplication, calculate fractions, or perform higher order arithmetic. His performance on math testing was considerably below expectations based on his level of formal education. However, it is consistent with school records that commented on troubles with arithmetic throughout his education, records indicating participation in special education services, and Mr. Chappell's own self-report that math was his most difficult subject. As can be seen in Table 2, Mr. Chappell's current performance on academic testing is quite consistent with prior testing in which he performed considerably more poorly on arithmetic tasks and had relatively greater sparing of language-based academic skills. Difficulties with academic functioning, especially with respect to arithmetic, are frequently seen in research on individuals with FASD.

**TABLE 2: COMPARISON OF CURRENT AND PRIOR ACADEMIC TESTING**

(Standard Score / %ile / Grade Equivalent)

<b>Year</b>	<b>Test</b>	<b>Word Reading/ Total Reading</b>	<b>Reading Comprehension</b>	<b>Spelling/ Writing</b>	<b>Math</b>
<b>5/1977</b>	SAT	/18%/			/18%/
<b>5/1978</b>	SAT	/40%/			/12%/
<b>5/1979</b>	SAT	/40%/			/23%/
<b>5/1980</b>	SAT	/4/			/26/
<b>5/1982</b>	SAT	/18%/			/11%/
<b>12/1984</b>	Peabody IAT	/ /6.0	/ /7.5	//8	/ /??
<b>10/1986</b>	WRAT	/5 <sup>th</sup> %/			/2%/
<b>6/1996</b>	WRAT-3	88/ /hs		89/ /8	67/ /4
<b>5/2016</b>	WRAT-4	91/27%/11.6	92/30%/12.0	100/50%/>12.9	72/3/4.0



#### Learning and Memory Functioning:

Mr. Chappell's initial performance on a list learning task was within the moderately to severely impaired range, recalling 2 of the 16 words on the first trial. He benefitted from repetition of the list, improving his recall of words over the ensuing trials such that on the 5<sup>th</sup> and final trial Mr. Chappell recalled 10 of the 16 words, performing within the low average range. Because of his poor initial learning of information, his overall performance on the learning portion of the task was within the mildly impaired range. Following a short delay, Mr. Chappell recalled 9 words, performing within the average range. Following a long delay period, he recalled 8 words, again performing within the average range.

Mr. Chappell was administered a contextual memory task in which he was read a story and asked to repeat it. His initial recall of the story was within the mildly to moderately impaired range, having difficulties recalling many components of the story. In addition, he added many details that were not in the original story, indicating some difficulties with confabulation. Following a delay, he again was unable to recall many of the components of the story, performing within the mildly to moderately impaired range. As with the short delay trial, he added several inaccurate details to the story, again indicating troubles with confabulation.

On a visuospatial learning and memory task, Mr. Chappell was first asked to copy a complex figure and then later asked to draw the figure again from memory. When copying the task, Mr. Chappell performed within the severely impaired range. His approach to copying the figure was very poorly organized. He worked from right to left in a clockwise order breaking up the majority of the components. As such he did not appear to recognize the overall shape of the figure. In addition, he failed to copy one component of the figure. Following a short delay period, Mr. Chappell's reproduction of the figure was within the moderately to severely impaired range. His approach was again quite disorganized and many of the components were broken up. In addition, he did not recall the majority of the components of the figure. After a long delay period, Mr. Chappell's performance was within the moderately impaired range. Though he was able to recall a few additional components that he had not recalled on short delay task, the majority of the components that he did draw were inaccurate and his approach was again disorganized.

Difficulties with learning and memory functioning and visuospatial construction have been reported in research on individuals with FASD.

#### Attention Functioning:

Mr. Chappell's performance on a task of sustained visual attention showed no significant difficulties with attention functioning. However, his pattern of performance indicated considerable slowing of processing speed with reaction times that were quite slow.

#### Motor Functioning:

On a task of speeded eye-hand coordination, in which Mr. Chappell was asked to insert pegs into grooved holes, he performed within the average range, bilaterally. On a task of finger speed, in which Mr. Chappell was asked to tap a key as quickly as possible, he performed within the low average range when using his dominant right hand but within the mildly to moderately impaired range when using his left hand. Mr. Chappell did not indicate a history of significant hand injury which would account for his poor performance on the speeded motor task.

#### Suggestibility:

Mr. Chappell was administered a test addressing his susceptibility to endorsing information, particularly in the context of interrogative questioning involving misleading cues. Mr. Chappell was read a short story and asked to repeat it. Mr. Chappell's performance on this portion of the task is reported above in the memory section. Following the recall of the story, detailed questions about the story are asked. After the first round of questions, the examinee is told that some of his answers are not correct, and the questions are then repeated. It is noted how many times the examinee succumbs to the misleading questions on the first round and how many times he changes his answers from the first to the second round. The total of the two is reported as "Total Suggestibility." When Mr. Chappell was presented with the questions for the first time, he endorsed 6 of the misleading questions, indicating performance within the average range. However, when the questions were posed to him the 2<sup>nd</sup> time, he endorsed 12 misleading questions, indicating performance within the mildly to moderately impaired range. In addition, he shifted his response on 6 questions, indicating performance within the low average to borderline range and suggesting some difficulties withstanding external pressure. Overall, his total suggestibility was within the low average range.

#### Executive Functioning:

Executive functions are described as the ability to problem solve, learn from past mistakes, inhibit responses, shift attention, multitask, and generate information. On a task of visual tracking, Mr. Chappell performed within the high average range. When test complexity was increased to include shifting attention during the visual tracking task, he again performed within the high average range. He performed within the low average range on a task of word generation based on a letter cue (e.g. letter "B"). When asked to name as many animals as he could, a more structured task, Mr. Chappell performed within the high average range. On a test requiring the generation of unique figural designs (analogous to the verbal fluency task), Mr. Chappell performed within the mildly to moderately impaired range. On a task of response inhibition, Mr. Chappell was first asked to read a series of words (names of colors) as quickly as possible and then asked to identify colors quickly. Finally, he was asked to identify colors of ink while ignoring the word that was printed. His reading of words was within the low average range, while his naming of colors was within the mildly to moderately impaired range. On the inhibition task, identifying the color of ink while ignoring the word, Mr. Chappell's performance was within the average range. On a working memory task in which Mr. Chappell was required to remember a series of letters while performing a distraction task (counting backwards by 3's), he performed within the low average range, overall.

On a fairly structured visual problem solving task, Mr. Chappell was asked to move a series of graduated sized disks on pegs one at a time to match an exemplar configuration. His overall performance on this task was within the average range, completing all but one of the trials and performing the task fairly quickly (average range). On a less structured task of visual problem-solving, Mr. Chappell was asked to make judgments on matching stimuli in which multiple matching criteria could be applied. His overall performance on this task was within the impaired range. It took him many trials in order to identify the initial problem solving strategy (mildly to moderately impaired range), and ultimately was only able to identify three of the six possible strategies (mildly impaired range). On this task, Mr. Chappell would become stuck on particular problem solving strategies even when they were not effective (mildly to moderately impaired range), indicating considerable difficulties with perseverative behaviors. In addition, he made many additional errors in matching (mildly impaired range). On a test in which Mr. Chappell was asked to explain both common and uncommon sayings, his overall performance was within

the average range. However, though he was typically able to correctly describe the concrete meaning of the sayings (average range), Mr. Chappell demonstrated considerably greater difficulty identifying the abstract meanings behind the sayings (mildly impaired range). School records include comments of poor problem solving skills when Mr. Chappell was 16 years old. Deficits in executive function skills, especially on tasks that have less external structure, have frequently been documented in the research literature on individuals with FASD.

#### Adaptive Functioning:

Two avenues were utilized to assess Mr. Chappell's day-to-day adaptive functioning skills. The first avenue included direct measures of Mr. Chappell's abilities in several aspects of daily activities in the structured environment of the testing room. The second avenue involved informant reports of his functioning on a day-to-day basis in non-structured environments.

**Direct Measures:** Mr. Chappell was administered a test designed to address his perception of emotional states in others. His overall social perception was within the average range. He was able to identify emotional content both based on facial expression and tone of voice.

On a receptive communication task in which he was asked to follow a series of instructions, Mr. Chappell performed within the average range, overall. He was able to follow most single and multistep step instructions accurately. However, he tended to become somewhat confused by convoluted or misleading questions (e.g. double negatives).

On a test that measured such daily living skills as communication, domestic abilities, and community skills, Mr. Chappell's overall performance was within the mildly to moderately impaired range. He demonstrated significant impairments in his ability to calculate change and communicate accurately in daily activities.

Taken as a whole, current direct testing indicates that in structured situations Mr. Chappell demonstrates impairments in communication and daily living skills.

**Informant Report:** The Vineland Scales of Adaptive Behavior—II (VABS-II) were administered to three people who have frequently interacted with Mr. Chappell and have known him well. The informants included his friends, James Ford and Terry Wallace, and his sister, Myra Chappell-King. The interviews were conducted by Joanne Sparrow, a psychometrist and Ph.D. clinical psychology student specially trained in administering these interviews. All three reported on his functioning when he was 25 years old. However, his sister acknowledged that she did not know him very well during this time period and as such was unable to provide complete information on his functioning. She indicated being better able to comment on his functioning between the ages of 15 and 17, though a follow-up interview regarding his functioning during these ages could not be obtained prior to the completion of this report. As part of the interview process all three informants were administered the Behavior Rating Inventory of Executive Function. One aspect of the BRIEF is that it includes several validity measures to determine the potential for bias in the informant. None of the informants' responses raised concerns about the validity of their report, and should thus be considered an accurate representation of their perceptions of Mr. Chappell's day-to-day functioning.

On the Vineland, both Mr. Ford and Mr. Wallace were able to provide sufficient information in order to calculate an overall composite score. Based on their report, Mr. Chappell obtained and Adaptive Behavior Composite Scores of 78 (7<sup>th</sup> percentile) and 54 (<1<sup>st</sup> percentile), respectively.

This indicates day-to-day functioning that is between 1.5 and 3.1 standard deviations below average, and represents significant impairment. They also represent functioning that is below expectations based on Mr. Chappell's level of intellectual functioning, especially with respect to language-based skills. Deficits in the ability to apply cognitive skills appropriately in day-to-day activities when the levels of external structure are at their lowest, are seen extremely frequently in research on individuals with FASD. The Vineland assesses three domains of adaptive functioning: Communication; Daily Living Skills; and Socialization.

Mr. Ford indicated that his friends overall communication abilities were within the low average range while Mr. Wallace indicated communication functioning to be within the severely impaired range. This indicates a fairly significant discrepancy between the two informants' reports. Mr. Ford indicated that Mr. Chappell's only area of significant weakness was in written skills where he was reported to be functioning within the mildly impaired range. By contrast, Mr. Wallace indicated that Mr. Chappell's receptive communication skills were his area of greatest weakness with functioning that was reported to be within the moderately to severely impaired range. Mr. Wallace also indicated expressive and written skills to be within the moderately impaired range. Though Ms. Chappell-King was unable to provide sufficient information to calculate the full domain score, she was able to report on some of the subdomains when her brother was 25 years old. She agreed with Mr. Wallace that her brother's area of greatest weakness was receptive communication skills, functioning within the moderately to severely impaired range. She also indicated that his expressive language skills were within the mildly to moderately impaired range. Therefore, Ms. Chappell-King's responses to questions were quite consistent with Mr. Wallace's responses

Mr. Ford reported Mr. Chappell's overall daily living skills to be within the mildly to moderately impaired range while Mr. Wallace reported his functioning to be within the moderately impaired range. Both agreed that personal hygiene skills were an area of weakness, with functioning that was within the mildly to moderately impaired range. Mr. Ford indicated that community based skills were within the mildly to moderately impaired range while Mr. Wallace indicated that skills in this area were within the moderately to severely impaired range. All three informants agreed that domestic skills were an area of relative strength for Mr. Chappell. Both Mr. Ford and Ms. Chappell-King indicated domestic abilities that were broadly within average range while Mr. Wallace indicated abilities that were within the mildly impaired range.

Socialization skills were reported by both Mr. Wallace and Mr. Ford as being within the impaired range with Mr. Ford indicating functioning that was within the mildly impaired range while Mr. Wallace was indicating functioning within the mildly to moderately impaired range. Both agreed that his area of greatest relative strength was in coping skills where his performance was in the low average to borderline range. Mr. Ford indicated similar levels of functioning with respect to Mr. Chappell's interpersonal skills while Mr. Wallace indicated interpersonal skills that were within the mildly to moderately impaired range.

When comparing the reports of the informants, greatest discrepancy was found with respect to communication skills with Mr. Ford indicating functioning that was considerably higher than either Mr. Wallace or Ms. Chappell-King were indicating. In other aspects of daily living skills, the informants were fairly consistent in their description of Mr. Chappell.

## SUMMARY OF FINDINGS

Figure 1 graphically represents Mr. Chappell's pattern of performance on the current testing where all scores are converted to standard deviations from the mean (a score of 0, green line) and the direction of deficit is made consistent (lower scores = poorer performance). Standard deviations below -2 for intellectual testing and -1 for neuropsychological testing represent areas of impaired functioning (red line). Mr. Chappell's performance is shown with the blue line.

As can be seen in Figure 1, Mr. Chappell demonstrated significant impairments in 9 domains of functioning. These included:

1. Academic functioning, especially in arithmetic
2. Learning and memory for verbal and visual information
3. Visuospatial construction and organization
4. Attention functioning
5. Processing speed
6. Executive functions, especially on tasks low external structure
7. Communication skills (based on direct testing of expressive communication and two of three informant reports)
8. Daily living skills (based on direct testing and informant reports)
9. Socialization skills (based on informant reports).

In addition, 40% of Mr. Chappell's test scores shown in Figure 1 were at or below the cutoff point for impairment, indicating quite widespread impairments. Furthermore, 28% of the scores that were in deficit were found to be at least within the moderately impaired range.

The guidelines developed by the CDC for diagnosing an FASD require that, in the presence of prenatal alcohol exposure, functioning in at least 3 domains of cognitive functioning that are at least one standard deviation below average and/or intellectual functioning that is within the intellectually disabled range. Reportedly, multiple people have indicated that Mr. Chappell's mother consumed alcohol as well as heroin during the course of her pregnancy. Mr. Chappell's pattern of current neuropsychological functioning meets the diagnostic guidelines with deficits that were identified in 9 domains of functioning.

In addition, Mr. Chappell is demonstrating a pattern of functioning on current testing that is consistent with research studies on individuals with FASD. As can be seen in Figure 2, Mr. Chappell is demonstrating significant splits in performance between the various domains of IQ testing, a pattern often seen in individuals with FASD. In addition, Figure 3 compares Mr. Chappell's performance on current testing with research on individuals with FASD with respect to intellectual, academic, and adaptive functioning. As can be seen, Mr. Chappell demonstrates a descending pattern of performance between the three domains of functioning that is entirely consistent with research on individuals with FASD. This pattern can be seen as a "hallmark" feature in research on individuals with FASD. Finally, Figure 4 portrays Mr. Chappell's performance on executive functioning and adaptive functioning measures where the green line represents the average score for higher structured executive function tasks, the purple line represents the average for lower structured executive function tasks, and the red line represents the average score for the lowest level of external structure with respect to adaptive skills. As can be seen in the figure, Mr. Chappell is demonstrating a stepwise decrease in functioning as the

level of structure in the environment also decreases. Therefore, Mr. Chappell's current pattern of neuropsychological functioning is consistent with the diagnostic guidelines for an FASD.

On interview, Mr. Chappell did not report a significant medical history that could be contributory to his current pattern of neuropsychological functioning. He recalls one incident in which he fell from a moped but indicates that he does not strike his head during the incident. He also recalls a few fights with family members in which he was struck in the head. However, he reports never receiving a blow to the head that resulted in loss of consciousness or concussion-like symptoms. By contrast, Mr. Chappell reports a history of alcohol, marijuana, and crack cocaine use in his life. He first tried alcohol when 12 years old. Between the ages of 15 and 17, he indicated drinking nearly daily to the point of intoxication though not to the point of passing out or throwing up. After the age of 18, he indicates drinking at least every other day to the point of intoxication and acknowledged using alcohol up to the time of his arrest. He first tried marijuana at the age of 12 and began using on a daily basis when he was 16 or 17 years old. He reports continuing to use marijuana at least once every 3 to 4 days up until the time of his arrest at 25. He first tried crack cocaine at the age of 17. He reports that he did not use frequently until just before moving to Las Vegas, but that once there he began using approximately every other day, increasing his use over time. It is possible that using alcohol, marijuana, and crack cocaine could have a negative impact on cognitive functioning, especially during the time that a person is actively using. However, the majority of research indicates that even with chronic use of substances, ongoing abstinence typically will lead to improvements in cognitive functioning. In addition, research on animals and humans has found that those exposed to prenatal alcohol are more likely to develop alcohol and substance use problems that frequently start earlier in life. Therefore, while it is possible that these competing possibilities could have had an additive impact, Mr. Chappell's pattern of current neuropsychological functioning continues to be consistent with guidelines for the diagnosis of FASD.

**Thus, Mr. Chappell's current functioning is consistent with past research and with current guidelines for diagnosis of a FASD. As such, a diagnosis of Neurodevelopmental Disorder Associated with Prenatal Alcohol Exposure (ND-PAE) based on the current DSM-5 would be appropriate. He would also have been appropriately diagnosed with Cognitive Disorder, NOS when the DSM-IV was being utilized between 1994 and 2013. However, the ultimate medical diagnosis awaits formal evaluation by Dr. Davies.**

Signature Line

A handwritten signature in black ink, appearing to read 'Paul D. Connor', is written over a horizontal line.

Paul D. Connor, Ph.D.  
Licensed Psychologist/Neuropsychologist

## SUMMARY SCORES

### WECHSLER ADULT INTELLIGENCE SCALE – FOURTH EDITION (WAIS-IV):

<u>Verbal Comprehension</u>	<u>Scaled Score</u>	<u>Perceptual Reasoning</u>	<u>Scaled Score</u>
Similarities	9	Block Design	12
Vocabulary	8	Matrix Reasoning	7
Information	11	Visual Puzzles	9
 <u>Working Memory</u>	 <u>Scaled Score</u>	 <u>Processing Speed</u>	 <u>Scaled Score</u>
Digit Span	6	Symbol Search	9
Arithmetic	4	Digit Symbol-Coding	6

### IQ

Verbal Comprehension	96
Perceptual Reasoning	96
Working Memory	71
Processing Speed	86
Full Scale IQ	86

### WIDE RANGE ACHIEVEMENT TEST – 4<sup>th</sup> EDITION:

<u>Subtests</u>	<u>Standard Score</u>	<u>Percentiles</u>	<u>Grade Equivalents</u>
Word Reading	91	27	11.6
Sentence Comprehension	92	30	12.0
Spelling	100	50	>12.9
Math Computation	72	3	4.0
Reading Composite	90	25	

### CALIFORNIA VERBAL LEARNING TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Trial 1	20	<1
Trial 5	45	31
Total of all learning trials	38	12
Short Delay Free Recall	50	50
Long Delay Free Recall	45	31
Recognition	55	69

### REY COMPLEX FIGURE TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Copy	17	<1
Immediate Recall	23	<1
Delayed Recall	26	1
Recognition Total Correct	40	16

### Conner's Continuous Performance Test- 3<sup>rd</sup> Edition (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Omissions	47	61
Commissions	39	86
Reaction Time	63	9
Variability of Reaction Time	47	61

### GROOVED PEGBOARD: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Dominant Hand	50	50
Non Dominant Hand	50	50

FINGER TAPPING: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Dominant Hand	41	18
Non Dominant Hand	33	4

CONTROLLED ORAL WORD ASSOCIATION TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Total of F-A-S Trials	42	21
Animals	56	73

RUFF'S FIGURAL FLUENCY: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Total Unique Designs	30.3	2.3
Perseverations	34.9	6.8

STROOP TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Word only trial	41	18
Color only trial	31	3 (1 error)
Ink color (ignoring printed words)	53	61 (1 error)
Interference	56	73

TRAILS TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Trials A	55	69
Trials B	57	75

CONSONANT TRIGRAMS: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
9 Second Delay Trials	42	21
18 Second Delay Trials	48	42
36 Second Delay Trials	40	16

WISCONSIN CARD SORTING TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Perseverative Responses	33	5
Nonperseverative Errors	36	8
Conceptual Level Responses	35	6
	<u>Raw Score</u>	<u>Percentile</u>
Categories Completed	3	6-10
Trials to Complete 1 <sup>st</sup> Category	33	2-5
Set Breaks	0	>16

DELIS-KAPLAN EXECUTIVE FUNCTION SYSTEM: (mean=10, sd=3)

	<u>Standard Score</u>	<u>Percentile</u>
Tower Test		
Total Achievement	11	63
First Move Time	11	63
Time per Move	9	37
Move Accuracy	10	50
Total Rule Violations	11	63
Proverbs Test		
Total Achievement	9	37
Common Proverb Achievement	10	50
Uncommon Proverb Ach.	8	25
Accuracy Score	10	50
Abstraction Score	6	9



NAB: AUDITORY COMPREHENSION TEST: (mean=50, sd=10)

	<u>T-Score</u>	<u>Percentile</u>
Total Auditory Comprehension	55	69

ACS: SOCIAL COGNITION: (mean=10, sd=3)

	<u>Scaled Score</u>	<u>Percentile</u>
Social Perception	11	63
Affect Naming	11	63
Prosody	11	63
Social Perception Pairs	9	37

GUDJONSSON SUGGESTIBILITY SCALE 2: (mean=50, sd=10)

	<u>Scaled Score</u>	<u>Percentile</u>
Immediate Recall	34	5
Delayed Recall	30	2
Yield 1	46	34
Yield 2	34	5
Shift	40	16
Total Suggestibility	42	21

TEXAS FUNCTIONAL LIVING SCALE: (mean=50, sd=10)

	<u>Scaled Score</u>	<u>Cumulative Percentile</u>
Time		>75
Money & Calculation		3-9
Communication		3-9
Memory		17-25
Total Score	34	5

VINELAND ADAPTIVE BEHAVIOR SCALES: (Administered to James Ford re age 25)

	<u>Standard Score</u> (mean=100, sd=15)	<u>Percentiles</u>	<u>v-Score</u> (mean=15, sd=3)	<u>Age Equivalent</u>
Communication	90	25		
Receptive			15	18:0
Expressive			16	22+
Written			11	11:3
Daily Living Skills	76	5		
Personal			9	12:6
Domestic			16	22+
Community			10	17:0
Socialization	77	6		
Interpersonal Relationships			12	16:0
Play and Leisure time				
Coping Skills			12	12:6
Adaptive Behavior Composite	78	7		

VINELAND ADAPTIVE BEHAVIOR SCALES: (Administered to Terry Wallace re age 25)

	<u>Standard Score</u> (mean=100, sd=15)	<u>Percentiles</u>	<u>v-Score</u> (mean=15, sd=3)	<u>Age Equivalent</u>
Communication	29	<1		
Receptive			7	4:7
Expressive			8	5:7
Written			8	9:0
Daily Living Skills	63	1		
Personal			9	12:6
Domestic			11	15:0
Community			7	9:6
Socialization	71	3		
Interpersonal Relationships			10	11:6
Play and Leisure time				
Coping Skills			12	12:6
Adaptive Behavior Composite	54	<1		

VINELAND ADAPTIVE BEHAVIOR SCALES: (Administered to Myra Chappell-King re age 25)

	<u>Standard Score</u> (mean=100, sd=15)	<u>Percentiles</u>	<u>v-Score</u> (mean=15, sd=3)	<u>Age Equivalent</u>
Communication				
Receptive			7	4:11
Expressive			9	7:6
Written				
Daily Living Skills				
Personal				
Domestic			12	15:3
Community				
Socialization				
Interpersonal Relationships				
Play and Leisure time				
Coping Skills				
Adaptive Behavior Composite				

BRIEF-A: (mean=50, sd=10) (Administered to James Ford re age 25)

	<u>T-Score</u>	<u>Raw Score</u>
Inhibit	45	
Shift	61	
Emotional Control	45	
Self-Monitor	65	
Initiate	45	
Working Memory	58	
Plan/Organize	51	
Task Monitor	53	
Org. of Materials	51	
BRI	51	
MI	51	
GEC	52	
Negativity Scale		0
Infrequency Scale		1
Inconsistency Scale		6

BRIEF-A: (mean=50, sd=10) (Administered to Terry Wallace re age 25)

	<u>T-Score</u>	<u>Raw Score</u>
Inhibit	66	
Shift	61	
Emotional Control	45	
Self-Monitor	68	
Initiate	48	
Working Memory	74	
Plan/Organize	58	
Task Monitor	57	
Org. of Materials	44	
BRI	58	
MI	56	
GEC	57	
Negativity Scale		1
Infrequency Scale		1
Inconsistency Scale		4

BRIEF-A: (mean=50, sd=10) (Administered to Myra Chappell-King re age 25)

	<u>T-Score</u>	<u>Raw Score</u>
Inhibit	57	
Shift	53	
Emotional Control	54	
Self-Monitor	51	
Initiate	42	
Working Memory	55	
Plan/Organize	49	
Task Monitor	57	
Org. of Materials	51	
BRI	54	
MI	50	
GEC	52	
Negativity Scale		0
Infrequency Scale		1
Inconsistency Scale		4

CALIFORNIA VERBAL LEARNING TEST – FORCED CHOICE:

	<u>Total Correct</u>
Correct choices	16/16

CONNERS' CONTINUOUS PERFORMANCE TEST - VALIDITY:

Overall Validity:	Valid
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ADVANCED CLINICAL SOLUTIONS – EFFORT ASSESSMENT SCORE:

	<u>Raw Score</u>
Reliable Digit Span	7
Word Choice	49/50

THE DOT COUNTING TEST:

	<u>Score</u>
E-Score	8

Figure 1:

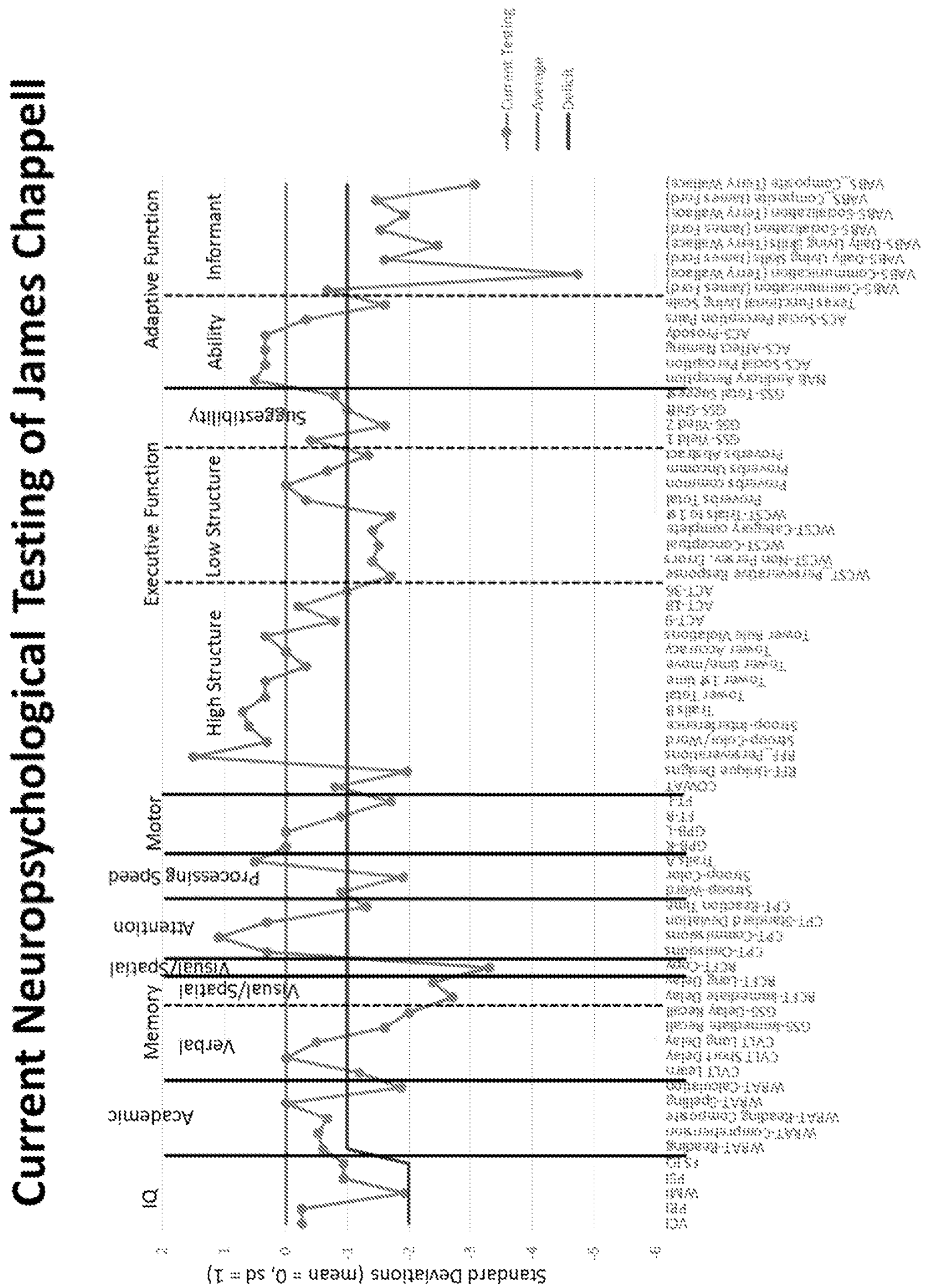


Figure 2:

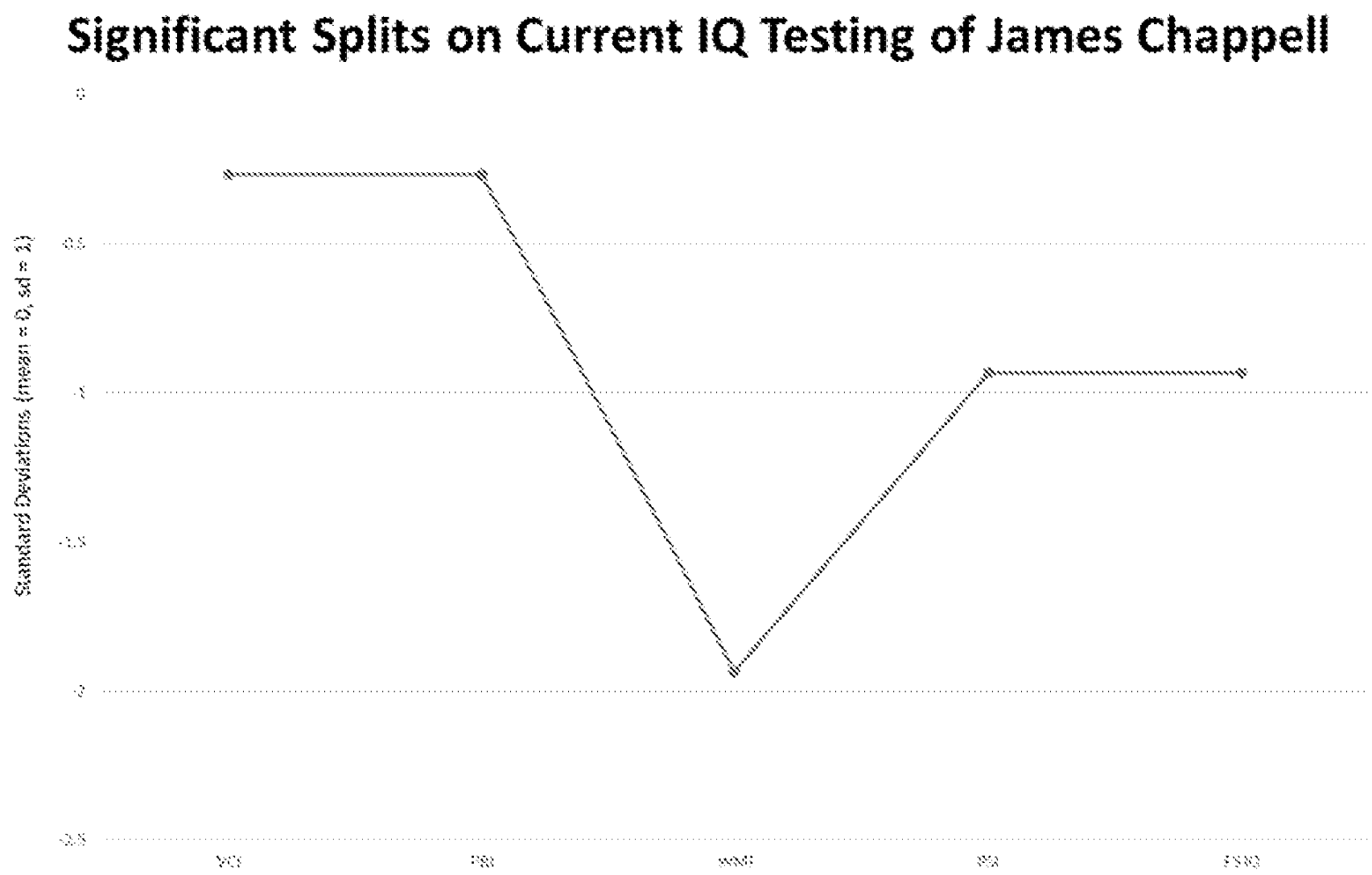
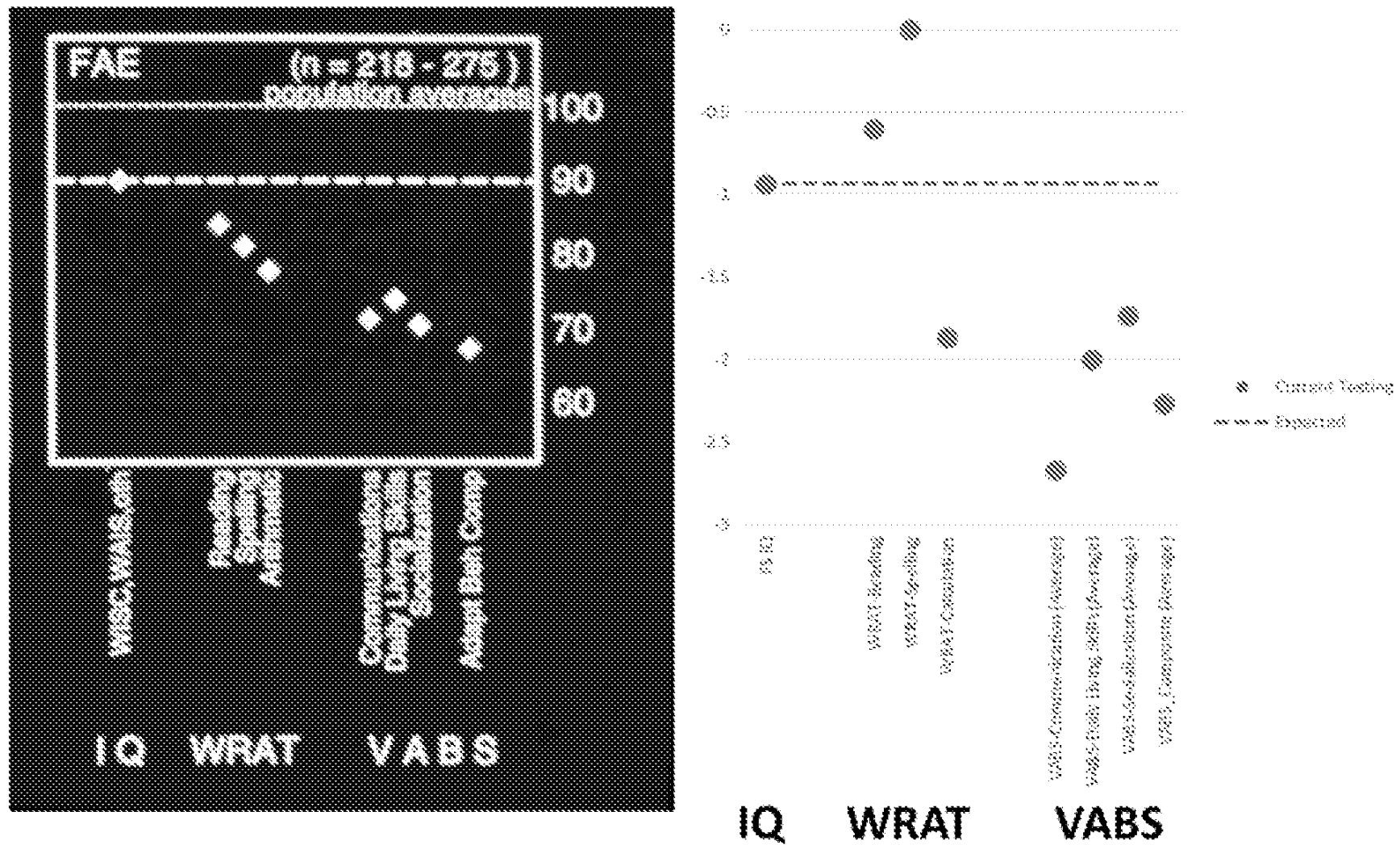


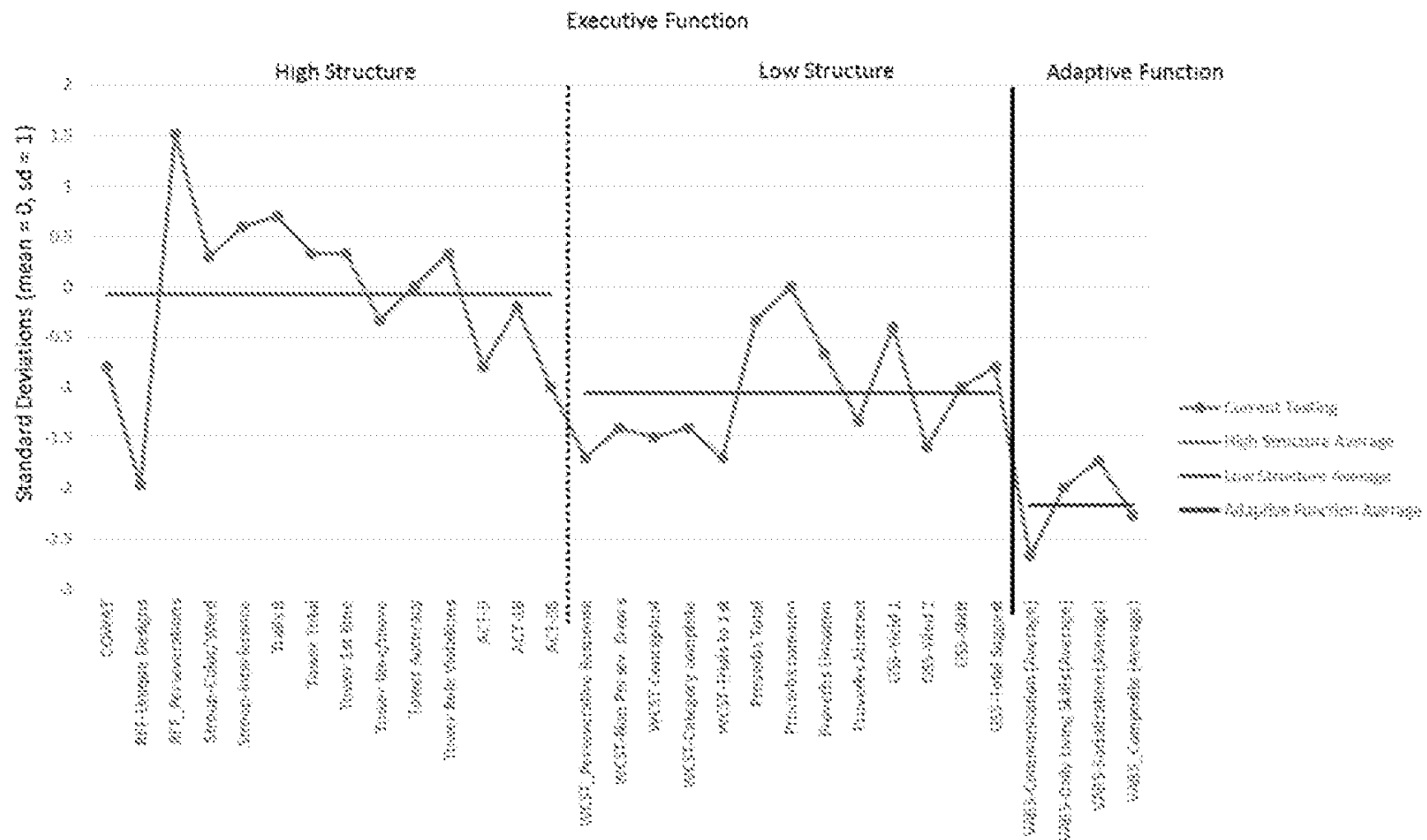
Figure 3:

## Downward Slope James Chappell



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## AA01448



## **ATTACHMENT “A”**

### **DOCUMENTS SENT TO DR. PAUL CONNOR**

School records, James M. Chappell

- 1976-1977 Moores Park School, Semester Report
- 1977 Moores Park School, Certificate
- 1978 Lansing School District Environmental Education Center, Certificate
- 1978, Moores Park School, Certificate for Field’s Day
- 1979-1980 Moores Park School, Student Progress Report
- 1980 Class assignment
- 1980 Daily Progress Report
- 1981, Forest View School, Student Progress Report
- 1982, Maple Grove School, Certificate of Completion-6<sup>th</sup> grade
- Junior Citizen’s Award, Officer Friendly Program
- Lansing School District, Cumulative School Record

Psychological Report, Dr. Lewis Etcoff

Supplemental Psychological Report, Dr. Lewis Etcoff

Trial Testimony, James Chappell (October 14, 1996)

Trial Testimony, Dr. Lewis Etcoff (October 15, 1996)

Trial Testimony, Dr. Lewis Etcoff (March 16, 2007)

Trial Testimony, William Roger Moore (October 22, 1996)

Trial Testimony, Dr. William Danton (March 14, 2007)

Evaluation Material (incl. Life History Questionnaire), Dr. Lewis Etcoff

Photo, James Chappell at 5 years old

Photo, James Chappell at 1 years old

Declarations of

- Benjamin Dean, 4-17-16
- Charles Dean, 4-19-16
- James Wells, 1-22-16
- Myra Chappell-King, 5-20-16
- Phillip Underwood, 4-17-2016
- Rose Wells-Canon, 4-16-16
- Sharon Axa, 4-18-16



- Sheron Barkley, 4-16-16
- William Roger Moore, 4-17-16
- Willie Richard Chappell, 4-16-16
- Georgette Sneed, 5-14-16
- Michael Chappell, 5-14-16
- Terrance Wallace
- William Earl Bonds, 5-13-16
- Willie Richard Chappell, Jr., 5-16-16
- James Ford, 5-19-16
- Joetta Ford, 5-18-16
- Terrance Wallace, 5-17-16

Excerpts of Medical Record from NDOC for James Chappell

## **CURRICULUM VITAE**

**Paul David Connor**

### **EDUCATION**

1988	B.S., University of Washington, Seattle, WA, Psychology
1995	Ph.D., Brigham Young University, Provo, UT, Clinical Psychology/Neuropsychology

### **POSTGRADUATE TRAINING**

1994-95	Internship, Henry Ford Health System, Detroit, MI, Neuropsychology
1995-1999	Senior Postdoctoral Fellow, University of Washington, Seattle, WA, Fetal Alcohol Research and Neuropsychology

### **FACULTY POSITIONS**

1999-2002	Acting Instructor, University of Washington, Psychiatry and Behavioral Sciences, Fetal Alcohol and Drug Unit
2002-2005	Acting Assistant Professor, University of Washington, Psychiatry and Behavioral Sciences, Fetal Alcohol and Drug Unit
2005-2008	Assistant Professor, University of Washington, Psychiatry and Behavioral Sciences, Fetal Alcohol and Drug Unit
2002-Present	Research Affiliate of the Center on Human Development and Disability
2008-Present	Courtesy Clinical Assistant Professor, University of Washington, Psychiatry and Behavioral Sciences, Fetal Alcohol and Drug Unit

### **LICENSURE TO PRACTICE**

1997	Licensed Psychologist #PY00002050, Washington State
2015	Licensed Psychologist #2479, Oregon State

### **PROFESSIONAL ORGANIZATIONS**

American Psychological Association  
 International Neuropsychological Society  
 National Academy of Neuropsychology, Program Committee 2007-2008  
 American Academy of Clinical Neuropsychology  
 Pacific Northwest Neuropsychological Society, President 2004-2005  
 Research Society on Alcoholism

### **SPECIAL LOCAL and UNIVERSITY RESPONSIBILITIES**

1998-Present	UW Substance Abuse Theme Committee
2003-Present	UW MSRTP Application Committee

2003-Present Board Member of Fetal Alcohol Syndrome Information Service  
 2004-Present UW FASD Training Alliance  
 2004-Present Dept of Psychiatry and Behavioral Sciences Addictions and Trauma Work Group

### **SCIENTIFIC REVIEW COMMITTEES**

June 2002 NIAAA Biomedical Research Review Committee ZAA1-DD-20  
 Feb 2004 NIAAA Neurotoxicology and Alcohol Study Section  
 Nov 2004 UW Research Royalty Fund  
 Jun 2007 ADAI Small Grant Review Committee  
 July 2007 NIAAA Review Committee ZAA1 CC 13  
 Jun 2009 ADAI Small Grants Review Committee

### **AD-HOC MANUSCRIPT REVIEWS FOR JOURNALS**

Neuropsychology Review  
 Alcoholism: Clinical and Experimental Research  
 Child Neuropsychology  
 Alcohol Health and Research World  
 Developmental Neuropsychology  
 Brain Injury and Behavior

### **ADVISORY COMMITTEES**

Canadian National Conference on Fetal Alcohol Spectrum Disorders  
 Canadian International Conference on Fetal Alcohol Spectrum Disorders  
 Canadian Fetal Alcohol Spectrum Disorders (CANFASD) Diagnostic Guidelines Advisory Panelist  
 Fetal Alcohol Spectrum Disorders in Northern California Advisory Committee

### **RESEARCH FUNDING**

1995-1999 National Institute on Alcohol Abuse and Alcoholism, Grant No. R01 AA01455-20-23. "Alcohol Intake During Pregnancy: Offspring Development." Ann P. Streissguth, principal investigator. Total direct costs: \$1,363,749.  
 1999-2000 UW ADAI, Grant. "Regional Metabolic Changes in Brain Function Associated with Acute Alcohol Intoxication: A Functional Neuroimaging Study". Kenneth Maravilla, principal investigator.  
 1996-2002 National Institute on Alcohol Abuse and Alcoholism, Grant No. R01 AA10836-01-06. "Neuroanatomic-Psychologic Analyses of FAS/FAE Deficits." Ann P. Streissguth, principal investigator. Total direct costs: \$888,175.  
 1999-2004 National Institute on Alcohol Abuse and Alcoholism, Grant No. R37 AA01455-24-28. "Alcohol Intake During Pregnancy: Offspring Development." Ann P. Streissguth, principal investigator. Total direct costs: \$1,363,749.

- 2002-2005 National Institute on Alcohol Abuse and Alcoholism, Grant No. R01 A/HD12419-01A2. “Functional MRI of Cognitive Activation in FAS/FAE.” Paul D. Connor, principal investigator. Total direct costs: \$600,000.
- 2003-2006 National Institute on Alcohol Abuse and Alcoholism, Grant No. R01 AA10836-07-10. “Neuroanatomic-Psychologic Analyses of FAS/FAE Deficits.” Ann P. Streissguth, principal investigator. Total direct costs: \$750,000.
- 2004-2006 National Institute on Alcohol Abuse and Alcoholism, Grant No. U01. “Detecting FASD from Newborn Ultrasound and Infant Behavior” Ann P. Streissguth, principal investigator. Part of The Riley Consortium “Crosscultural Longitudinal Assessment of FASD”.
- 2004-2009 National Institute on Alcohol Abuse and Alcoholism, Grant No. R37 AA01455-29-34. “Alcohol Intake During Pregnancy: Offspring Development.” Ann P. Streissguth, principal investigator.

### **MANUSCRIPTS IN REFEREED JOURNALS**

1. Connor, P.D. and Streissguth, A.P. (1996). Effects of prenatal exposure to alcohol across the life span. Alcohol Health and Research World. 20(3), 170-174.
2. Connor, P.D., Streissguth, A.P., Sampson, P.D., Bookstein, F.L., Barr, H.M. (1999). Individual differences in auditory and visual attention among fetal alcohol-affected adults. Alcoholism: Clinical and Experimental Research. 23(8), 1395-1402.
3. Connor, P.D., Sampson, P.D., Bookstein, F.L., Barr, H.M., Streissguth, A.P. (2000). Direct and indirect effects of prenatal alcohol damage on executive function. Developmental Neuropsychology. 18(3), 331-354.
4. Bookstein, F.L., Sampson, P.D., Streissguth, A.P., Connor, P.D. (2001). Geometric morphometrics of corpus callosum and subcortical structures in the fetal- alcohol-affected brain. Teratology. 64, 4-32.
5. Bookstein, F.L., Streissguth, A.P., Sampson, P.D., Connor, P.D., Barr, H.M. (2002). Corpus callosum shape and neuropsychological deficits in adult males with heavy fetal alcohol exposure. NeuroImage. 15, 233-251.
6. Bookstein, F.L., Sampson, P.D., Connor, P.D., Streissguth, A.P. (2002). The midline corpus callosum is a neuroanatomical focus of fetal alcohol damage. The New Anatomist, 269, 162-174.
7. Baer, J.S., Sampson, P.D., Barr, H.M., Connor, P.D., Streissguth, A.P. (2003). A 21-year longitudinal analysis of the effects of prenatal alcohol exposure on young adult drinking. Archives of General Psychiatry, 60, 377-385.

8. Grant, T., Huggins, J., Connor, P., Pedersen, J., Whitney, N., Streissguth, A. (2004). A pilot community intervention for young women with fetal alcohol spectrum disorders. Community Mental Health Journal, 40 (6), 499-511.
9. Grant, T., Huggins, J., Connor, P., Streissguth, A. (2005). Quality of life and psychosocial profile among young women with fetal alcohol spectrum disorders. Mental Health Aspects of Developmental Disabilities, 8(2), 33-39.
10. Bookstein, FL, Connor, PD, Covell, KD, Barr, HM, Gleason, CA, Sze, RW, McBroom, JA, Streissguth, AP (2005). Preliminary evidence that prenatal alcohol damage may be visible in averaged ultrasound images of the neonatal human corpus callosum. Alcohol: An International Biomedical Journal, 36(3), 151-160.
11. Connor, PD, Sampson, PD, Streissguth, AP, Bookstein, FL, Barr, HM (2006). Effects of prenatal alcohol exposure on fine motor coordination and balance: A study of two adult samples. Neuropsychologia, 44(5), 744-751.
12. Barr, HM, Bookstein, FL, O'Malley, KD, Connor, PD, Huggins, JE, Streissguth, AP (2006). Binge drinking during pregnancy as a predictor of psychiatric disorders on the structured clinical interview for DSM-IV in young adult offspring. The American Journal of Psychiatry, 163(6), 1061-1065.
13. Bookstein, FL, Streissguth, AP, Connor, PD, Sampson, PD. (2006). Damage to the human cerebellum from prenatal alcohol exposure: The anatomy of a simple biometrical explanation. The New Anatomist. 289B, 195-209.
14. Bookstein, FL, Connor, PD, Huggins, JE, Barr, HM, Pimentel, KD, Streissguth, AP. (2007). Many infants prenatally exposed to high levels of alcohol show one particular anomaly of the corpus callosum. Alcoholism: Clinical and Experimental Research, 31(5), 1-12.
15. Brown, NN, Gudjonsson, G, & Connor, P. (2011). Suggestibility and fetal alcohol spectrum disorders (FASD): I'll tell you anything you want to hear. International Journal of Psychiatry and Law.
16. Brown, NN, Wartnik, AP, Connor, PD, & Adler, RS (2011). A proposed model standard for forensic assessment of FASD. International Journal of Psychiatry and Law.
17. Brown, N. N., Connor, P.D., & Adler, R. S. (2012). Conduct-disordered adolescents with fetal alcohol spectrum disorder: Intervention in secure treatment settings. *Criminal Justice and Behavior* 39:6.
18. Sparrow, J. Grant, T., Connor, P., & Whitney, N. (2013). The Value of the Neuropsychological Assessment for Adults with Fetal Alcohol Spectrum Disorders: A Case Study. *International Journal of Alcohol and Drug Research*. 2(3), 79-86.

19. Brown, N.N. & Connor, P. (2014). Executive dysfunction and learning in children with fetal alcohol spectrum disorders (FASD). *Cognitive Sciences*. 8(1). 47-105.

### **BOOK CHAPTERS and OTHER PUBLICATIONS**

1. Kopera-Frye, K., Connor, P.D., Streissguth, A.P. (2000). Recent advances in fetal alcohol syndrome: Implications for diagnosis, intervention, and prevention. In Seitz, H.K., Lieber, C.S., & Simanowski, U.A. (eds.), Handbuch Alkohol, Alkoholismus, Alkoholbedingte Organschäden (2<sup>nd</sup> Ed.). Heidelberg, Germany: Johann Ambrosius Barth Verlag.
2. Streissguth, A.P., Connor, P.D. (2001). Fetal alcohol syndrome and other effects of prenatal alcohol: Developmental cognitive neuroscience implications. In Nelson, C.A. & Luciana M. (Eds.) The Handbook of Developmental and Cognitive Neuroscience. Cambridge, MA: The MIT Press.
3. Connor, P.D., Huggins, J.E. (2006). Prenatal development: Fetal alcohol spectrum disorders. In Thies, K.M., Travers, J.F. (Eds.). The Handbook of Human Development for Health Professionals. Thorofare, NJ: SLACK, Inc.
4. Connor, P.D. (2001). Synthesizing animal and human studies of prenatal alcohol exposure. Journal of the International Neuropsychological Society. 7(5), 648-649.
5. Connor, P.D. (2004). Prison: A warehouse for individuals with FASD. Iceberg, 14 (2), [http://www.fasiceberg.org/newsletters/Vol14Num2\\_Apr2004.htm#warehouse](http://www.fasiceberg.org/newsletters/Vol14Num2_Apr2004.htm#warehouse).

### **PUBLISHED ABSTRACTS**

1. Norman, M.A., Lajiness-O'Neill, R.R., Nilsson, D.E., Walker, M.L., Boyer, R.S., Connor, P. D., and Bigler, E.D.(1994). Quantitative neuroimaging outcome in benign hydrocephalus. Archives of Clinical Neuropsychology. 9, 168-169.
2. Connor, P.D., Gale, S.D., Johnson, S.C., Anderson, C.V., Bigler, E.D., and Blatter, D.D. (1995). Cingulate degeneration following traumatic brain injury: Quantitative neuroimaging, memory and executive functions. Journal of the International Neuropsychological Society. 1(2), 174.
3. Connor, P.D. and Streissguth, A.P. (1997). Auditory and visual attention in adults with fetal alcohol syndrome. Journal of the International Neuropsychological Society. 3(1), 56.
4. Connor, P.D. and Streissguth, A.P. (1997) Verbal fluency, word reading and color naming in adults with fetal alcohol syndrome and fetal alcohol effects. Alcoholism: Clinical and Experimental Research, 21(3 Suppl), 116A.
5. Connor, P.D., Streissguth, A.P., Sampson, P.D., Bookstein, F.L., Barr, H., and Wegelin, J. (1998). Fluency and speed of information processing as related to quantitative neuroimaging

in fetal alcohol syndrome and fetal alcohol effects: Preliminary findings. Journal of the International Neuropsychological Society, 4(1), 21.

6. Connor, P.D., Streissguth, A.P., Barr, H.M., Sampson, P.D., and Bookstein, F.L. (1998). Psychiatric symptomatology and characteristic behaviors in adults with fetal alcohol syndrome and fetal alcohol effects. Alcoholism: Clinical and Experimental Research, 22(3 Suppl), 61A.
7. Streissguth, A.P., Connor, P.D., Sampson, P.D., Barr, H.M., Bookstein, F.L., and Wegelin, J. (1998). Fetal alcohol syndrome: Relationships between CNS structure and function. Alcoholism: Clinical and Experimental Research, 22(3 Suppl), 58A.
8. Connor, P.D., Streissguth, A.P., Sampson, P.D., Bookstein, F.L., Barr, H.M. (1999). Executive functioning deficits in adults prenatally exposed to alcohol. Alcoholism: Clinical and Experimental Research. 23(5), 31A.
9. Bookstein, F.L., Streissguth, A.P., Sampson, P.D., Connor, P.D., Barr, H.M. (1999). Corpus callosum shape and neuropsychological deficits in adult males with heavy alcohol exposure. Alcoholism: Clinical and Experimental Research. 23(5), 28A.
10. Streissguth, A.P., Barr, H.M., Sampson, P.D., Bookstein, F.L., Connor, P.D. (1999). Adult IQ as related to prenatal alcohol exposure, FAS, FAE, ARND, and child IQ in a large sample. Alcoholism: Clinical and Experimental Research. 23(5), 107A.
11. Streissguth, A.P., Barr, H.M., Connor, P., Sampson, P.D., Bookstein, F.L. (1999). The fetal alcohol syndrome: Relationship between CNS structure and neuropsychological performance. In R.A. Saul & M.C. Phelan (Eds.), Proceedings of the Greenwood Genetics Center, (18:147-148). Greenville, S.C.: Keys Printing, Inc.
12. Connor, P.D., Streissguth, A.P., Sampson, P.D., Bookstein, F.L., Barr, H.M., Toth, S.K. (2000). Motor coordination in adult males with fetal alcohol syndrome and fetal alcohol effects. Journal of the International Neuropsychological Society, 6(2), 237-238.
13. Connor, P., & Mahurin, R. (2001). A preliminary study of working memory in fetal alcohol damage using fMRI. International Neuropsychological Society, 7(2), 206.
14. Bookstein, F.L., Sampson, P.D., Connor, P.D., Streissguth, A.P. (2001). Excess variance of subcortical brain shape in fetal alcohol spectrum disorders: An analysis by landmark location data. Teratology, 63(6), 251.
15. Huggins, J.E., Connor, P.D., Barr, H.M., Streissguth, A.P. (2001). Quality of life in adults with fetal alcohol spectrum disorders (FASD). Alcoholism: Clinical and Experimental Research, 25(5), 125A.

16. Huggins, J.E., Connor, P.D., O'Malley, K., Barr, H.M., Streissguth, A.P. (2001). Suicide/parasuicide behavior in adults with fetal alcohol spectrum disorders (FASD). Alcoholism: Clinical and Experimental Research, 25(5), 123A.
17. Baer, J.S., Sampson, P.D., Barr, H.M., Connor, P.D., Streissguth, A.P. (2001). Prenatal alcohol exposure and young adult drinking: A 21-year longitudinal analysis. Alcoholism: Clinical and Experimental Research, 25(5), 123A.
18. Streissguth, AP, Barr, HM, Sampson, PD, Connor, PD, Bookstein, FL. (2001) Young adult outcomes of prenatal alcohol exposure from a large population-based study. Alcohol and Alcoholism, 36(5), 437.
19. Connor, PD, Bookstein, FL, Barr, HM, Sampson, PD, Streissguth, AP. (2002). Assessing prenatal alcohol damage: Test of Nonverbal Intelligence-2 (TONI-2) vs. WAIS-R. Alcoholism: Clinical and Experimental Research, 26(5), 175A.
20. Streissguth, AP, Sampson, PD, Bookstein, FL, Connor, PD, Barr, HM. (2002). 21-year dose-response effects of prenatal alcohol exposure on cognition. Alcoholism: Clinical and Experimental Research, 26(5), 93A.
21. Connor, PD, Barr, HM, Streissguth, AP. (2003). Two scoring methods of the Rey-Osterreith in adults with fetal alcohol damage. Journal of the International Neuropsychological Association, 9(2), 201.
22. Connor, P., Mahurin, RK, Dehaene, S. (2004). Subtraction ability in patients with fetal alcohol spectrum disorders: an fMRI study. Archives of Clinical Neuropsychology, 19, 917.
23. Connor, PD., Mahurin, R.K. (2005). Working memory in patients with fetal alcohol spectrum disorders: An fMRI study. Journal of the International Neuropsychological Society.
24. Connor, PD, Mahurin, RK (2005). Decreased cerebellar activation in patients with fetal alcohol spectrum disorders. Alcoholism: Clinical and Experimental Research, 29(5), 45A.

### **INVITED ADDRESSES**

Sep 1996	Northwest Oregon FAS Conference, Forest Grove, OR. "Implications of secondary disabilities of fetal alcohol syndrome and fetal alcohol effects on intervention strategies."
Apr 1997	Juvenile Court Workers Conference, Lake Chelan, WA. "Fetal Alcohol Syndrome and Fetal Alcohol Effects: Brain Damage, Long-Term Consequences, and Treatment Concerns."
Jun 1998	FAS Study Group meetings, Hilton Head SC. "Perseverative styles of performance: Troubles learning from mistakes in patients with FAS and FAE."



Oct 1998	Seattle Mental Health, Seattle, WA. "Fetal Alcohol Syndrome and Fetal Alcohol Effects: Brain Damage, Long-Term Consequences, and Treatment Concerns."
Apr 1999	Association of the Advanced Practice of Psychiatric Nurses, Tacoma, WA. "Fetal Alcohol Syndrome and Fetal Alcohol Effects: Brain Damage, Long-Term Consequences, and Treatment Concerns."
Jun 1999	Department of Health and Welfare Idaho, Twin Falls, ID. "Fetal Alcohol Syndrome and Fetal Alcohol Effects: Diagnosis, Neuroanatomy, and Neuropsychology"
Nov 2001	Valley Family Care Residents Training for March of Dimes Grant (Preventing Double Jeopardy). "Developing Successful Interventions for Clients with FAS or ARND."
Dec 2001	Carolyn Downs Clinic, Obstetrics didactics training for March of Dimes Grant (Preventing Double Jeopardy). "Developing Successful Interventions for Clients with FAS or ARND."
Dec 2002	Monroe State Prison Special Offenders Unit "Fetal Alcohol Spectrum Disorders: Diagnosis, Prevalence, Neuropsychological and Mental Health Implications."
Oct 2003	11 <sup>th</sup> Annual MeritCare Pediatric Neuroscience Conference, Fargo, ND. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences." 6-hour CE course.
Dec 2003	Forensic Psychiatric Services Commission's Colloquium on Cognitive Impairment, Simon Fraser University, Vancouver, BC. "Efficacy of Neuroimaging and Neuropsychology for Patients with Fetal Alcohol Spectrum Disorders."
Feb 2004	Edmonds Community College, Human Sexuality. "Fetal Alcohol Spectrum Disorders."
Mar 2004	Western State Hospital, Grand Rounds. "Fetal Alcohol Spectrum Disorders: Diagnosis, Prevalence, Neuropsychological and Mental Health Implications."
Apr 2004	Joint Meeting of the Mental Health Advisory Board and the Chemical Dependency Administrative Board. "Developing Successful Interventions for Clients with FAS or ARND."
Aug 2004	Seattle Mental Health. "Fetal Alcohol Spectrum Disorders: An Interdisciplinary Perspective Identification, Treatment, and Community Involvement."
Oct 2004	School of Nursing , Graduate course 556. "Fetal Alcohol Spectrum Disorders."
Mar 2005	13 <sup>th</sup> Annual Children's Justice Conference, Seattle, WA. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
June 2005	Center for Sexual Assault and Traumatic Stress, Seattle, WA. "Fetal Alcohol Spectrum Disorders: Brain Cognition, and Long-Term Consequences."
July 2005	fMRI/Brain Imaging Interest Group, Department of Radiology, University of Washington. "Neuroimaging Studies of FASD."

Oct 2005	Idaho Health Care Conference, Idaho State University. Plenary session “FASD Across the Lifespan” Psychosocial Workshop “Assessment and Treatment of FASD: A Neuropsychological Approach”.
Nov 2005	Northwest Chapter of the American Association of Neuroscience Nurses, Swedish Hospital. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
Nov 2005	School of Nursing, Graduate course 556. “Fetal Alcohol Spectrum Disorders.”
May 2006	DDD Region 1 Training, Lecture and Workshop Series. Two full day work shops in Wenatchee and Spokane, WA. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
May 2006	Spruce Street Secure Crisis Residential Center didactics course, Seattle. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
Jun 2006	Mercy Medical Center 1 <sup>st</sup> Annual FASD Conference, Sioux City, IA. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
Jun 2006	National Association of Drug Court Professionals, Seattle, WA. “Law and Disorder: Understanding Fetal Alcohol Spectrum Disorders within the Legal System.”
Jun 2006	After an FASD Diagnosis: Then What? Strategies for effective interventions with youth with FASD and their families. Mount Vernon, WA. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
Sep 2006	National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect. Atlanta, GA. “Neuroimaging Studies of Infants, Adolescents, and Adults with FASD: Perspectives from the Far Northwest.”
Oct 2006	Washington WIC: Exceptional and Extraordinary, Bellevue, WA. “What Happens to a Fetus Exposed to Alcohol? Long-Term Effects of Prenatal Alcohol Exposure on the Brain and Behavior.”
Nov 2006	School of Nursing, Graduate course 556. “Fetal Alcohol Spectrum Disorders.”
Mar 2007	Substance Use and Brain Development Conference, Eugene, OR. “The Impact of Prenatal Alcohol Exposure on Brain and Behavior Development.”
Apr 2007	Juvenile Justice at risk youth and truancy court, Seattle, WA. “Fetal Alcohol Spectrum Disorders and the Justice System.”
Apr 2007	Annual MRFASSTC Booster Session, St. Louis, MO. “The Brain and Behavior in Individuals with FASD.”
Apr 2007	Alaskan Dietetics Association Annual Meeting, Anchorage, AK. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
May 2007	SATUCI Impact of Fetal Alcohol Spectrum Disorders On Schools, Families, and Communities, Marshalltown, IA. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”

Aug 2007	Merrill Scott Symposium, Yakima, WA. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Sep 2007	Elements of Success: Helping Individuals with FASD and Co-occurring Disorders Conference, Federal Way, WA. "Adults with FASD: From Research to Clinical Practice."
Sep 2007	Indian Health Services FASD Training, Seattle, WA. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Oct 2007	Spokane Child Abuse and Neglect Prevention Center Training, Spokane, WA. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Mar 2008	Nurses' Advisory Committee for Perinatal Education "Pot O' Gold Conference: Perinatal/Neonatal Challenges 2008", Spokane, WA. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Apr 2008	NorCal SOT 2008 Spring Meeting, Menlo Park, CA. "As if Brain damage Wasn't Enough – The Lifelong Impact of FASD on Social Interaction."
Apr 2008	The Forensic FASD Diagnostic Team: What? When? Who? How? Why? – a 3 day meeting with New Zealand practitioners. Seattle, WA. "The Role of Neuropsychological Testing in FASD."
Apr 2008	Sound Mental Health, Seattle, WA Psychology Practicum and Intern Didactics "Neuropsychological Assessment and Service Implications for Individuals with FASD."
Sep 2008	Alcohol HealthWatch, Auckland New Zealand. Three day training of New Zealand neuropsychologists on neuropsychological assessment of adolescents and adults for FASD especially in forensic settings.
Sep 2008	FASDay Celebration Auckland, New Zealand. "International FASD Awareness Day: FASD and Mental Health"
Sep 2008	Pediatricians Breakfast Meeting, Auckland General Hospital Auckland, New Zealand. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Sep 2008	New Zealand Ministry of Health hosted meeting, Wellington, New Zealand. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Jan 2009	Oregon State Hospital Psychology Didactics, Salem, OR. "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."
Mar 2009	3 <sup>rd</sup> International Conference on FASD, Victoria, BC, Canada. "FASD in the Legal System: A Multidisciplinary Assessment Model for Adults."
Apr 2009	Fetal Alcohol Spectrum Disorders and the Justice System, Kiana Lodge, Suquamish, WA. All day in service on assessment and diagnosis of FASD in the forensic setting.
Sep 2009	Tribal Communities Transforming Mental Health, Great Wolf Lodge, WA "Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences."

Sep 2009	FASD Discovering, Connecting, and Creating Change. Saskatoon, Saskatchewan, Canada. Plenary Session “Poking the Brain: What 30 Years of Research Tells Us About FASD.”
Sep 2009	FASD Discovering, Connecting, and Creating Change. Saskatoon, Saskatchewan, Canada. Concurrent Session. “Assessing FASD in Legal Settings.”
Feb 2010	Washington Death Penalty Assistance Center, 3 <sup>rd</sup> Interdisciplinary Program, Expertise You Need to Defend a Capital Case in 2010. Seattle, WA. “Fetal Alcohol Syndrome: Practical Tools.”
Feb 2010	Texas Criminal Defense Lawyers Association Capital Trial and Habeas Conference. Austin, TX. “FASD: Application of the Scientific Method to the Forensic Setting.”
Mar 2010	2010 Aboriginal Health Forum Fetal Alcohol Spectrum Disorder, Aboriginal People, & the Criminal Justice System, Toronto, ON, Canada. “FASD and the Criminal Justice System.”
Mar 2010	2010 Aboriginal Health Forum Fetal Alcohol Spectrum Disorder, Aboriginal People, & the Criminal Justice System, Toronto, ON, Canada. “FASD in the Legal System: A Multidisciplinary Assessment Model.”
Apr 2010	Fourth National Biennial Conference on Adolescents and Adults with Fetal Alcohol Spectrum Disorder. Vancouver, BC. “Suggestibility in FASD: Forensic Assessment and Implications.”
Apr 2010	7 <sup>th</sup> National Seminar on the Development and Integration of Mitigation Evidence. Seattle, WA. “Forensic Assessment of Fetal Alcohol Spectrum Disorders with State-of-the-Art Facial Analysis, Diffusion Tensor Imaging, and MRIs.”
Oct 2010	Annual Western All-Star Conference and Confabulation Annual Death Penalty Day. Boise, ID. “Forensic Assessment of Fetal Alcohol Spectrum Disorders in the Habeas Context.”
Sep 2011	Indian Health Services FASD Training, Seattle, WA. “Fetal Alcohol Spectrum Disorders: Brain, Cognition, and Long-Term Consequences.”
Jul 2012	American Institute for the Advancement of Forensic Studies. St. Paul, MN. “Forensic Assessment of Developmental Disabilities.”
Sep 2012	Indian Health Services FASD Training, Seattle, WA. “Fetal Alcohol Spectrum Disorders: Effects on the Brain (Structure and Function).”
Oct 2012	Co-Occurring Disorders Conference, Yakima, WA. “Fetal Alcohol Spectrum Disorders and the Justice System.”
Jan 2014	American Institute for the Advancement of Forensic Studies. St. Paul, MN. “Issues Related to Neuropsychological Evaluations in Criminal Cases.”
April 2014	Sixth National Biennial Conference on Adolescents and Adults with Fetal Alcohol Spectrum Disorder. Vancouver, BC. “DSM-4 to DSM-5: What Does the Future Hold for FASD and DD in the Forensic Context.”
April 2014	Sixth National Biennial Conference on Adolescents and Adults with Fetal Alcohol Spectrum Disorder. Vancouver, BC. Facilitator “Changing the Conversation: The Ethics of Access to Diagnoses.”

Sept 2014	Indian Health Services FASD Training, Seattle, WA. "Fetal Alcohol Spectrum Disorders: Effects on the Brain (Structure and Function)."
March 2015	Sixth International Conference on FASD. Vancouver, BC. "Did You Give That Test? The Potential Benefits of a Standard Neuropsychological Battery in Assessing Adult FASD."
Apr 2015	NOFAS Webinar Series. "When Someone with an FASD is Arrested: What You Need to Know."
July 2015	34 <sup>th</sup> International Congress on Law and Mental Health. Vienna, Austria. "FASD in the Courtroom: "FASDExperts" Approaches Its Eighth Year."
July 2015	34 <sup>th</sup> International Congress on Law and Mental Health. Vienna, Austria. "Communication Deficits in Individuals with FASD: Are You Following This?"
Aug 2015	FASD Train-the-trainer Seattle, WA. "FASD Effects on the Brain The Neuropsychological Assessment: What Can We Learn?"
Sept 2015	Western State Hospital Seminar Series. Steilacoom, WA. "Fetal Alcohol Spectrum Disorders: Identification, Assessment, and Treatment."
Oct 2015	Oregon Criminal Defense Lawyers Association Death Penalty Defense Conference Sunriver, OR. "FASD: Not just for penalty phase."

### **DEPARTMENTAL TEACHING**

Feb 2000	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Syndrome"
Feb 2001	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Effects."
Mar 2002	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Effects."
Sep 2002	Department of Psychiatry and Behavioral Sciences, University of Washington, R3 Medical School Didactics "Disorders of Brain Development: Fetal Alcohol Syndrome & Fetal Alcohol Effects."
Nov 2002	Children's Child Psychiatry Didactics for Psychiatry Residents and Developmental Pediatricians "Development of Executive Functions: Specific Examples in Fetal Alcohol Spectrum Disorders."
Mar 2003	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Effects."
Aug 2003	Department of Psychiatry and Behavioral Sciences, University of Washington, R3 Medical School Didactics "Disorders of Brain Development: Fetal Alcohol Syndrome & Fetal Alcohol Effects."
Feb 2004	Department of Psychiatry and Behavioral Sciences, University of Washington, Child Psychiatry Residents Didactics. "Brain Development: Executive Functions in Childhood and Adolescents."

Apr 2004	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Effects."
Feb 2005	Department of Psychiatry and Behavioral Sciences, University of Washington, Child Psychiatry Residents Didactics. "Brain Development: Executive Functions in Childhood and Adolescents."
Mar 2005	Department of Psychiatry and Behavioral Sciences, University of Washington, Neurosciences Seminar. "Neuroimaging Studies of FASD."
Mar 2005	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Effects."
Dec 2005	Department of Psychiatry and Behavioral Sciences, University of Washington, Child Psychiatry Residents Didactics. "Development of the Central Nervous System from the Prenatal Period On: The Special Example of Fetal Alcohol Spectrum Disorders."
Dec 2005	Department of Psychiatry and Behavioral Sciences, University of Washington, Friday Noon Conference. "Fetal Alcohol Spectrum Disorders."
Mar 2006	Department of Psychiatry and Behavioral Sciences, University of Washington, Psychology Residency didactics. "A Neuropsychological Perspective on Fetal Alcohol Effects."
Oct 2006	Department of Psychiatry and Behavioral Sciences, University of Washington, Child Psychiatry Residents Didactics. "Development of the Central Nervous System from the Prenatal Period On: The Special Example of Fetal Alcohol Spectrum Disorders."

### **PAPERS PRESENTED AT SCIENTIFIC MEETINGS**

Feb 1995	International Neuropsychological Society, Seattle, WA. "Cingulate degeneration following traumatic brain injury: Quantitative neuroimaging, memory and executive functions."
Feb 1997	International Neuropsychological Society, Honolulu, HI. "Fluency and speed of information processing as related to quantitative neuroimaging in fetal alcohol syndrome and fetal alcohol effects: Preliminary findings."
Jul 1997	FAS Study Group, San Francisco, CA. "Brain study: Preliminary findings of a study of patients with FAS and FAE."
Jun 1999	FAS Study Group, Santa Barbara, CA. "Executive Function Deficits in Adults Prenatally Exposed to Alcohol."
Nov 2001	National Academy of Neuropsychology, San Francisco, CA. CE course entitled "Fetal Alcohol Syndrome: Brain and Cognition."
Jul 2007	Research Society on Alcoholism, Chicago, IL. "Screening for Fetal Alcohol Exposure in Human Neonates Using the Corpus Callosum."
May 2009	Scientific Workshop on Cognitive Deficits, Neurobehavioral Problems, and Psychopathology due to Prenatal Alcohol Exposure, Rockville, MD.

ICCFASD meeting to discuss diagnostic guidelines for ARND. “Adults with FASD: From Research to Clinical Practice.”

### **MEDIA PRESENTATIONS**

Nov 2000	Filmed Interview for Decouverte, a Science and Technology Canadian Broadcasting Company TV program from Montreal.
Feb 2004	Interview with Laurie McHale for CHDD Outlook article.
Mar 2004	Filmed interview with Michael Skinner for video “Recovering Hope Mothers Speak Out about Fetal Alcohol Spectrum Disorders” sponsored by SAMHSA’s FASD Center for Excellence.
May 2007	Interviewed by Chicago Tribune for article on FASD and DDD in Illinois

# EXHIBIT 88



NORTHWEST FORENSIC ASSOCIATES, LLC  
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Clinical and Forensic Psychology

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**Functional and Behavioral Assessment**  
**Case of James Montel Chappell**  
(DOB: 12/27/██████)

August 3, 2016

James Chappell is a 46-year-old man referred for lifelong functional and behavioral assessment by the Office of the Federal Public Defender, District of Nevada.

Mr. Chappell is diagnosed by Dr. Julian Davies with Alcohol Related Neurodevelopmental Disorder (ARND), which is a medical condition that falls under the fetal alcohol spectrum disorder (FASD) umbrella.

Mr. Chappell is incarcerated at Ely State Prison in Ely, Nevada. In 1996, he was convicted and sentenced to death for the 1995 murder of Deborah Panos. A new sentencing hearing held in 2007 also resulted in the death penalty. I have been asked by current habeas counsel to review Mr. Chappell's documented lifelong behavior and functioning and respond to the following consultative questions:

- 1) At the time of Mr. Chappell's trial in 1996 and resentencing in 2007, what was known in the legal field about FASD and ARND?
- 2) At the time of trial in 1996 and resentencing in 2007, what evidence was available to counsel to suggest Chappell suffered from an FASD condition?
- 3) How would FASD (i.e., ARND) affect Mr. Chappell's ability to control his actions on the day of the crime?
- 4) How would FASD influence Chappell's behavior with respect to his prior domestic abuse of his girlfriend Deborah Panos?
- 5) How would Chappell's FASD affect/influence his drug addiction?

I am a clinical and forensic psychologist with specialized training and over 20 years forensic and clinical experience in FASD and other medical conditions involving developmental disabilities. Input regarding the above questions is typical for mental health professionals such as myself who have developed expertise via formal training, review of the relevant literature, and experience in the developmental/behavioral manifestations of FASD.

My resume is attached as an appendix to this report.

## **Opinions**

Based on review of records listed in Appendix A, it is my opinion to a reasonable degree of psychological certainty that:

- 1) By the time of trial in 1996 and resentencing in 2007, a great deal of information was known in the legal field about the nature and cause of FASD. Not only had decades of research confirmed that alcohol caused serious birth defects that affected executive control and lifelong adaptive functioning, awareness that alcohol could produce serious brain damage was widely known in the general population.**
- 2) At the time of trial in 1996 and resentencing in 2007, counsel had the following evidence that Mr. Chappell suffered from an FASD condition:**
  - a) Shirley Chappell, Mr. Chappell's mother, was a documented heroin addict whose children had been removed by the state because of child neglect, which raised a red flag of possible FASD given the high association between heroin and alcohol abuse.<sup>1, 2</sup> Counsel also knew from Sharon Aham, Mr. Chappell's maternal aunt, that Shirley Chappell had started abusing heroin prior to James Chappell's birth. Had counsel in 1996 and 2007 investigated Shirley Chappell's alcohol and drug use during the pregnancy with her son James, declarations show they would have found convergent evidence from numerous people confirming prenatal alcohol exposure.**
  - b) In the cumulative education file alone, there was evidence that despite what appeared to be average or low average intellectual functioning in elementary school, Mr. Chappell exhibited a severe learning disability that was impervious to special education services and also exhibited pervasive developmental delay (e.g., self-regulation, social and emotional functioning, communication, and daily living skills). All of these problems emerged in early childhood, many years before Mr. Chappell's own substance abuse and many of his childhood adversities could have damaged his brain. The early onset of Mr. Chappell's developmental disabilities suggested a high likelihood his brain damage occurred prior to birth. Had counsel in 1996 and 2007 interviewed witnesses who observed Mr. Chappell's functioning, they would have found evidence of functional disabilities across the lifespan.**

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<sup>1</sup> Green J, Jaffe JH, Carlisi JA, et al. (1978) Alcohol use in the opiate use cycle of the heroin addict. *International Journal of Addiction*, 13, 1021–33.

<sup>2</sup> McCusker M. (2001) Influence of hepatitis C status on alcohol consumption in opiate users in treatment. *Addiction*, 96, 1007–14.

- c) **There was uncontested evidence from expert Dr. Etcoff that at least two of Mr. Chappell's developmental disorders (i.e., communication and arithmetic) stemmed from "neurological origins," which constituted clear notice of brain damage.**
  - d) **Had counsel in 1996 and 2007 asked an expert in neuropsychology and FASD to administer neuropsychological testing to Mr. Chappell, results would have indicated pervasive central nervous system dysfunction similar to what Dr. Paul Connor recently found, qualifying Mr. Chappell for a diagnosis of Neurodevelopmental Disorder Associated with Prenatal Alcohol Exposure (ND-PAE) (based upon the current DSM-5) or Cognitive Disorder NOS (utilizing the DSM-IV which was used in 1996 and 2007). Had counsel in 1996 and 2007 retained a medical expert in FASD to conduct a diagnostic evaluation of Mr. Chappell, results would have been similar to Dr. Julian Davies' conclusion that Mr. Chappell met criteria for Alcohol Related Neurodevelopmental Disorder (ARND). ARND is a medical defect, and ND-PAE and Cognitive Disorder NOS are mental diseases or defects. Results of the current record review are consistent with these diagnoses.**
- 3) **At the time of the instant offense, it is likely Mr. Chappell's ARND influenced his ability to control his actions.**
  - 4) **At the time of the prior domestic abuse of his girlfriend Deborah Panos, it is likely Mr. Chappell's ARND influenced his ability to control his actions.**
  - 5) **Compared to individuals who are not exposed to alcohol in utero, Mr. Chappell's FASD condition likely increased his likelihood of developing a substance abuse problem.**

## **Procedures**

This report is based upon review of records available to trial counsel in 1996, records available to counsel in 2007, and additional records obtained by current habeas counsel, including newly received declarations from witnesses who were available both in 1996 and 2007. I have not interviewed or tested Mr. Chappell and instead relied on neuropsychological testing by colleague Paul Connor, PhD, with whom I often work in FASD cases. I also consulted with Julian Davies, MD, regarding his diagnosis of Mr. Chappell.

## **Appendices:**

- A. Record Review
- B. FASD and the Criminal Justice System (website publication by the Substance Abuse and Mental Health Systems Administration, Department of Health and Human Services)
- C. Resume

## Data Synthesis and Opinions

It is my understanding from Dr. Julian Davies that he has examined and diagnosed James Chappell with ARND, which is a medical defect. The central nervous system dysfunction associated with that medical defect is diagnosed in DSM-5 as ND-PAE. In 1996 and 2007, the DSM-IV labeled the diagnosis Cognitive Disorder NOS. Both ND-PAE and Cognitive Disorder NOS constitute a mental disease or defect.

Federal habeas counsel has requested responses and opinions regarding five consultative questions.

The opinions expressed in this section are held to a reasonable degree of psychological certainty.

### **1) At the time of Mr. Chappell's trial in 1996 and resentencing in 2007, what was known in the legal field about FASD and ARND?**

FASD is an umbrella term for conditions caused by prenatal alcohol exposure. Fetal Alcohol Syndrome (FAS) is the most well known of these conditions.

FASD diagnoses reflect prenatal-onset, permanent brain damage. Thus, FASD has lifelong effects on behavior and functioning.

It was known in 1996 and 2007 that because of the pervasive brain damage in FASD, this population was at high risk to commit crimes in unstructured contexts involving high stress and/or unexpected events.<sup>3</sup> The functional source of this problem was impaired *executive control* in the frontal lobes, which produced *context-dependent* variability in behavior that led to substantial adaptive deficits in real-world behavior.<sup>4</sup> The frontal lobes coordinate and control working memory, sensory integration, and other higher-level information processing in the brain. Executive functioning involves a complex set of skills that include (a) selecting which stored memories are relevant to a current situation and coordinating those memories with new information from the environment; (b) identifying similarities and differences between things or events; (c) considering options and choosing between good versus bad actions; (d) changing or shifting one's choice/plan after foreseeing there will be negative consequences (i.e., linking cause and effect) while at the same time (e) modifying emotions to fit socially acceptable norms; and (f) overriding socially unacceptable impulses. Executive skills play a dominant role in voluntary movement as the frontal lobes also contain the primary motor cortex, which regulates actions like walking away or reacting aggressively. Executive dysfunction appears to be a universal deficit in FASD.

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<sup>3</sup> Streissguth, A.P., Aaso, J.M., Clarren, S.K., Randels, S.P., LaDue, R.A., & Smith, D. F. (1991). Fetal alcohol syndrome in adolescents and adults. *Journal of the American Medical Association*, 17, 1961-1967.

<sup>4</sup> Ibid.

FAS was first identified in peer-reviewed medical journals in 1968<sup>5</sup> (France) and 1973<sup>6</sup> (United States). In 1977, after many more publications had identified FAS in newborns, concern over the association between prenatal alcohol exposure and birth defects prompted the National Institute of Alcohol Abuse and Alcoholism (NIAAA) to issue a health advisory in 1977 to medical practitioners that six or more alcoholic drinks per day during pregnancy could produce a child with serious birth defects. Later, research in the 1980s would find much less exposure could cause FASD conditions.<sup>7</sup>

In 1978, after numerous publications in peer-reviewed medical journals around the world, the U.S. Congress was so alarmed about the birth defects in FAS, not the least of which was organic brain damage, it mandated a status report on the condition (i.e., *Third Special Report to Congress on Alcohol and Health: Fetal Alcohol Syndrome*), which was published jointly by the Department of Health and Human Services (HHS) and the National Institute on Alcoholism and Alcohol Abuse (NIAAA). As the report noted, by 1978 there were approximately 250 published case reports around the world that had established a direct link between prenatal alcohol exposure and FAS; by 1979, over 600 cases of FAS had been reported worldwide.<sup>8</sup> Throughout the 1980s, additional special reports on FAS were submitted to Congress.

Since its identification in the United States over four decades ago, FAS always has involved three categories of diagnostic criteria: growth deficiency in height and/or weight, dysmorphic facial characteristics, and central nervous system (CNS) abnormalities. In 1980, diagnostic criteria were standardized by the Fetal Alcohol Study Group of the Research Society on Alcoholism in 1980<sup>9</sup>, which described three general characteristics: “A pattern of characteristic facial features, pre-/postnatal deficit in height and weight, and central nervous system damage.” In 1989, Sokol and Clarren<sup>10</sup> made those diagnostic criteria more explicit: (a) prenatal and/or postnatal growth retardation determined by weight and/or length below the 10<sup>th</sup> percentile; (b) a characteristic face with short palpebral fissures, thin upper lip, and elongated flattened midface and philtrum; and (c) CNS involvement, including neurological abnormalities, developmental delays, behavioral dysfunction, intellectual impairment, and skull or brain malformations.

Those with CNS abnormalities and prenatal alcohol exposure histories who did not display the external physical signs of FAS (i.e., facial abnormalities and growth deficits) were diagnosed with Fetal Alcohol Effect(s) (FAE). Similar to FAS with respect to the CNS criterion, an FAE diagnosis required some cognitive deficits plus a history of

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<sup>5</sup> Lemoine, P., Harousseau, H., Borteyru, J.P., & Menuit, J.C. (1968). Les enfants de parents alcooliques: Anomalies observees. A propos de 127 cas. [Children of alcoholic parents: Anomalies observed in 127 cases.] *Ouest Medical*, 21, 476–482.

<sup>6</sup> Jones, K.L., Smith, D.W., Ulleland, C.N., & Streissguth, A.P. (1973). Pattern of malformation in offspring of chronic alcoholic mothers. *Lancet*, 1, 1267-1271.

<sup>7</sup> Little, R.E. (1977). Moderate alcohol use during pregnancy and decreased infant birth weight. *American Journal of Public Health*, 67, 1154-1156.

<sup>8</sup> Abel, E. (1979). Prenatal effects of alcohol on adult learning in rats. *Pharmacological and Biochemical Behavior*, 10, 239.

<sup>9</sup> Rosett, H.L. (1980). A clinical perspective of the fetal alcohol syndrome. *Alcoholism: Clinical and Experimental Research*, 4, 119-122.

<sup>10</sup> Sokol, R.J., & Clarren, S.K. (1989). Guidelines for use of terminology describing the impact of prenatal alcohol on the offspring. *Alcoholism: Clinical and Experimental Research* 13, 597-598.

prenatal alcohol exposure.<sup>11</sup> As there was no difference between the brain damage in FAS versus FAE, those with FAE tended to show the same functional impairments and behavior problems as those with FAS.<sup>12</sup>

Diagnostic criteria were made even more specific in April 1996 with the publication of the Institute of Medicine (IOM) diagnostic guidelines,<sup>13</sup> which included the same three symptom categories but specified which facial features would constitute the “face” of FAS (i.e., short palpebral fissures, flattened philtrum, and thin upper lip).<sup>14, 15, 16</sup> The IOM criteria included diagnostic criteria for five conditions under the FASD umbrella: FAS with confirmed prenatal exposure, FAS without confirmed prenatal exposure, Partial FAS, ARND, and Alcohol Related Birth Defects. [The latter condition focused solely on damage to physical structures outside the central nervous system, such as organs, limbs, and skeletal structure.] With the 1996 IOM publication, original terminology (e.g., “FAE”) began to be replaced with newer terms such as “Partial FAS” and “ARND.” Eventually, the umbrella term “Fetal Alcohol Spectrum Disorders (FASD)” began to be promulgated as an inclusive term for all IOM diagnostic categories.

Under the 1996 IOM guidelines, diagnostic criteria for the CNS abnormality in FASD remained somewhat broadly defined before and after the IOM criteria, which required either central nervous system neurodevelopmental abnormalities (e.g., structural or neurological evidence of brain damage) or evidence of a complex pattern of behavior or cognitive abnormalities that are inconsistent with developmental level and cannot be explained by familial background or environment alone, such as learning difficulties; deficits in school performance; poor impulse control; problems in social perception; deficits in higher level receptive and expressive language; poor capacity for abstraction or metacognition; specific deficits in mathematical skills; or problems in memory, attention, or judgment.

Thus, since the IOM guidelines were published in 1996, the year of Mr. Chappell’s trial, he could have been diagnosed with either FAE or ARND. The medical diagnosis would have been noted on Axis III of the DSM-IV, and the central nervous system sequelae would have been diagnosed by a psychologist or psychiatrist on Axis I as “Cognitive Disorder Not Otherwise Specified (294.9),” with the prenatal alcohol exposure etiology noted on Axis III.

By the time of trial in 1996 (and even more so in 2007), it was well appreciated in the general population and, by extension, in the medical, mental health, and legal fields that

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<sup>11</sup> Streissguth, A.P., Sampson, P.D., & Barr H.M. (1989). Neurobehavioral dose-response effects of prenatal alcohol exposure from infancy to adulthood. *Annals of the New York Academy of Sciences*, 562, 145–158.

<sup>12</sup> Ibid.

<sup>13</sup> Stratton, K.; Howe, C; and Battaglia, F., eds. *Fetal Alcohol Syndrome: Diagnosis, Epidemiology, Prevention, and Treatment*. Washington, D.C.: National Academy Press, 1996.

<sup>14</sup> Ibid.

<sup>15</sup> Bertrand, J., Floyd, R. L., Weber, M. K., O’Connor, M. J., Riley, E. P., Johnson, K. A., . . . National Task Force on FAS/FAE. (2004). *Fetal alcohol syndrome: Guidelines for referral and diagnosis*. Atlanta, GA: Centers for Disease Control and Prevention.

<sup>16</sup> Astley, S.J. (2004). *Diagnostic guide for fetal alcohol spectrum disorders: The 4-digit diagnostic code*. 3<sup>rd</sup> Ed. Seattle, WA: University of Washington Publication Services.

prenatal alcohol exposure could lead to serious birth defects. For example, in 1981, the Surgeon General of the United States issued a national health advisory recommending that pregnant women or women considering getting pregnant should abstain from using alcohol because of possible harm to their unborn children. The advisory noted adverse effects “with only 1 ounce/day of absolute alcohol or 2 drinks.” Beginning with its 14<sup>th</sup> edition in 1982, the Merck Manual – a medical reference used widely around the world – began including information about FAS, noting the most serious consequence of prenatal alcohol exposure was mental retardation. In 1985, the first non-medical book on FAS was published (i.e., *A Poison Stronger Than Love*, by Anastasia Shkilnyk). In 1988, a major treatise used in graduate schools in the United States (*Diagnostic Clinical Neuropsychology - Revised*, by Erin Bigler) to train neuropsychologists described FAS diagnostic criteria and associated brain abnormalities.

Meanwhile, Congress had been receiving the HHS and NIAAA reports on FAS referenced above on an almost-annual basis, which in 1988 led Congress to pass the Alcoholic Beverage Labeling Act, PL 100-690. This law, which required every alcoholic beverage container sold in the United States to have a warning label (i.e., “According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects”), was quite controversial because it was vigorously opposed by the alcohol beverage industry. This controversy, and the dangers of drinking during pregnancy, were widely publicized in the media around the time of its passage (1987 and 1988).

In 1989, *The Broken Cord* by Michael Dorris was published. This book, the first lay publication about FAS and its impact on a family, was widely publicized in the media and became very popular. In fact, it is referred to today as a “classic” in FASD literature as it describes from a personal and poignant perspective how devastating the condition is to families as well as to the affected individuals.

In the legal context, all of this widespread media attention to FASD in the late 1980s culminated in a plenary presentation by Dr. Ann Streissguth at the 1991 NAACP Legal Defense Fund conference in Airlie, Virginia. [Dr. Streissguth, a pioneer researcher in FASD and the supervisor of my postdoctoral fellowship in FASD, was part of the team of medical and mental health professionals who first identified FAS in 1973. Since that time, she had devoted her professional career to investigating developmental and behavioral manifestations of FASD in longitudinal research studies that tracked how aging affected the adaptive difficulties in FASD.]

The most debilitating aspect of FASD was known by 1996 to be structural (“organic”) brain damage and associated CNS impairments, which were understood to be permanent and lifelong.<sup>17</sup> It also was known that if prenatal alcohol exposure did not result in outright intellectual disability (i.e., “mental retardation” in 1996 terms,) which was seen in a minority of cases, it could cause pervasive CNS dysfunction with severe effects on functioning and adaptive behavior.<sup>18</sup> The neurodevelopmental and behavioral effects in

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<sup>17</sup> Streissguth, Sampson, & Barr, op. cit.

<sup>18</sup> Ibid.

FAS were known to be produced at lower exposure levels than the morphologic or growth effects in FAS<sup>19</sup> but could be equally or more devastating to offspring.<sup>20</sup> In other words, while the physical manifestations served as useful markers for FASD, it was understood by 1996 that the degree of brain damage, CNS dysfunction, and long-term outcomes were variable and not always directly proportional to the degree of physical manifestations or specific FASD diagnosis.<sup>21</sup>

By the time of trial in 1996, the estimated prevalence of FAS was thought to be around 1-3 cases per 1,000 live births.<sup>22, 23</sup> Prevalence rates for FASD were unknown but thought to be 2 to 10 times that amount.<sup>24</sup> It was well recognized at the time that catchment data from the Birth Defects Monitoring Program of the Centers for Disease Control tended to underestimate FAS incidence in infants because FAS facial features at that age were not as identifiable as they were during the elementary school years. Likewise, CNS dysfunction also was difficult to identify until elementary school.<sup>25, 26, 27</sup> [This is something DSM-5 now notes.] Another problem that challenged official prevalence estimates was the stigma associated with drinking during pregnancy. Because it was well appreciated in the general population by 1990 that alcohol intake in pregnancy could cause birth defects, women – especially those who tended to abuse alcohol – were likely to underreport alcohol consumption when interviewed during pregnancy.<sup>28</sup> Based upon more accurate epidemiological techniques than were available in 1996, it now is estimated that 24 to 48 per 1000 children (i.e., 2.4 to 4.8%) in the United States suffer from one of the conditions under the FASD umbrella<sup>29</sup> and that approximately one-fourth of juveniles and adults arrested for crimes have an FASD condition.<sup>30, 31</sup>

Another FASD milestone occurred in 1996. The Centers for Disease Control published the results of a large research study on the adverse developmental outcomes (“Secondary Disabilities”) associated with FASD. Conducted by Dr. Ann Streissguth and colleagues at the University of Washington, the study identified the negative developmental trajectory in FASD in the context of certain risk factors (i.e., lack of early diagnosis and associated developmental disabilities services, experiencing abuse and domestic violence, and being

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<sup>19</sup> Riley, E.P., & Vorhees, C.V. (1986). *Handbook of behavioral teratology*. New York, NY: Plenum Press.

<sup>20</sup> Streissguth, Sampson, & Barr, op. cit.

<sup>21</sup> Ibid.

<sup>22</sup> Abel, E.L., & Sokol, R.J. (1987). Incidence of fetal alcohol syndrome and economic impact of FAS-related anomalies. *Drug and Alcohol Dependency*, 19, 51-70.

<sup>23</sup> National Institute for Alcoholism and Alcohol Abuse (1990). *Seventh Special Report to the US Congress: Alcohol and Health*. Washington, DC: US Department of Health and Human Services.

<sup>24</sup> Ibid.

<sup>25</sup> Sokol, R.J., & Clarren, S.K. (1989). Guidelines for use of terminology describing the impact of prenatal alcohol on the offspring. *Alcoholism: Clinical and Experimental Research*, 13, 597-598.

<sup>26</sup> Abel & Sokol, op. cit.

<sup>27</sup> Little, B.B., Snell, L.M., Rosenfeld, C.R., Gilstrap, L.C., & Gant, N.F. (1990). Failure to recognize fetal alcohol syndrome in newborn infants. *American Journal of Diseases of Children*, 144, 1142-1146.

<sup>28</sup> Morrow-Tlucak, M., Ernhart, C.B., Sokol, R.J., Martier, S., & Ager, J. (1989). Underreporting of alcohol use in pregnancy: Relationship to alcohol problem history. *Alcoholism: Clinical and Experimental Research*, 13, 399-401.

<sup>29</sup> May, P.A., Baete, A., Russo, J., Elliott, A.J., Blankenship, J., Kalberg, W.O., Buckley, D., Brooks, M., Hasken, J., Abdul-Rahman, M.P., Robinson, L.K., Manning, M., & Hoyme, H.E. (2014). Prevalence and characteristics of fetal alcohol spectrum disorders. *Pediatrics*, 134, 855-866.

<sup>30</sup> Fast, D. K., Conry, J., & Loock, C. (1999). Identifying fetal alcohol syndrome among youth in the criminal justice system. *Journal of Developmental and Behavioral Pediatrics*, 20, 370-372.

<sup>31</sup> MacPherson, P.H., Chudley, A.E., & Grant, B.A. (2011). Fetal alcohol spectrum disorder (FASD) in a correctional population: Prevalence, screening and characteristics. Research Report R-247. Ottawa, Ontario: Correctional Service Canada.



raised in an unstructured, non-nurturing home environment). Among the most surprising findings were that individuals with FASD were at high risk to commit crimes, engage in substance abuse, and have mental health histories that included inappropriate sexual behaviors.

In 1997, Fetal Alcohol Syndrome: A Guide for Families and Communities, by Ann Streissguth, was published by HHS and NIAAA. This book contained a developmental view of FASD and noted the Secondary Disabilities study that had just been published. Dr. Streissguth wrote on Page 241 of this book: “As of 1997, several authors have described FAS/FAE from a criminal justice perspective (see Barnett, 1997; Dagher-Margosian, 1997; Fehr, 1995; LaDue & Dunne, 1997; and Novick, 1997).”

In 2004, the Centers for Disease Control published a very detailed diagnostic manual for FAS that quantified diagnosis and removed some of the ambiguities in the 1996 IOM publication. The CDC manual is used today throughout the United States.

In 2005, the U.S. Surgeon General issued a second national health advisory on alcohol use in pregnancy in order to “raise public awareness about this important health concern.” The Advisory noted the empirical evidence that prenatal alcohol exposure could result in a spectrum of birth defects that could affect a child's growth, appearance, cognitive development, and behavior.

In 2006, the Substance Abuse and Mental Health Services Administration (SAMHSA) published information on its website for criminal justice professionals regarding the relevance of FASD across the legal spectrum, from competency to stand trial, to diminished capacity, testimonial capacity, and sentencing (included as Appendix B).

In 2012, the American Bar Association<sup>32</sup> (ABA) passed a resolution describing FASD and its relevance in the criminal justice system. Several years before passing that resolution, ABA began publishing a compilation of legal case law around the United States that involved an FASD defense. That list shows that by 1996, a number of cases had involved a focus on FASD at the trial and post-conviction levels, and by 2007 there were many more cases. In fact, as early as 1990, the United States Supreme Court in *Sullivan v. Zebley*, 493 U.S. 521, 533-34 n.13 (1990) described “fetal alcohol syndrome” as a “well-known childhood impairment.”

#### **Opinion:**

**By the time of trial in 1996 and resentencing in 2007, a great deal of information was known in the legal field about the nature and cause of FASD. Not only had decades of research confirmed that alcohol caused serious birth defects that affected executive control and lifelong adaptive functioning, awareness that alcohol could produce serious brain damage was widely known in the general population.**

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<sup>32</sup> Resolution on FASD Approved by the ABA House of Delegates – August 7, 2012, ABA website: <http://www.americanbar.org>.

**2) At the time of trial in 1996 and resentencing in 2007, what evidence was available to counsel to suggest Chappell suffered from an FASD condition?**

For the sake of perspective, DSM-5 now notes the following information regarding the diagnosis ND-PAE (p. 800):

“Although about one-half of young children prenatally exposed to alcohol show marked developmental delay in the first three years of life, other children affected by prenatal alcohol exposure may not exhibit signs of CNS dysfunction until they are preschool- or school-age. Additionally, impairments in higher order cognitive processes (i.e., executive functioning), which are often associated with prenatal alcohol exposure, may be more easily assessed in older children. “When children with FASD reach school age, learning difficulties, impairment in executive function, and problems with integrative language functions usually emerge more clearly, and both social skills deficits and challenging behavior may become more evident. In particular, as school and other requirements become more complex, greater deficits are noted....The CNS dysfunction seen in individuals with ND-PAE often leads to decrements in adaptive behavior and to maladaptive behavior with lifelong consequences.”

In 1996, trial counsel hired Dr. Lewis Etcoff to conduct a psychological evaluation of Mr. Chappell for the purpose of mitigation, and a week before trial, counsel asked Dr. Etcoff to testify about Mr. Chappell’s intentions at the time of the offense. In anticipation of his testimony, Dr. Etcoff reviewed a 41-page cumulative school record provided to him by trial counsel, asked Mr. Chappell to complete a social history questionnaire, and conducted IQ and personality testing with Mr. Chappell.

In his recent declaration (7/11/16), Dr. Etcoff indicated he was not provided names of witnesses who could corroborate Mr. Chappell’s self-report or provide additional insight regarding his life, and when Dr. Etcoff asked trial counsel for names of witnesses to interview, he was told only Mr. Chappell was available. In 2007, resentencing counsel simply asked Dr. Etcoff to review his prior report and interview notes before testifying and did not provide him any new records to supplement what he had read in 1996. Dr. Etcoff indicated counsel in 1996 and 2007 did not ask him to conduct neuropsychological testing to assess Mr. Chappell for brain damage or ask him to consider the possibility of prenatal alcohol exposure and/or FASD: “...if I had been asked by either set of defense counsel [i.e., 1996 and 2007] about such a diagnosis, I would have informed counsel that they needed to retain an expert with knowledge [of] Fetal Alcohol Syndrome and Fetal Alcohol Effects.”

As explained in detail below, the information provided to Dr. Etcoff suggested that Mr. Chappell might suffer from FASD, and indicated the need for further testing and investigation regarding the possibility that Mr. Chappell suffered from FASD.

### Evidence of Prenatal Alcohol Exposure

Review of the social history questionnaire Mr. Chappell completed at Dr. Etcoff's request indicates Mr. Chappell informed the psychologist that his mother probably drank and used drugs, and there is a notation that Sharon Axam (maternal aunt) confirmed this information. Counsel in 1996 and 2007 also had the following information in their records concerning Shirley's drug and alcohol use:

- Police were called regarding **child neglect allegations** against the birth mother.
- Mr. Chappell and his siblings went to live with their maternal grandmother Clara Axam one year prior to their mother's death because "there was a neglect referral to the court because of her **ongoing heroin problems**." [William Roger Moore Trial Testimony, 10/22/96]
- When Mr. Chappell was approximately two-and-a-half years old, his mother was **struck and killed** by an Ingham County police cruiser **while walking on I-496 at 4:25 am**. [Newspaper article dated 8/24/73; Death Certificate Photo of Shirley Chappell]

Thus, at the time of trial in 1996 and resentencing in 2007, counsel had information that the birth mother drank alcohol and used drugs.

It has been my forensic experience that information such as the above typically constitutes a "red flag" for possible prenatal alcohol exposure and FASD in the eyes of legal professionals. Had trial counsel investigated this information, witnesses would have provided convergent evidence of prenatal alcohol exposure as they did in recent declarations obtained by current counsel:

- *William Richard Chappell, Sr.* (possible father): "Shirley was a heavy drinker from the time that we met in 1966 until her death in 1973. Shirley regularly drank with her best friend, Barbara Wells, and others. I frequently saw Shirley drunk and smelled alcohol on her breath. Shirley drank alcohol throughout her entire pregnancy with James."
- *James Wells* (possible father): In 1968, Shirley began using heroin. She abused drugs on a daily basis throughout her entire pregnancies with both Jimmy and Myra. Wells did not recall her visiting doctors or receiving prenatal care during the pregnancies.
- *William Richard Chappell, Sr., and James Wells*: While pregnant with James, Shirley used heroin daily, smoked one to one-and-a-half packs of cigarettes daily, and drank alcohol each week, especially heavily on the weekends.
- *Rose Wells-Canon* (family friend): In 1968, Shirley was introduced to James Wells, and they developed a relationship. James was already abusing drugs, and Shirley soon abused drugs with him.
- *Myra Chappell-King* (younger sister): Adults told her that her mother Shirley

abused heroin and alcohol during all of her pregnancies except for LaPriest.

- *Georgette Sneed* (mother's friend): Around the time of her pregnancy with her son James, Shirley "was a junkie. Besides abusing heroin, Shirley also drank alcohol."
- *William Earl Bonds* (friend): "Shirley's lifestyle did not change at all during her pregnancies. She continued to abuse heroin and cocaine on a daily basis while she was pregnant with James. She also continued to engage in prostitution whenever she was short on cash. Shirley also continued to drink alcohol during her pregnancy with James but not as frequently as she abused other drugs. Shirley drank alcohol a couple times a week, as far as I recall, but not on a daily basis because it was not her drug of choice. Shirley liked hard liquor and usually had several drinks in one sitting when she drank, even while pregnant. Shirley typically abused heroin and cocaine on the occasions when she drank alcohol."
- *William Moore* (probation officer): "James had a very rough start in life. He was born to an alcohol and heroin addicted mother. Drugs and alcohol were a problem for James's aunts, uncles, and other family members as well. A year before her death, it was determined that his mother's substance abuse problems had caused her to neglect her children, so James and his siblings were removed from her custody and placed in the home of their maternal grandmother, Clara Aham. James' mother was killed when he and his siblings were just toddlers and babies, so James' grandmother had to assume permanent custody and raise them by herself. James and his siblings had different fathers who were all absent from the children's lives. James and his siblings had no male role models in or outside the home. James' deficits and behaviors were typical of the other children I have supervised who were prenatally exposed to alcohol and drugs."
- *Sharon Aham* (maternal aunt): "Shirley was a drug addict by the time she became pregnant with James, and it is my understanding that she abused heroin throughout her pregnancy with him."

The information Sharon Aham provided above is particularly notable as she testified during trial in 1996. Had she been asked at the time of her testimony, Sharon Aham could have informed the court regarding Shirley Chappell's use of drugs during the pregnancy.

In his psychological evaluation report (9/28/96), Dr. Etcoff did not mention Shirley Chappell's heroin use, likely because trial counsel did not provide information regarding her heroin use to Dr. Etcoff prior to his evaluation.

#### Evidence of Central Nervous System Dysfunction

In the 41 pages of cumulative school records that they obtained and provided to Dr. Etcoff in 1996, counsel at both trials had unambiguous documented evidence their client had *chronic* developmental delays, severe learning disability, and pervasive adaptive dysfunction *prior to the onset of his substance abuse* during his teen years, which in combination with their expert's determination that the communication and arithmetic

disorders had a *neurological origin* provided compelling evidence of likely brain damage.

Of particular note, within the cumulative school records file were some records that described Mr. Chappell's functioning at age ten. The records were generated during a referral for special education services. A School Social Work Evaluation report (4/28/80) and accompanying records contained an abundant amount of information regarding early developmental delays and learning disability, showing Mr. Chappell's functional problems had emerged very early in childhood and not only preceded his own substance abuse in adolescence but also preceded many of the adversities and problems that occurred during his teen years including the death of his favorite uncle Anthony and witnessing a murder on the block where he lived.

The 1980 social work report also contained important information about Mr. Chappell's school history up to that point. For example, the report indicated he was initially referred for special education services on June 13, 1977, which was the end of his first grade school year. At that time, his teacher reported: "I have talked to the grandmother several times and a conference was held with the principal, teacher and grandmother. James has a wetting problem and he sucks his fingers." [This information indicated a developmental delay in practical daily living skills.] Mr. Chappell's teacher also reported in 1977: "His actions and reactions are very slow. He asks unrelated questions and will not respond when spoken to." [This information suggested slow processing speed (i.e., one of the cognitive deficits Dr. Connor found in his neuropsychological testing) and developmental delay in communication (consistent with Clara Axam's testimony of delayed speech.)]

At the time of the initial referral for special education services in 1977, Mr. Chappell was functioning at first grade level even though he was in second grade. [This information indicated a possible learning disability.] The social worker noted that since then, he had been receiving numerous special education services "from the building (IEP) team, reading teacher, instructional aides, school counselor, school nurse (received eye glasses), compensatory education, the discipline code and conferences with the grandmother."

The special education referral in 1980 included a Multidisciplinary Team Evaluation Report (4/28/80), which summarized major areas of concern for Mr. Chappell at the time: (a) immaturity involving disruptive behavior and aggressive responses (i.e., social delay), (b) "easily distracted" (an attention control problem similar to the deficit Dr. Connor found in his neuropsychological testing), and (c) "low academic achievement."

The 1980 referral also included an Educational Evaluation (4/4/80), which contained test results. Performance on the Durrell Analysis of Reading Difficulty indicated Mr. Chappell was a year behind age expectations in Oral Reading, Silent Reading, and Listening Comprehension (i.e., third grade equivalence in all three areas). On the Key Math Diagnostic Arithmetic Test, test scores fell mostly at the second grade level (i.e., two grades behind). Regarding Behavioral Adjustment, the record indicated: "On a

one-to-one, James was extremely quiet. He would frequently have periods where he would simply sit and stare. He would do this until I requested he re-attend. Sometimes, he would hear and process questions, and sometimes it seemed as though he simply did not hear me at all. He sat in a very rigid manner and did not fidget.” The report concluded: “James seems to be a youngster with good basic abilities who has severe difficulty maintaining his attention on the external world.”

The social worker’s report in 1980 contained developmental information from grandmother Clara Aham, who omitted any negative information about her daughter Shirley and also tended to minimize negative information about her grandson James. For example, Clara Aham reported there were no problems at birth or during the pregnancy with James, and she tried to downplay her grandson’s developmental delays. For example, she said he was “slow” doing his chores, but she felt this was “normal.” She indicated that by fourth grade, her grandson had begun playing with the other children in the neighborhood but did acknowledge that previously “he did not join in their games but stood on the sidelines” (i.e., extreme social delay). She characterized her grandson’s early development as “normal,” attributing his lack of speech to “the loss of his mother,” although even before his mother’s death it was clear that any child who was not speaking by age two was considerably delayed in speech. When his mother died, Mr. Chappell had been living with his grandmother since 18 months of age due to his mother’s drug addiction and child neglect. Given Shirley Chappell’s documented issues, it is unlikely she regularly visited her children in the year preceding her death. Therefore, viewed from the perspective of information counsel had in their possession in 1996 and 2007, Clara Aham’s explanation for her grandson’s delayed speech was improbable.

The 1980 school social worker report indicated that after entering kindergarten, Mr. Chappell began to “relate” to his teacher and some of the other children, but he typically did not play with his classmates, “usually playing by himself or standing on the sidelines.” [“Playing by himself” is parallel play, which at age five/six (i.e., his age during kindergarten) was another sign of social delay.]

The 1980 social worker report noted that none of the interventions that had been tried with Mr. Chappell were effective, as his behavior seemed to be “deteriorating.” He was “in constant conflict with several of the other students” and often had to be “isolated” to keep him away from the other boys so he could get his work done. Concluding her 1980 report, the social worker stated: “James has had a great deal of difficulty adjusting to school, both socially and academically. I feel that he has a great deal of difficulty forming meaningful relationships and recommend that he be placed in a smaller classroom situation and should receive individual therapy outside the school setting.”

A School Psychological Evaluation (4/16/80) provided additional information relevant to the current legal matter. For example, the school psychologist indicated Mr. Chappell did not communicate well with the teachers or the aide and often had “great difficulty expressing himself” along with “long periods of silence even in a one-to-one

situation” (i.e., another sign of developmental delay in communication). The school psychologist provided no reason for the developmental delay and instead noted its inconsistency with Mr. Chappell’s apparently average intelligence: “There are indications that this boy has a basically pretty good intellectual ability, but is functioning at a dull normal level.” Based on the Bender-Gestalt and the House-Tree-Person test, the school psychologist concluded Mr. Chappell had interpersonal problems (i.e., another aspect of social delay) and “a real split here between his feelings and his cognitive awareness.” The school psychologist concluded his report with the following summary and recommendation: “James is a ten-year-old boy who at the present time is functioning in the low average level of intellectual ability where basically he seems to have good intellectual capacity. He does not relate. He is very withdrawn and uses withdrawal as a defense. He has a poor self-concept and there seems to be some rather brittle intellectual controls, which will not carry him through in terms of relating to other people. It is recommended that an IEPC be called to decide what services should be offered to James.”

Progress reports in elementary school, which involved special education supports from second grade on, contained the following information:

- First Grade (1975/76): Grades included Below Satisfactory in Reading and Spelling and Needs Improvement in Math, Citizenship, Work Habits, and Effort. The teacher commented: “James needs (to) settle down and do his own work. He is having (trouble) in Reading and Math...” At the end of the year, Mr. Chappell received Needs Improvement in Math as well as Citizenship, Work Habits, and Effort. Reading Readiness was rated as Improving. His teacher wrote: “James needs to work on addition & subtraction facts. He also needs to read books over the summer. James is having trouble with missing addends ( $3+X=7$ ).”
- Second Grade (1977/78): Grades were mostly Satisfactory in Reading, although some skills were marked “Needs Improvement.” Many skills in Language Arts and Spelling needed improvement. Math grades were mixed (Satisfactory and Needs Improvement). Teacher remarks indicated ongoing self-regulation problems: “James is often reminded to get busy. Often, given extra time to complete work – especially reading packet. Often talks with those around him.” Second Quarter comments were: “James varies between working hard and being very lax, especially with reading work.” Third Quarter comments were: “James changes moods very quickly, needs to rely on himself more.” Fourth Quarter comments were: “James needs to buckle down. Needs to practice reading as much as possible. Also needs to continue to practice math (adding and subtracting with borrowing – and carrying, telling time, multiplying...”
- Third Grade (1978/79): Grades in Reading and Language Arts were mostly Satisfactory, with a couple Improving areas. In Math, grades indicated Improving at the beginning of the year and generally Satisfactory by the end of the year. Teacher comments on 11/21/78 were: “When James works he does a nice job. He is easily distracted and is late getting his work in on time.” Comments on 1/26/79

were: “James is still inconsistent in his work habits. When he is thinking his math skills have shown improvement. Third Quarter comments were: “James is showing growth in Reading and Math. He is having difficulty in classroom behavior.” On 6/13/79, comments were: “James needs to work on listening when others are talking. I think he has learned quite a lot this year.”

- Fourth Grade (1979/80): Grades across the school year reflected many skills in Reading and Language Arts that Needed Improvement. In Math, most skills Needed Improvement. His teacher wrote: “James is not applying himself! He has real difficulty in Math but should be doing much better in Reading. Reminding him to wear his glasses is important. He is very disruptive in class & needs to be encouraged to be more respectful and considerate – as I know he can be with your kind help.” A note in February 1980 indicated: “James is so disruptive to himself and others that it is difficult to assess his progress. Suspended for disruptive behavior Feb. 15, 1980.” A note in April 1980 indicated: “James is not improving.”
- Fifth Grade (1980/81): Grades were mostly Satisfactory marks in Reading skills and mostly Improving in Language Arts. Math grades were mixed. On March 27, 1981, his teacher wrote: “James needs to exhibit self-control in the classroom.”
- Sixth Grade (1981/82): The progress report indicated a fourth grade reading level (i.e., two grade levels below age expectations). His teacher wrote: “Needs to improve with respect towards adults. Needs to concentrate on completing assignments on time.” Mr. Chappell was promoted to Seventh Grade.

Although progress reports in seventh and tenth grades showed increasing learning difficulties, despite special education services throughout junior high and into high school, by that point in time Mr. Chappell had started abusing drugs, which likely had some influence on his functioning. His self-regulation problems became increasingly severe with each year of advancing age.

Given the 41-page cumulative education file containing ample evidence of Mr. Chappell’s early developmental delays, special education services, and serious functional/behavioral problems prior to the onset of his substance abuse in adolescence, it is perhaps relevant that trial counsel in 1996 and resentencing counsel in 2007 did not ask Dr. Etcoff to assess Mr. Chappell for possible brain damage and/or determine the reason for the numerous functional and behavioral difficulties.

Even if trial counsel failed to review the cumulative school record file, Dr. Etcoff’s report alone revealed to counsel at both trials that:

- Screening tests (i.e., WAIS-R and WRAT3) indicated a Full Scale IQ of 80, with a significant discrepancy between Verbal and Performance IQs (77 and 91 respectively), and achievement test results that fell in the average range for Reading and Spelling but in the moderately impaired range for Arithmetic (1<sup>st</sup> percentile).



- There was documented evidence that Mr. Chappell had a severe learning disability, likely attention-deficit/hyperactivity disorder, and multiple developmental delays and adaptive problems (e.g., toileting problem, infantile finger-sucking, slow processing speed, communication and social delays, comprehension difficulties, self-control problems, interpersonal issues, and placement in a “severely learning disabled” classroom) that preceded substance abuse in adolescence.
- Mr. Chappell’s substance abuse, which began in his early teens, could not explain the pervasive functional symptoms noted above.
- Mr. Chappell’s receptive language disorder and arithmetic disorder were “*neurologically-based*,” which meant Mr. Chappell had brain damage.

Testimony at the 1996 trial further revealed evidence of developmental delays. During her testimony in 1996, Grandmother Clara Axam described her grandson James as a “slow” child who did not understand and learn things as quickly as normal children did. Clara Axam also testified that her grandson had a speech delay in childhood after his mother’s death in 1973: “[I]ike he wouldn’t talk” for “[p]robably a year or more.” She attributed this delay to the death of his mother when he was two and a half. [See discussion below for why this attribution was unlikely.] Clara Axam’s testimony was consistent with the records and provided evidence of early developmental delay to counsel in 1996. Thus, in addition to the information noted above from their defense expert Dr. Etcoff, counsel also had information from this witness that their client was developmentally delayed in early childhood and possibly may have had an intellectual disability.

Regarding Mr. Chappell’s early developmental delays, the only additional information counsel in 2007 had that was different from what was obtained in 1996 appears to have been the following:

- Willie Chappell, Jr., (brother) testified in 2007 that James had problems “dealing with his urine” growing up.
- Clara Axam (maternal grandmother) testified in 1996 that James went to “normal school” until fifth grade when he was placed in a “special education school where he stayed until high school.” [Ms. Axam’s testimony was inaccurate. Counsel in 2007 had access to school records that indicated Mr. Chappell began receiving supportive services in second grade).]
- Myra Chappell King (younger sister) testified in 2007 that other children teased her brother James for being “slow.”

Had counsel in 1996 and 2007 investigated their client’s learning disability, witnesses would have given them information similar to the following declarations:

- *Myra Chappell-King*: James was mentally slower than his siblings, was diagnosed with a learning disability, and was placed in special education. Younger sister Myra recalled James struggling with reading and needing assistance during his

school years. Myra read at a higher level than James did although she was a year younger. Myra helped James when James wanted to read various materials.

- *James Ford*: James could not read well and had problems with word pronunciations throughout his childhood and early adulthood. He often asked his friend James Ford to read things for him, even when he was in his early twenties. “James was a special education student throughout his time in school.”
- *Joetta Ford*: James struggled with reading throughout his childhood and as a young adult. He would bring neighbor Joetta Ford, letters and other materials and ask her to read them to him. James did this even into his twenties.

Had counsel in 1996 and 2007 investigated their client’s executive control problems, witnesses would have provided information similar to the following declarations:

#### Sensory Integration

- *Willie Richard Chappell, Jr.*: James had a poor sense of direction. He could only travel to places where he had already been, and could easily become lost when traveling to someplace new.
- *Terrance Wallace*: “James had a poor sense of direction and had a difficult time getting around town on his own. James was driven around to most of the places that he needed to go. James used public transportation, but only to places where he had previously travelled. James had a hard time traveling to new places. You could not give him an address or verbal instructions on how to get somewhere because he would get lost.”

#### Processing Speed

- *Myra Chappell-King*: Compared to his siblings, it took James “a longer time to learn and catch onto things. It wasn’t that James couldn’t learn how to keep himself up, he just needed more time to learn than everyone else.”
- *James Ford*: “James was mentally slower than his family members and among our friends, and he needed assistance.”
- *Benjamin Dean*: “It was obvious that James was mentally slow from the time that I first met him in the 1970s.”
- *Charles Dean*: “It was obvious to me that James was mentally slow from the time that I first met him in the mid-1970s.”
- *Fred Dean*: James was mentally slow.
- *Sheron Barkley*: James’s neighborhood friends would consider James the most likely not to succeed because James was “mentally slow, emotionally damaged, and not equipped to take care of himself.”
- *Phillip Underwood*: “James was noticeably slower than his other siblings.”
- *William Roger Moore*: James’s siblings Ricky and Myra were higher functioning,

smarter and more intentional in their actions than James. James “was calmer and more compliant.”

#### Attention Control

- *Sheron Barkley*: James sometimes had “episodes where he drooled on himself while looking off into the distance. [He] looked like a zombie on these occasions, and it was sometimes hard to get his attention. You'd have to call his name several times and touch him to snap him out of it.”
- *Benjamin Dean*: “James was also not a focused person and had a short attention span.”
- *Willie Richard Chappell, Jr.*: “James had a short attention span and experienced difficulty focusing on anything for more than a few minutes besides watching music videos on television.”
- *Myra Chappell-King*: “James was very hyperactive throughout his childhood and into adulthood. It was difficult for James to sit still and focus for any extended period of time. . . . He had a short attention span.”
- *Harold Kuder*: “James had problems with reading, writing, and mathematics. James also had a short attention span and was easily distracted in the classroom. Whenever James had problems understanding or focusing on the work, he often became disruptive in class by talking to other students or becoming the class clown.”
- *Charles Dean*: “James had a short attention span, which caused him to be unfocused.”

Had counsel in 1996 and 2007 investigated their client’s adaptive functioning, witnesses would have given them information similar to the following declarations:

#### Communication

- *Sheron Barkley*: James “spoke slowly or in a delayed manner.” There was gap before he answered questions. He used one-word-answers and simple phrases during conversations. He misused words, spoke in unusual word patterns, and was often teased about the way that he spoke. He had no idea he was being used as the butt of jokes.
- *Willie Richard Chappell, Jr.*: “James didn't speak much when he was a small child and throughout his elementary school years. He had a limited vocabulary and spoke like children who were younger than he was.”
- *Benjamin Dean*: “James spoke slowly and sometimes seemed like he had trouble getting his words out. James used few words and spoke in simple phrases. The words that James used usually had no more than two or three syllables. James could easily get lost in a conversation, especially if a person was speaking too quickly or changing subjects.”
- *Myra Chappell-King*: “James had a difficult time with his pronunciation when

growing up. He often became frustrated and sometimes gave up when trying to pronounce unfamiliar words.” During conversations, James would sometimes withdraw and zone out into his own little world.

- *Terrance Wallace*: “James usually spoke using short words, phrases, and slang. James did not have a large vocabulary and did not speak descriptively. James also used words incorrectly when trying to imitate others.”
- *Charles Dean*: “James spoke at a slow pace and sometimes had difficulty getting his words out. James had a limited vocabulary. He also used words that were simple and had few syllables. James had difficulties following conversations at times, especially if a person was speaking quickly or switching between subjects....James did not talk much when he was in elementary and junior high school. Whenever he came around our group of friends, he silently stood off to the side watching us with his body slightly turned to the side. James followed behind us wherever the group went without saying anything. James was like the group's shadow. We tried to get him to talk more, but it took a while for him to be comfortable enough to say more.”
- *Fred Dean*: James spoke slowly, and used simple words like somebody younger would. James made up his own nonsensical words and phrases. He did not understand his peers' jokes or follow along during their group conversations. As a result, James was the butt of jokes and was teased about being slow.
- *Phillip Underwood*: “[James] often just stared off into the distance without responding or acknowledging that he was spoken to.”

#### Daily Living Skills

- *Terrance Wallace*: “James frequently needed assistance with tasks that most people take for granted. For example, James could not read well and often needed me to read things for him and fill out job applications and paperwork. . . . When James didn't understand words on an application, while in the presence of others, he pretended like he couldn't see the words on a page. . . . James feared embarrassment and tried to avoid exposing his shortcomings whenever possible....James was never good at math. It took him a while to figure out how much money he needed to purchase items or how much change to get back.”  
Terrance helped James get his first two jobs as a cook with the Michigan Youth Corps and at a hamburger restaurant. Terrance drove James to work: “James had a hard time keeping jobs. He was usually unemployed and without a source of income. James lived off of his grandmother, his friends, and Debbie....James was unemployed so often that he tried his hand at selling drugs to earn money. However, it was short-lived because James did not know the value of money. Besides not being a street person or fitting the typical image of a drug dealer, James was terrible at math and was constantly cheated by junkies in their purchases. At times it seemed like James was giving the drugs away. The dealers that James worked for knew that he was slow and not really cut out for the work, so he was not harmed. They just fired him, like all of James's other employers.”

- *Myra Chappell-King*: Clara bought clothes and other items for James, who did not shop by himself.
- *Phillip Underwood*: “It was a difficult task to wake James up and get him ready for school in the morning.”
- *Charles Dean*: James’ struggles with reading and writing, made him feel embarrassed. James would wear bizarre and mismatched clothes while thinking he was cool and impressing others. James had poor personal hygiene. He also had odd hairstyles, which he felt very proud about. When James was a drug dealer, he would smoke crack laced with marijuana and get high on his own supply. The dealers he worked with soon fired him....“James was very dependent on his family and friends around the community. Everyone loved James and did their best to look out for and protect him as best as we could. James’s disabilities made him immature and somewhat vulnerable. This is why everyone tried to talk him out of leaving the state with Debbie. We knew that he would not be able to survive without the assistance of his family and friends.”
- *Fred Dean*: James wet the bed into his teenage years, so his room always smelled.
- *James Ford*: “James suffered from bladder problems. He wet his bed until he was in his mid-teens, and there was a strong scent of urine usually present in the room. He had wetting accidents when he was awake as well. James was unable to care for himself. He was usually collecting unemployment compensation and was totally dependent on his grandmother Clara. James was only able to get low paying jobs that did not require much skill or knowledge, even then he could not hold them for long. He lost his jobs after a few weeks or a couple of months. It was hard for James to reason and figure things out on his own at times, and he often called his friend James Ford for advice and explanations to help him think through things whenever he encountered issues he did not know how to handle. These were issues that most people could easily figure out, but they were not obvious to James. He had no concept of racism and prejudice, so Ford had to explain things to him in the best way he could. Debbie was the breadwinner for the family and covered the rent and expenses for herself, the children, and James. Debbie provided James with an allowance, bought him shoes and clothing. She did many things he could never have done for himself. All James had to do was babysit the children while she was at work.”
- *Myra Chappell-King*: “James suffered from a bladder problem because he wet his bed until he was in his mid-teens. James also used to urinate into plastic bottles and keep them in his room for days at a time. James had no money management skills, was usually broke right after he received his paycheck, never had a bank account and did not understand the concept of saving money, and spent his money recklessly. James was a very unselfish person and people sometimes took advantage of him when he had money to spend. When James was sixteen, he was unkempt and uninterested in his own appearance. He wore clothes with mismatched colors and patterns, and his hair was frequently unkempt in a nappy Afro hairdo. After James dropped out of school, he worked low-end jobs that did not require many skills. James washed dishes, worked as a stock boy, prepared

food at restaurants, and he had a few other jobs where he was not given much responsibility. These jobs did not pay much, and James never earned enough money to live independently or later take care of his family. James never managed to hold down a job for long and he was frequently let go after short periods of time. James used his allowance, the money Debbie gave him, to buy alcohol and marijuana. James was a good imitator and learned cooking this way....“There was a disproportionate balance of responsibilities and power in James’s relationship with Debbie. Debbie was the breadwinner for their household and took care of all the responsibilities. Debbie helped James leave our grandmother’s home. James dependence on our grandmother was replaced by his dependence on Debbie....James was pretty much a house dad, as his only responsibility in the relationship was to babysit their children while Debbie was at work. However, James was not able to provide the children with much in the way of a structured environment when Debbie was not around. At times it seemed more like he was more their big brother than their father, and Debbie was everyone's mother.”

- *Michael Chappell*: “I tried to get James to consider the difficulties he was about to face in a hostile environment and without the support of his family. The family looked out for James and made sure he was alright.”
- *Sheron Barkley*: “James couldn't take care of himself, much less a family.”
- *Sharon Axam*: James would take or demand money from Debbie, sell items from their home, or return purchased items in order to get money for crack.

#### Socialization

- *Willie Richard Chappell, Jr.*: “James was a very immature person and acted like someone who was younger than his actual age. James acted like he was six years old when he was ten and eight years old when he was thirteen. . . . James did not know when he was insulting others by the things he said. He had a poor ability to read people's emotions and recognize that they might be offended by something he said or did. For example, he sometimes walked up to girls and said, ‘good morning sluts’ in the same way that the Dolomite character did in movies.”
- *Myra Chappell-King*: During disagreements, James usually gave in to Debbie's demands....James did not make friends outside of his neighborhood’s social circle. The people in the neighborhood protected James and made him feel safe.
- *James Ford*: James was immature for his age and enjoyed clowning around with folks. He sometimes went overboard and did not know when to stop joking. James was not comfortable or trusting of people he did not know. Almost everyone that he spent time around were from the vicinity of his home on Nellers Court....“James was a loving dad and had a great relationship with his children. He was also immature. He interacted with his kids in a child like manner. He allowed them to run around the house and do whatever they wanted to do. James was not able to provide for the kids with a structured environment or discipline. James was like a big kid himself and Debbie was everyone's mother.”
- *Phillip Underwood*: He was a shy child and did not talk much, keeping to himself

during the 1970s. He was sensitive and it didn't take much for him to cry.

- *Carla Chappell*: “James was called a ‘cry baby’ when he was a young child and during his elementary school years because he cried a lot. James was also afraid of people, especially strangers, but also people he had met before. James was also a very sensitive child, and it was very easy to hurt his feelings and make him cry just by teasing him.”
- *Michael Chappell*: “James was never a lady's man, and I only knew him to have two girlfriends throughout the time that I know him.”
- *William Earl Bonds*: “James was also less interactive than his siblings. James did not talk much. He did not run up to me and Shirley's other friends to jump on our lap, play, or ask for things like his other siblings did. James rarely smiled or laughed. James just quietly sat looking at everything going on around him with a puzzled look on his face.”
- *Benjamin Dean*: “James was not a street-wise person and was very gullible. Kids in the neighborhood enjoyed playing tricks on James, and he was often the butt of jokes because you could tell him almost anything and he'd believe it. James was a follower and often went along with the crowd. It did not take much to get James to follow an idea, no matter how silly it was. James often followed friends when they came up with ideas to go into a fast food restaurant and throw toilet paper all over the bathroom. . . . James also had difficulty reading social cues and figuring out when he was going too far with his pranks and silly behaviors. James was very childish and at times did not know when to stop playing around. . . . James was not into girls and acted awkward whenever he was around them when we were growing up. James's relationship with Debbie Panos was the only real one he ever had. James briefly dated Nicole Elliot in high school, but that relationship ended before it had a chance to get started.”
- *Fred Dean*: James usually followed along with the ideas that the Dean brothers came up with, because the brothers were the leaders. James did come up with his own game called ‘The Dash’ which involved throwing various liquids on people's clothing. The game was considered childish.
- *Harold Kuder*: James was often teased for various reasons: being slow, the way he dressed, the way he spoke, and other things. He was also uncoordinated and couldn't run fast. It was not difficult to make James cry. James sometimes cried just from being teased. . . . “James was a social misfit. He was not an outgoing person and was unable to make many friends outside of the neighborhood. James's friends in school were primarily people he knew from the neighborhood. James was uncomfortable and shy with people he did not know.”

**Opinion:**

**At the time of trial in 1996 and resentencing in 2007, counsel had the following evidence that Mr. Chappell suffered from an FASD condition:**

- (a) Shirley Chappell was a documented heroin addict whose children had been removed by the state because of child neglect, which raised a red flag of possible FASD given the high association between heroin and alcohol abuse.<sup>33, 34</sup> Counsel also knew from Sharon Axam that Shirley Chappell had started abusing heroin prior to James Chappell's birth. Had counsel in 1996 and 2007 investigated Shirley Chappell's alcohol and drug use during the pregnancy with her son James, declarations show they would have found convergent evidence from numerous people confirming prenatal alcohol exposure.**
- (b) In the cumulative education file alone, there was evidence that despite what appeared to be average or low average intellectual functioning in elementary school, Mr. Chappell exhibited a severe learning disability that was impervious to special education services and also exhibited pervasive developmental delay (e.g., self-regulation, social and emotional functioning, communication, and daily living skills). All of these problems emerged in early childhood, many years before Mr. Chappell's own substance abuse and many of his childhood adversities could have damaged his brain. The early onset of Mr. Chappell's developmental disabilities suggested a high likelihood his brain damage occurred prior to birth. Had counsel in 1996 and 2007 interviewed witnesses who observed Mr. Chappell's functioning, they would have found evidence of functional disabilities across the lifespan.**
- (c) There was uncontested evidence from expert Dr. Etcoff that at least two of Mr. Chappell's developmental disorders (i.e., communication and arithmetic) stemmed from "neurological origin[s]," which constituted clear notice of brain damage.**
- (d) Had counsel in 1996 and 2007 asked an expert in neuropsychology and FASD to administer neuropsychological testing to Mr. Chappell, results would have indicated pervasive central nervous system dysfunction similar to what Dr. Connor found, qualifying Mr. Chappell for a diagnosis of Cognitive Disorder NOS and/or Neurodevelopmental Disorder Associated with Prenatal Alcohol Exposure (ND-PAE). Had counsel in 1996 and 2007 retained a medical expert in FASD to conduct a diagnostic evaluation of Mr. Chappell, results would have been similar to Dr. Davies' conclusion that Mr. Chappell met criteria for Alcohol Related Neurodevelopmental Disorder (ARND). ARND is a medical defect, and Cognitive Disorder NOS and ND-PAE are a mental disease or defect. Results of the current record review are consistent with these diagnoses.**

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<sup>33</sup> Green J, Jaffe JH, Carlisi JA, et al. (1978) Alcohol use in the opiate use cycle of the heroin addict. *International Journal of Addiction*, 13, 1021–33.

<sup>34</sup> McCusker M. (2001) Influence of hepatitis C status on alcohol consumption in opiate users in treatment. *Addiction*, 96, 1007–14.



**(3) How would FASD (i.e., ARND) affect Mr. Chappell's ability to control his actions on the day of the crime?**

Current habeas counsel retained neuropsychologist Paul Connor, PhD, to conduct comprehensive testing of Mr. Chappell. Dr. Connor's report dated July 13, 2016, indicates 24 cognitive tests plus adaptive assessment. Overall, testing revealed deficits in six broad cognitive domains: Academic Achievement (especially in arithmetic), Learning and Memory (verbal and visual), Visuospatial Construction and Organization (i.e., sensory integration), Attention, Processing Speed, and Executive Functioning (especially in tasks involving relatively limited external structure).

In addition, there were deficits in three adaptive domains: Communication (based on direct testing of expressive language skills and two of three rater reports), Daily Living Skills (based on direct testing and rater reports), and Socialization (based on rater reports). Regarding adaptive functioning, Terry Wallace (friend), James Ford (friend), and Myra Chappell-King (sister) each responded independently to structured adaptive assessment with the Vineland Adaptive Behavior Scales-II, which targeted age 25 with respect to their observations of Mr. Chappell's behavior. With respect to coping, which is most directly relevant to offense conduct, both friends rated Mr. Chappell's coping capacity as equivalent to that of a twelve-and-a-half year old.

Myra Chappell-King was unable to provide enough ratings of her brother's coping behavior to generate a score.

According to Dr. Connor, Mr. Chappell's neuropsychological test profile met Centers for Disease Control (CDC) diagnostic guidelines for the central nervous system dysfunction in FAS. [Published in 2004, the CDC guidelines are more stringent than the Institute of Medicine (IOM) guidelines in effect in 1996 and markedly more stringent than FAE guidelines would have been prior to 1996.

Thus, Mr. Chappell's neuropsychological test profile not only would have met IOM's FASD guidelines for central nervous system dysfunction in 1996 but also met pre-IOM diagnostic guidelines as well.]

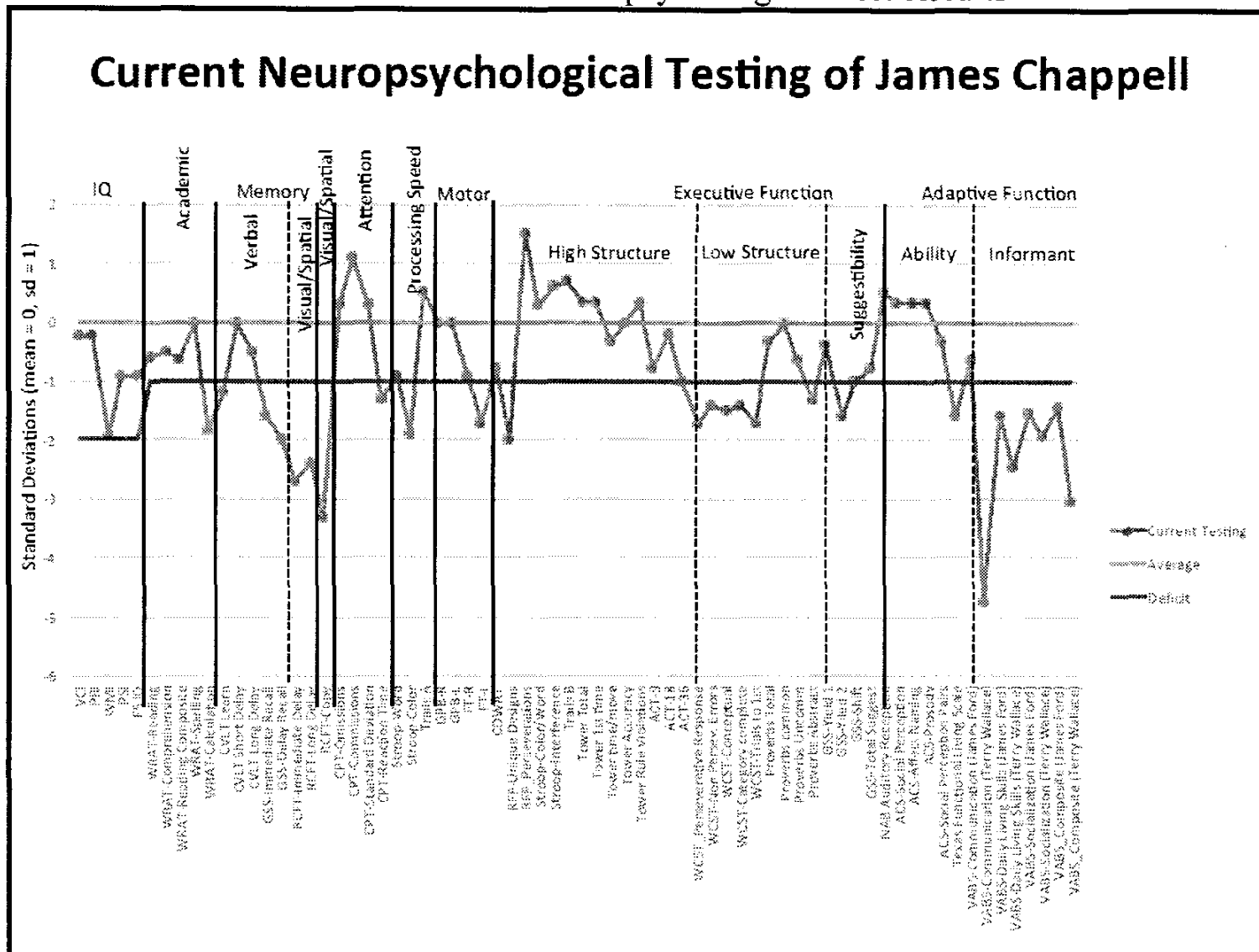
In his report, Dr. Connor noted four similarities between Mr. Chappell's test results and profiles typically seen in FASD.

First, test results overall reflected the classic FASD "patchy" profile of relative strengths and weaknesses due to intermittent alcohol exposure in utero.

Exhibit 1 below (produced by Dr. Connor) graphically represents Mr. Chappell's pattern of test performance, with direction of deficit made consistent (i.e., lower scores = more deficient performance). Scores on the tests have been converted to standard deviations from the mean (mean = 0; standard deviation = 1). Average or mean scores of 0 for each test are shown by the horizontal green line. The horizontal red line indicates the cutoff

point for determination of “impairment.” IQ scores that fall -2 or more below the mean are considered impaired; scores on all other tests that fall -1 or below are considered impaired. Mr. Chappell’s performance is depicted by the blue line.

### Exhibit 1. Current Neuropsychological Test Results

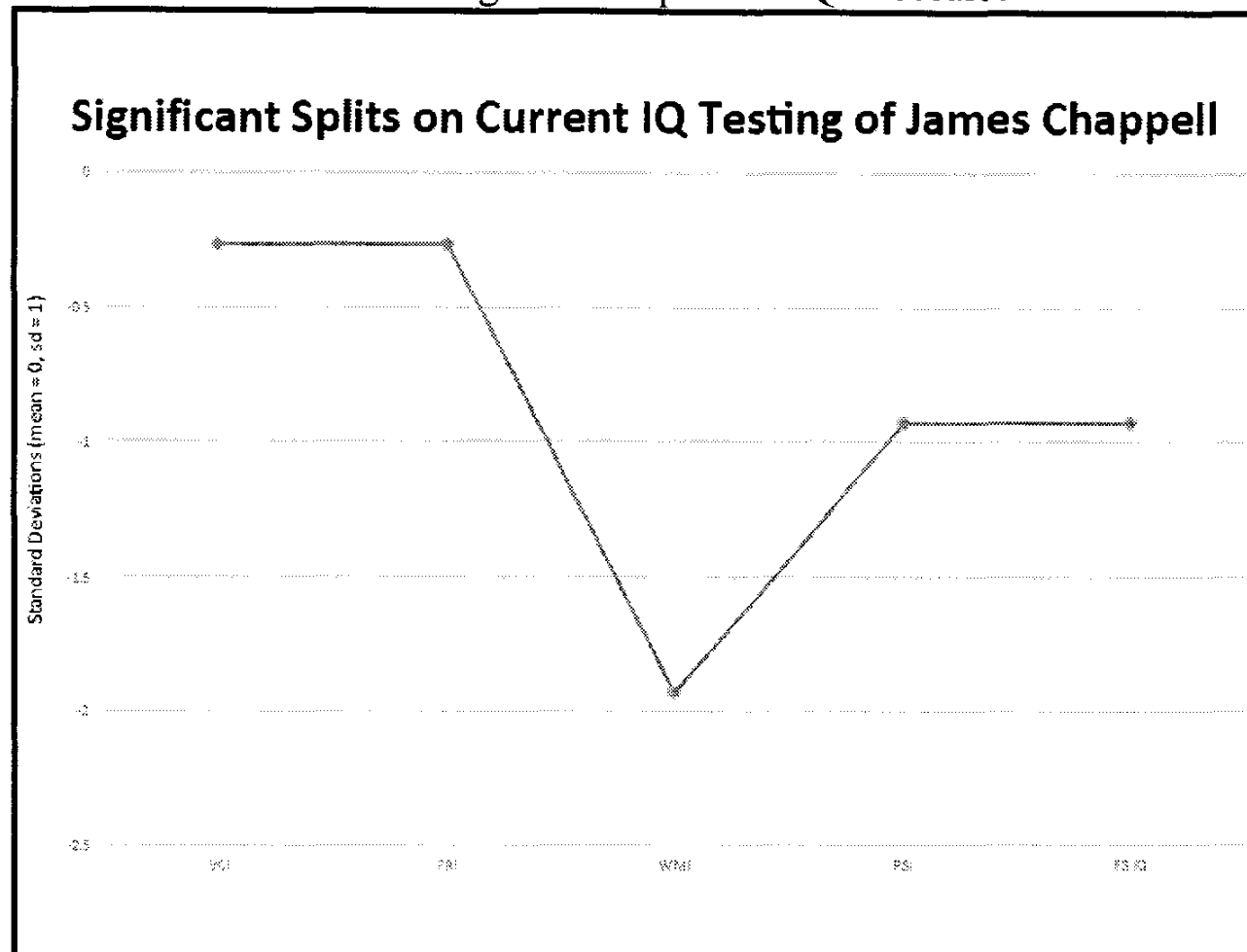


As can be seen above, Mr. Chappell's overall test profile reflects severe, pervasive brain damage with some relative strengths but a large number of cognitive weaknesses that together have marked negative impact on his adaptive functioning.

Dr. Connor noted that 40 percent of Mr. Chappell's test scores on cognitive measures fell at or below the cutoff point for a designation of "impairment" based on CDC diagnostic criteria. In addition, 28 percent of the scores fell in the moderately to severely impaired range.

Second, in addition to the overall “patchy” pattern in the test profile, there was a similar patchy pattern in Mr. Chappell’s IQ test results, which contained statistically significant “splits” or discrepancies among subscale scores (see Exhibit 2 below).

Exhibit 2. Significant Splits on IQ Subscales



Significant splits in IQ domain scores reveal uneven brain functioning (i.e., strong versus weak areas of cognitive processing), which like the overall neuropsychological profile is consistent with intermittent alcohol exposure during gestation. As Dr. Connor noted, because of the significant discrepancy between domain performances, Full Scale IQ, measured at 86, should not be considered representative of Mr. Chappell's overall intellectual functioning.

Subtest analysis by Dr. Connor indicated relative strength on a visuospatial task and a couple language-based tasks. In contrast, he performed within the mildly impaired range on tasks of speeded translation of information and short-term attention and memory. Weakest performance was on a task involving orally presented arithmetic, where his performance fell within the mild to moderate range of impairment. Importantly, Mr. Chappell's most significant weakness in IQ testing was Working Memory, which fell within the range of intellectually deficient performance.

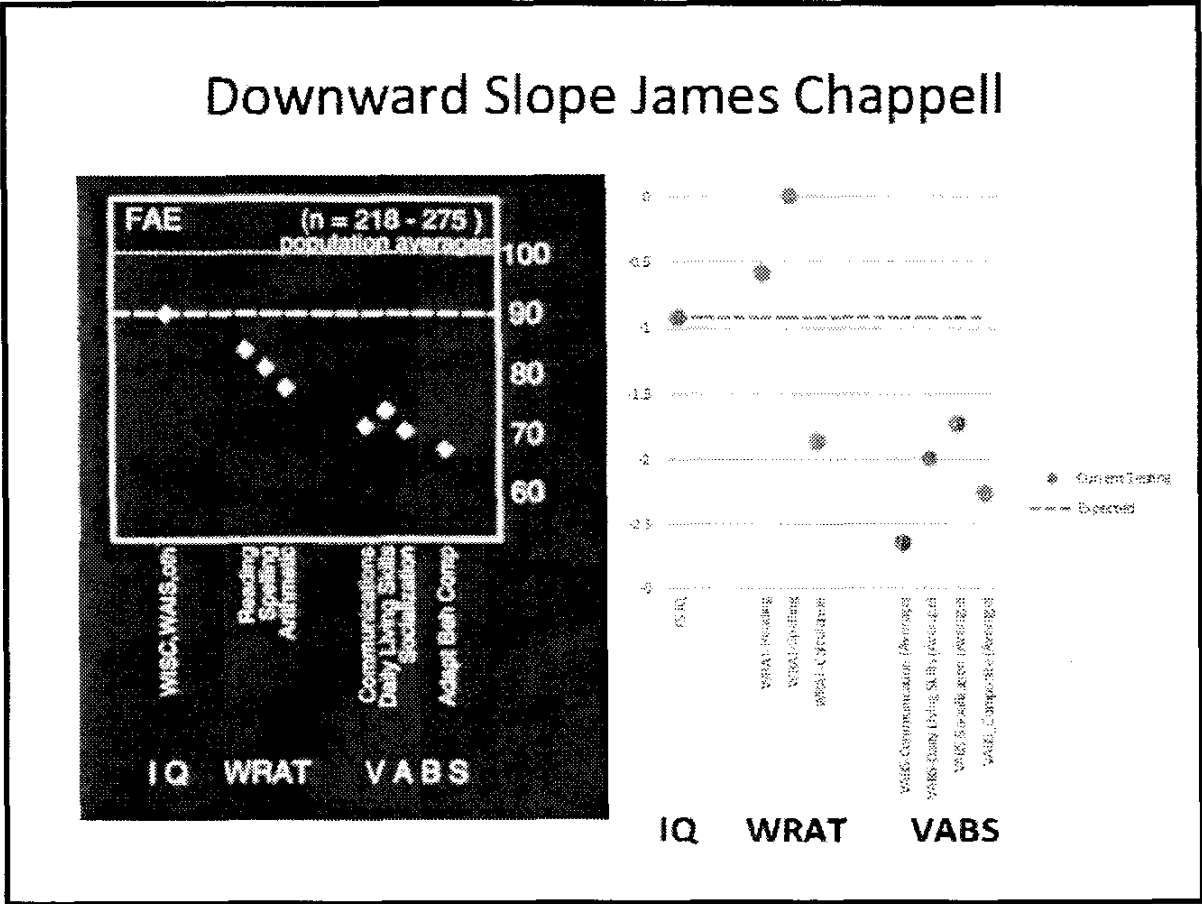
Comparing current IQ performance with previous testing, Dr. Connor noted that when Mr. Chappell was 16 or 17, his intellectual functioning fell within the borderline to low average range (specific scores were not provided). In Dr. Etcoff's testing in 1996, Mr. Chappell demonstrated significant discrepancies between verbal and non-verbal intellectual skills, similar to current testing (see Table 1 below).

Table 1: COMPARISON OF CURRENT AND PRIOR IQ TESTING						
Year	Test	VCI/VIQ	PIR/PIQ	WMI	PSI	FSIQ
10/1986						Borderline to low average
6/1996	WAIS-R	/77	/91			80
5/2016	WAIS-IV	96	96	71	86	86

Mr. Chappell’s IQ test results, including the “splits” and relative Working Memory weakness, are consistent with FASD.

The third aspect of Mr. Chappell’s neuropsychological test results that are consistent with FASD involves a direct causal relation between executive functioning and adaptive functioning. Exhibit 3 graphically compares Mr. Chappell’s test performance to that of a research sample of persons diagnosed with FAE, the equivalent of ARND. The research sample is shown on the left side of the exhibit, and Mr. Chappell’s test results are shown on the right side. The tests represented along the bottom of the exhibit are the Wechsler IQ test, Wide Range Achievement Test (WRAT), and Vineland Adaptive Behavior Scales (VABS). The horizontal black line depicts the mean score for each test, which is a standard score of 100. In individuals without brain damage, it is typical for IQ, achievement test, and adaptive assessment test scores to all fall around a standard score of 100. In FAE, mean full-scale IQ tends to fall around 90, with achievement somewhat lower than that, and adaptive functioning falling significantly lower. Thus, there is a “disconnect” between IQ and adaptive functioning in FASD that is explained by the predictive power executive dysfunction has on the latter. Mr. Chappell’s test results reflect such a disconnect.

Exhibit 3. Disconnect Between IQ and Adaptive Functioning



As can be seen above, although his reading and spelling skills have improved during his incarceration (which is often seen in those with FASD who are incarcerated for long periods of time), Mr. Chappell's pattern of test scores show downward progression as the context becomes less structured. IQ testing - with one-on-one examiner monitoring, specific test guidelines, and a controlled environment - is the most highly structured setting. The school environment is somewhat less structured due to the presence of numerous children and other distractions. In contrast, the "real world" tends to involve very little structure and monitoring.

The downward progression in performance based on decreasing external structure represents a hallmark FASD pattern, which demonstrates it is executive functioning rather than IQ that determines behavior in unstructured situations. In fact, research has found executive functioning *predicts* adaptive behavior.<sup>35</sup> Thus, it is Mr. Chappell's numerous deficits in executive functioning rather than his IQ that determines his adaptive behavior (e.g., coping capacity).

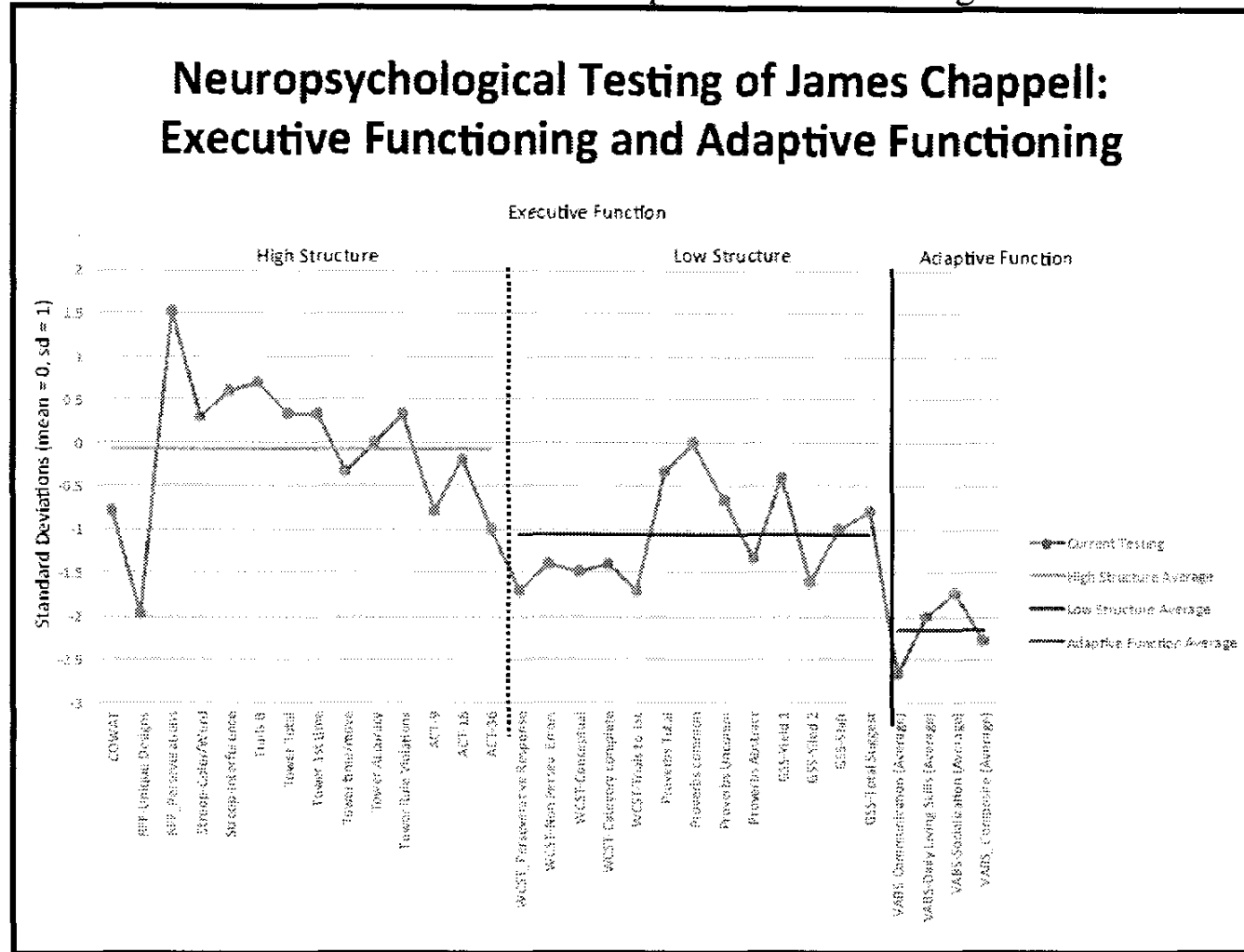
Fourth, as noted above, the context-dependent aspect of executive control in FASD also can be seen in the internal pattern of executive function tests as well. That is, the more external structure and guidance an examinee receives for each test, the better he/she tends to do compared to performance on tests involving less structure and guidance.

Exhibit 4 below displays Mr. Chappell's executive function test results along with Vineland results. In the exhibit, the executive function tests administered by Dr. Connor are categorized by the amount of structure provided for each test. "High structure" tests involved more examiner guidance from Dr. Connor than "low structure" tests. The horizontal green line represents the average test score for the high structure tests, and the horizontal purple line represents the average test score for the low structure tests. The horizontal red line represents the average score for results on the Vineland assessments.

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<sup>35</sup> Ware, A.L., Crocker, N., O'Brien, J.W., Deweese, B.N., Roesch, S.C., Coles, C.D.,...Mattson, S.N. (2012). Executive function predicts adaptive behavior in children with histories of heavy prenatal alcohol exposure and attention deficit/hyperactivity disorder. *Alcoholism: Clinical and Experimental Research*, 36, 1431-1441.

### Exhibit 4. Context-Dependent Functioning

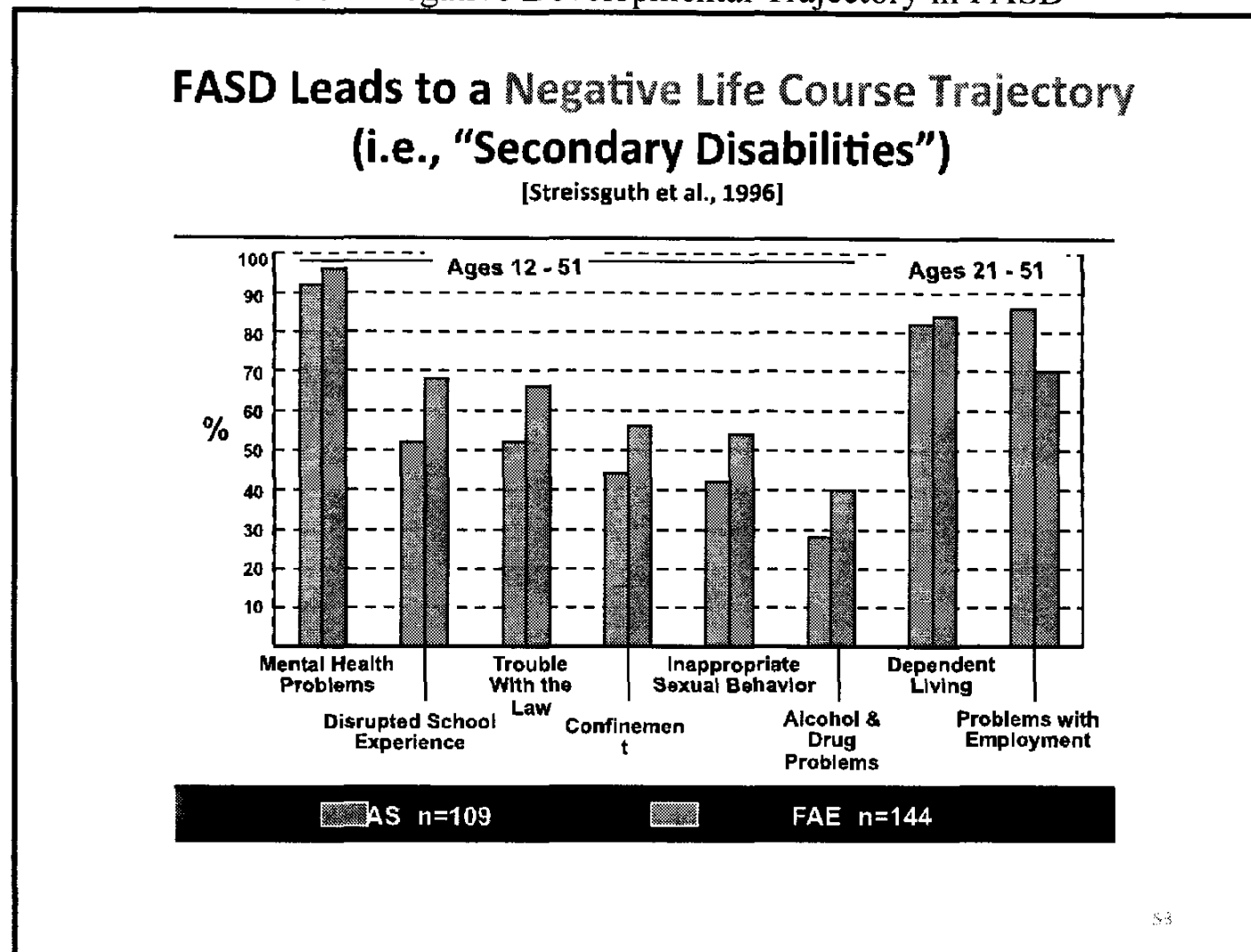


As can be seen above, Mr. Chappell's executive function scores generally fall around the mean in the context of high structure (i.e., his performance is not impaired on novel tasks when there is sufficient external structure). However, in contexts involving novel tasks and relatively less structure and examiner guidance, test performance generally declines to 1 standard deviation below the mean (i.e., mild impairment). In the real world, which tends to be completely unstructured, Mr. Chappell's everyday adaptive functioning falls more than 2 standard deviations below the mean (i.e., moderate impairment). Such results, which are consistent with the FASD literature, indicate that in non-routine situations involving minimal structure, Mr. Chappell's adaptive behavior will resemble that of an individual with intellectual disability.

Executive dysfunction is recognized on the Substance Abuse and Mental Health Services Administration (SAMHSA) website<sup>36</sup> (see Appendix B) as the central reason why those with FASD have life course difficulties. Moreover, childhood adversity interacts with executive dysfunction to increase the risk of a negative developmental trajectory, including such things as trouble with the law and substance abuse [see Exhibit 6 below].

<sup>36</sup> <http://store.samhsa.gov/shin/content//SMA06-4238/SMA06-4238.pdf>, retrieved 7/21/16

Exhibit 6. Negative Developmental Trajectory in FASD



In Mr. Chappell's case, Dr. Matthew Mendel (report dated 6/27/16) evaluated Mr. Chappell and concluded he had been exposed to "a truly extraordinary number of deficits, traumas, and losses over the course of his childhood" (e.g., mother's heavy use of heroin and alcohol during her pregnancy with him, mother's death when he was a young child; absence of a father/father-figure; raised in a neighborhood where violence, drugs, and prostitution were commonplace; marked poverty; extreme physical abuse; physical neglect of basic needs; emotional neglect; and loss of an uncle who was his sole provider of love and affection). Thus, Mr. Chappell's childhood involved all of the risk factors associated in the FASD literature with increased risk of secondary disabilities. Due to an interaction between this adversity and his executive dysfunction, he developed all of the secondary disabilities except inappropriate sexual behavior.

The SAMHSA website references research that describes the negative impact of executive dysfunction in FASD on behaviors implicated in offense conduct (i.e., lack of impulse control and trouble thinking of consequences, difficulty connecting cause and effect and planning accordingly, problems empathizing and taking responsibility, inability to delay gratification and make good judgments, and poor emotional control and tendency to engage in explosive episodes).

As noted, Dr. Connor's neuropsychological testing found Mr. Chappell's working memory was significantly impaired. Working memory is the key executive skill responsible for holding relevant neural information in mind while manipulating, synthesizing, and processing it for the purpose of completing a task. Working memory is

where intentions are formed and planning occurs while at the same time strong urges and emotions emanating from the limbic system are controlled.<sup>37</sup> In the legal context, working memory is equivalent to “reflection,” “reasoning,” and “impulse control.”

As Exhibits 3 and 4 demonstrate, even under the best of circumstances (e.g., a highly structured and controlled test setting), Mr. Chappell’s executive control over his behavior is significantly impaired due to his FASD. If he was experiencing any degree of stress at the time of the offense, executive control over his thoughts (e.g., intentions, planning, goals) would have been even more impaired.<sup>38</sup>

It was known at the time of trial in 1996 that Mr. Chappell was under stress at the time of the offense (i.e., he perceived his girlfriend Deborah Panos was cheating on him). Further, Mr. Chappell testified that he was overcome by jealous rage at the time he killed Deborah Panos.

In 1991 when Dr. Streissguth spoke at a death penalty conference in Virginia, she told the conference attendees that those with FASD did not have the cognitive capacity to cope effectively with stress and other negative emotions.<sup>39</sup> Today, we know from neuroimaging research why this is the case. Alcohol exposure in utero affects formation of the hypothalamic-pituitary-adrenal system (H-P-A axis) in the developing fetal brain, increasing sensitivity to stress. As a result, those with FASD are “hard-wired” at the time of birth to be *hyper-reactive* to stress. If, simultaneously there also is impaired executive control and impaired coping capacity, as testing has found in Mr. Chappell, the combination of hyper-reactivity to stress and impaired executive control can have catastrophic consequences when working memory in the dorsolateral prefrontal cortex of the brain is unable to exert top-down control over intense limbic-driven emotional reactions.

#### **Opinion:**

Because Mr. Chappell’s executive control over his behavior is significantly impaired due to his FASD, and because Mr. Chappell was under stress at the time of the offense, **it is likely Mr. Chappell’s ARND influenced his ability to control his actions at the time of the instant offense.**

#### **(4) How would FASD influence Chappell’s behavior with respect to his prior domestic abuse of his girlfriend Deborah Panos?**

Review of the record indicates Mr. Chappell had a history of several domestic violence incidents against Deborah Panos.

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<sup>37</sup> Pennington, B. F., Bennetto, L., McAleer, O., and Roberts, R. J. (1996). Executive functions and working memory: Theoretical and measurement issues. In: G. R. Lyon and N. A. Krasnegor (Eds.), *Attention, memory, and executive function* (pp. 265-282). Baltimore, MD: Paul Brookes Publishing Co.

<sup>38</sup> LeBlanc, V.R. (2009). The effects of acute stress on performance: Implications for health professions research. *Academic Medicine*, 84, S25-S33.

<sup>39</sup> Streissguth et al., 1991, op. cit.



For the same reasons Mr. Chappell's impaired executive control would have influenced his behavior at the time of the instant offense, his executive dysfunction similarly would have influenced his prior domestic abuse of Deborah Panos. That is, during times of intense negative emotion such as anger or rage, Mr. Chappell's executive control impairments would have limited his capacity to control his emotions and impulses.

By 1996, research had identified numerous adaptive behavior impairments associated with the executive deficits in FASD (e.g., state and trait regulation problems and tendency to overreact, which tended to manifest in mood swings and explosive rage episodes, impulsivity, and poor judgment).<sup>40, 41, 42</sup> If executive functioning under highly structured situations such as test settings is impaired, as it is in Mr. Chappell, capacity of the frontal lobes to exert top-down control over strong emotions and unconscious impulses generated by the limbic system, is likewise impaired.

#### **Opinion:**

**Thus, at the time of the prior domestic abuse of his girlfriend Deborah Panos, it is likely Mr. Chappell's ARND influenced his ability to control his actions.**

#### **(5) How would Chappell's FASD affect/influence his drug addiction?**

As shown in Exhibit 6 above, it was well appreciated in 1996 and 2007 that those with FASD were at high risk of developing substance abuse problems such as seen in Mr. Chappell's history.<sup>43, 44, 45</sup> In other words, FASD makes one more vulnerable to the effects of drug abuse and addiction.

We now know from research that those with FASD are hard-wired prior to birth with a biological craving for alcohol and central nervous system depressants.<sup>46</sup> In fact, DSM-5 now indicates that prenatal alcohol exposure is associated with "an increased risk for later tobacco, alcohol, and other substance use disorders" (p. 801).

Jonathan Lipman, PhD (report dated 7/7/16) was retained by current habeas counsel to review the neuropharmacological influences on James Chappell's life, including the time of the offense. Dr. Lipman concluded Mr. Chappell began using and abusing drugs very early in his life and continued to abuse alcohol and cocaine with marijuana during his teen years, prior to adulthood and prior to full maturation of his brain. Dr. Lipman opined that the psychotoxicity resulting from that abuse likely interfered with tertiary brain development and personality maturation. Thus, based on this information, Mr. Chappell's substance abuse likely had an additive and cumulative negative effect on the brain damage he was born with due to prenatal alcohol exposure. However, substance abuse

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<sup>40</sup> Streissguth & LaDue, op. cit.

<sup>41</sup> Streissguth, LaDue, & Randels, op. cit.

<sup>42</sup> Streissguth, Bookstein, Sampson, & Barr, op. cit.

<sup>43</sup> Ibid.

<sup>44</sup> Streissguth, LaDue, & Randels, op. cit.

<sup>45</sup> Streissguth, Bookstein, Sampson, & Barr, op. cit.

<sup>46</sup> Cullere, M.E., Spear, N.E., & Molina, J.C. (2014). Prenatal ethanol increases sucrose reinforcement, an effect strengthened by postnatal association of ethanol and sucrose. *Alcohol*, 48, 25-33.

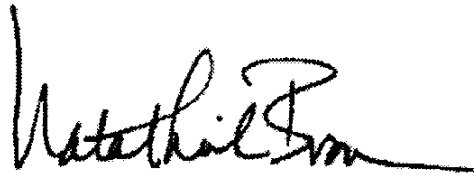
could not have begun affecting Mr. Chappell's brain development until his teen years, leaving only prenatal alcohol (and drug) exposure as the explanation for the multiple developmental delays and learning disability in his early childhood years.

**Opinion:**

**Thus, compared to individuals who are not exposed to alcohol in utero, Mr. Chappell's FASD condition increased his likelihood of developing a substance abuse problem.**

Thank you for the opportunity to evaluate Mr. Chappell.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Natalie Novick Brown', with a stylized, cursive script.

Natalie Novick Brown, PhD

## **Appendix A Record Review**

- School Grades Chart, James M. Chappell
- School Testing Chart, James M. Chappell
- Excerpts from I-File from Ely State Prison for James Chappell
- Excerpts of Medical Records from Ely State Prison for James Chappell
- Trial testimony re Stipulations (10/11/1996)
- Excerpt from Lansing School District's Cumulative Report, Metropolitan Readiness Test, James Chappell
- Personal Behaviors Checklist PBCL-FABS, Michael Chappell
- Personal Behaviors Checklist PBCL-FABS, Ricky Chappell
- Personal Behaviors Checklist PBCL-FABS, Terrance Wallace
- Counsel Facts Timeline, 1996
- Counsel Facts Timeline, 2007
- Domestic Violence Timeline
- Substance Abuse Timeline
- Social History Chronology
- Juvenile Record, James M. Chappell
- Death Certificate, Shirley Axam-Chappell
- Dr. Paul Connor, Final Report (7-15-2016)
- Dr. Matthew Mendel, Final Report (6-27-2016)
- Dr. Jonathan Lipman, Final Report (7-6-2016)
- Dr. Lewis Etcoff, Supplemental Report (09-28-1996)
- Dr. Lewis Etcoff, Declaration (7-11-2016)

### **School records, James M. Chappell**

- 1976-1977 Moores Park School, Semester Report
- 1979-1980 Moores Park School, Student Progress Report
- 09-05-1980 Class assignment
- 09-0-1980 Daily Progress Report
- 1981, Forest View School, Student Progress Report
- 1982, Maple Grove School, Certificate of Completion-6<sup>th</sup> grade
- 06-14-1978 Lansing School District Environmental Education Center, Certificate
- 1978, Moores Park School, Certificate for Field's Day
- Junior Citizen's Award, Officer Friendly Program
- Lansing School District, Cumulative School Record
- 1977 Moores Park School, Certificate

### **Declarations of:**

- Benjamin Dean (4-17-16)
- Carla Chappell (4-23-16)
- Charles Dean (4-19-16)
- Ernestine 'Sue' Harvey (7-2-16)
- Fred Dean (6-11-16)

handful of times when they were in elementary school, but then he disappeared. I have no recollection of seeing Wells throughout my junior high and high school years. Wells also suffered from a long-term addiction to drugs.

6. I was only five years old when our mother, Shirley Chappell, died in a vehicular accident. Although my time with her was limited, I have vague recollections of my mother. I remember instances of her carrying me around and caring for me. There are general feelings of warmth and love attached to my memories of our mother. I suffered deep feelings of loss associated with her death and have only come to terms with those emotions in the last few years. My siblings and I were taken in by our grandmother Clara after our mother's death.
7. Life in the home of our grandmother Clara was very difficult for all of us. Clara abused us physically and emotionally, and gave me the impression that she couldn't care less about us at times. Clara often told us that she only took us into her home because she did not want to see us get split up by the State and that she would not have done anything for us had our mother lived. Clara felt that her only duty was to provide us with food, clothes, and a roof over our head. She did not show an interest in our dreams, hopes, or education. I recall wanting to join a football team when I was in junior high school, but couldn't because Clara refused to buy a pair of cleats for me. Her initial reason was that they were too expensive. However, I found a store that was selling a used pair of cleats for just five dollars, and Clara still refused to buy them for me. She did the same thing on another occasion when I wanted to join a basketball team, but she refused to purchase the team outfit for me. Admission to the local skating rink was only two dollars, but Clara refused to provide us with money. My siblings and I had to collect cans and bottles to raise enough money to go skating. Clara never explained these decisions, but it was clear that she just did not care about my desire to play sports. Clara never helped me to pursue anything that I was interested in doing.
8. When I was about five or six years old and about to enter school for the first time, I saw a group of kids walking to school, and followed behind them. I ended up following them

all the way to their elementary school and I went inside with them. When the teachers realized that I was not one of the students, they contacted Clara, and she came to get me. Instead of asking me if I was alright or explaining that I had to wait to enroll in school in the next few months, she immediately chastised me and made me feel awful. She killed the feelings of excitement and joy that I initially had in connection with the idea of attending school. This experience planted the seed in my mind that school was not pleasant.

9. Clara was not a sensitive or nurturing caregiver. Her primary way of communicating was by yelling and beating us. We did not have quiet discussions of substance with our grandmother. She never took the time to sit down and explain the way that life worked. Clara did not give us hugs or kisses, and she did not hold our hands. Clara did not pick us up in her arms or play with us when we were little. I have no memories of our grandmother telling us that she loved us. "Love" or "I'm sorry" were not a part of our household vocabulary. Clara sometimes beat or punished us for things that we did not do, but she never apologized when she discovered that she was wrong. This happened a lot, especially when my baby sister Myra blamed us for some of the things that she did, like when ~~she~~ stole money from Clara and told her that I did it. I was in trouble so often that Clara assumed that I was responsible for many things that I didn't do.

10. Although Clara traveled extensively on nice vacations and gambling trips, she always left us alone at home while she went off to have a good time. Clara purchased nice cars, expensive leather boots, Jordache jeans, jewelry, and other fine products, but spent very little money on us. We usually received her leftover resources and consideration. Clara used to buy us plastic shoes and cheaply made clothes that often did not match. We were teased about our clothing by children in the neighborhood and classmates at school. I never understood why Clara spent so little money on us, especially since she received a monthly benefit check to help take care of us.

11. The first time I asked Clara for help with my homework, she became angry and started yelling at me. Clara repeatedly told me that I should know the answer, and to figure it

out by myself. After this happened a couple of times, I stopped asking Clara, my teachers, and everyone else for help because I was embarrassed. Clara made me feel like I was stupid for not having the answers. I became self-conscious and afraid that others might develop the idea that I was stupid. As time went on, I stopped questioning everything around me and became determined to figure things out on my own. This is how I started down a path of wrong doing. When I felt depressed, I got high. When I needed something and did not have the money to pay for it, I stole. I did not always want to do these things, but they were often the best ideas I could come up with on my own. My siblings and I were surrounded by bad influences in our family and around the community. There were drug dealers, addicts, prostitutes, pimps, thieves, sexual predators, and killers throughout our neighborhood.

12. Our home on Nellers Court seemed like it was in the middle of a polluted area. Our block was sandwiched between two railroad tracks. The old Diamond Reo auto plant was located across the street from our house, and I remember seeing oil and fuel slicks all over the ground around the community. Me, James, and other kids in the neighborhood use to play in and around the vacant Diamond Reo plant. There was a heavy sent of oil and fuel in the area. I had asthma when I was young but grew out of it after leaving the neighborhood. I used to wheeze and my nose constantly ran when I lived on Nellers Court. I frequently saw the bodies of small animals that apparently had just dropped dead without any signs of physical trauma or injuries. There were dead rats, cats, squirrels, possums, and other small animals all over the place.

13. Most of the people in our family were addicted to drugs and alcohol. My aunt and uncles, Clara's siblings, and many of our cousins abused substances. I used to steal drugs from my Uncle Rodney and Aunt Sharon and sell them in school. The drugs included yellow jackets, black beauties, uppers and downers, and marijuana. Drug abuse was so widespread in our community that people who did not get high seemed strange to me. I started abusing drugs and alcohol when I was about eleven years old. My older cousin Lonnie Underwood introduced me to marijuana around this time. Drugs allowed me to escape the emotional pain that I experienced during my upbringing and helped me feel

better for short periods of time. I did not have anyone to tell me not to engage in the activities that I was involved in. Instead, I was often encouraged by older people around the community and in my family to do wrong. When Clara discovered that I was smoking weed, she responded by telling me that she was going to take me to Texas so that I could smoke large quantities of high grade weed until it made me sick. I don't know what made her respond this way, but it was the only punishment that I ever looked forward to. However, nothing ever came of it.

14. I felt justified in stealing when I was a child because of the feelings I had of being short-changed by Clara. In fact, I started out by first stealing from her. I was trying to get what was being withheld from me. From there I branched out into breaking into homes around the neighborhood with some of the older kids. The older kids used my small stature to their advantage and had me squeeze into openings that were too small for them to enter. Stealing with the older kids gave me a sense of acceptance and pride. I was good at it and received a lot of respect from the older kids.
15. When I was in the seventh grade, I was arrested for breaking into the locale Adidas warehouse and stealing sneakers with other kids in the neighborhood. The police decided not to charge me because of my age, but they called Clara to inform her about what happened. She became so angry with me that she refused to pick me up from the station, even though the officers were not going to provide me with a ride home. Clara told them to let me walk all the way home from downtown Lansing to our house on Nellers Court. It took me a few hours to get home, but I made it. Clara yelled at me when I came home but she did not give me a beating to my surprise. Clara frequently beat me for less egregious matters.
16. Clara spoke to us in a very harsh manner and frequently belittled us. She often referred to us as "niggers," told us that we would not amount to anything, and she constantly reminded us that our fathers were no good even though they were not around. Besides not having our fathers around, there was the bigger void of our deceased mother. Whenever we asked Clara to tell us about our mother, she became angry and told us to

forget about it. Clara usually told us that we didn't know our mother and that we shouldn't talk about her.

17. When I was about eight or nine years old, I woke up one morning after having a nice dream about seeing my mother in a bright white gown. It seemed as though she had been standing in my room next to my bed. I was so excited that I told Clara about the dream. She responded by telling me, "Nigga, you don't know what you're talking about," and "...shut up and get out of my face." I was so devastated by the way she dismissed my dream and feelings that I stopped expressing myself to anyone from that point forward. This was not hard to do because Clara never created any space for us to discuss our feelings or to heal. We were not allowed to mention a word about our mother, which extended the grieving process for us all.
18. I frequently watched Clara in an effort to figure her out. I tried my best to read her emotions to help avoid getting on her bad side, but this made her mad. Clara did not like people staring at her and she often yelled at me for looking at her. I also did things that I thought would please her, like bring her flowers. Nevertheless, Clara remained emotionally cold and did not respond to any of my efforts.
19. Clara was physically abusive and frequently beat me and my siblings with various items. Clara beat us with extension cords, broom stick, belts, her hands, bed boards, wooden planks, tree switches, and almost anything that was in her reach. Clara often forced us to undress before a whipping to make sure that we felt the blows. Clara's beatings usually left bruises, welts, and cuts on various parts of our body. Clara's whipping were long, and she always cursed and screamed at us throughout the beatings.
20. Clara once beat me so viciously with a broom that I was only able to hold up my forearm to protect the rest of my body from the blows. The beating went on for such a long period of time that I decided to escape by jumping out of a second floor window. Fortunately, I did not injure myself during the fall, and I ended up running away to a



friend's house where I spent the night. When I examined the forearm that I used to block the broom stick, it was filled with knots and lumps

21. When I was about twelve years old, Clara was whipping me over something I did, and the beating lasted for an extended period of time. I had to go to the bathroom at the time and begged her to stop beating me so that I could use the toilet. Clara did not pay any attention to my pleas and continued beating me. It got to the point where I had to go so badly that I was afraid that I might soil my pants, so I grabbed a shoebox and crapped in it. Clara continued beating me as I was relieving myself. I was teased about this situation for a longtime afterwards. Looking back, I was not mad at my siblings for laughing at me. The physical abuse we suffered traumatized all of us, whether we were being beaten or watching each other receive beatings. If we could not laugh at times, we would just cry all of the time.
22. Besides receiving regular whipping from my Grandmother Clara, I was also beaten by her late brothers Bobby and Jimmy Underwood. When she was tired of beating on me she sometimes called them to come and deal with me. Uncle Bobby was the most brutal disciplinarian in the family. He used to punch my head into walls when he beat me, and he usually did this in front of James and my other siblings.
23. Uncle Anthony is the only member of the family who treated me and my siblings with some measure of kindness. He used to hug us, talk to us about life, and he's the only one who told us that he loved us when he was around. However, Uncle Anthony was too occupied in the struggles against his own demons to be there for us in a meaningful way. He was a Vietnam Vet who returned from the war with a heroin addiction. When Uncle Anthony was murdered in 1981 it was a major setback for me and my siblings because he was the only one in our family who showed us compassion.
24. Around 1981, I recall an instance when Clara made me strip down to my jockey shorts and beat me with an extension cord for stealing five dollars from her. The beating was so severe that I ran out of the house with only my jockey shorts on and went to a neighbor's

house. The beating left cuts and welts about my body and my teachers noticed them on the following day when I went to school. The school officials called in a report to the local child protective agency and called my father, Willie, Sr., to retrieve me. My father was caught up in his drug addiction and street activities so I couldn't stay with him. I was sent to stay with Verlene Townsend. Verlene was one of my mother's best friends and the mother of my father's oldest daughter, Shawn Green. Verlene promised my mother that she would take care of me if I ever needed help, and was trying to fulfill her commitment. The State sent me and my family to counseling once a week for several months at a psychologist in East Lansing. James, Carla, and Myra attended each session along with me and Clara. Clara put on a charade throughout the counseling sessions and presented herself like a completely different person. Clara never owned up to her wrong doing and tried to portray herself as a caring person. My siblings and I pretty much stayed silent during the sessions because Clara threatened to harm us if we opened our mouths. The psychologist never spoke to me and my siblings individually and outside of Clara's presence.

25. I started getting into trouble and spending a lot of time going in and out of juvenile detention facilities following the completion of the counseling sessions. This continued until I received my first felony conviction at age fourteen and was sent to a Boy's Camp for two years. I was abandoned by Clara whenever I was locked up in juvenile facilities. She didn't write or visit me, and we did not speak over the phone. She pretty much had nothing to do with me. I never lived in Clara's home again after leaving for the Boy's Camp.

26. When I left the Boy's Camp at sixteen years old, Verlene Townsend took me in as a foster child because Clara wanted nothing to do with me. Besides Verlene, her husband, my sister Shawn and Verlene's three other daughters lived in the household. I joined Verlene's family church and gave my life to Christ. I stopped doing drugs and committing crimes, and life was good for a time. I was in the tenth grade at ~~Sexton~~ <sup>East Lansing</sup> High School and attending classes regularly. However, I reached a point where I felt stuck. I needed someone to help me live out my faith and get through the feelings of

abandonment that were resurfacing. Verlene and her family were good people, but they too were caught up in their own lives and did not pay much attention to my emotional needs. This is the point where I started to shut down and revert back to attempting to figure things out on my own. I started committing home evasions again, and was soon arrested. I was sent back to the Boy's Camp for one year following my conviction. Upon my release I was sent to a half-way house at seventeen years old. I was attending Sexton high school at this time. I used to see James at school on most days when I was in the ~~tenth and~~ eleventh grades, and I sometimes visited him at our grandmother's house.

27. Growing up under Clara's roof was a very difficult and debilitating experience. None of us were unaffected and we all found our individual ways to cope with feelings of rejection, abandonment, and low self-esteem. I personally struggled with the fear of being alone all of my life. This fear often triggered reactions that lead me to do the wrong things and ending up in prison. It seemed like a vicious cycle that kept me trapped in the same place for many years. My siblings and I all abused drugs and alcohol, and we all ran away from home at some point or another, except perhaps for James. James's struggle was slightly different from the rest of us because he had the additional obstacle of being mentally slow.
28. Everyone in the family knew that James was slow since the time we were small children. James had poor control of his bodily functions when he was a child. Up until age four or five, James soiled his pants while he was awake. It usually happened while James was playing or just sitting around, and he did not react to the presence of feces in his pants. James just continued to sit in it or play. We usually discovered that he needed to clean up after smelling the feces or seeing it run down his legs as James seemed oblivious to the matter. James had the same experience with wetting himself during this time and many years afterwards. James wet his bed until his early teenage years. We shared a bed for many years, and I was often soiled by his bed wetting and had to clean up as well.
29. James was teased a lot for urinating on himself. Children used to call him "pissy" as a nickname. I was not present but heard about the incident where our family friend

“Marge” once put a diaper on James and made him walk around the neighborhood as punishment for wetting the bed when he was about twelve or thirteen years old. James was a sensitive person who tried to avoid being embarrassed at all costs, so I can only image how humiliated he was by this incident.

30. James had a short attention span and experienced difficulty focusing on anything for more than a few minutes, besides watching music videos on television. James learned by watching others and trying to mimic them. He tried to dance, dress, speak, walk, and talk like the people he saw on television. He used expressions that he heard on television to express himself in different situations. James seemed at times like someone in search of a personality because he either did not know or like himself. I suffered from the same problem, but in my situation I tried to imitate the older guys around the neighborhood who were doing negative things. It was hard for me to show people the real me because I didn't know myself. Clara suppressed our self-expressions in her household, so we had no outlets to explore who we were and form identities.
31. James did not know when he was insulting others by the things he said. He had a poor ability to read people's emotions and recognize that they might be offended by something he said or did. For example, he sometimes walked up to girls and said, “good morning sluts” in the same way that the Dolemite character did in movies. This was inappropriate and people would be offended, especially if they didn't know that James was quoting a movie character. James did not have much of a filter in regards to the things he said, and did not seem to perceive when people were offended.
32. James had a poor sense of direction. He could only travel to places where he had already been, and could easily become lost when traveling to someplace new. James needed someone to drive him to his destinations or physically show him how to get there.
33. James was not able to learn things as quickly as me and our other siblings did, even when he was repeatedly shown how to do tasks.

34. James didn't speak much when he was a small child and throughout his elementary school years. James had a limited vocabulary and spoke like kids who were younger than he was. James's ability to use certain words was limited, so he spoke using words with few syllables.
35. James was not academically inclined. He struggled with reading, writing, and arithmetic throughout his childhood and during his early adult years. He was also diagnosed with having a learning disability at an early age. James often pretended like he knew things when he didn't to avoid being teased and picked on.
36. James was a very immature person and acted like someone who was younger than his actual age. James acted like he was six years old when he was ten and eight years old when he was thirteen. James did a lot of silly things that sometimes annoyed his peers around the neighborhood, but everyone tolerated him because they knew that he was slow and loved him.
37. James was clumsy and uncoordinated up until he was in junior high school. He used to spill things by mistake and make a mess.
38. James used to suck his middle and fourth fingers, especially when he was nervous or unsettled. This continued into his teenage years.
39. James was slow to anger, but was capable of snapping whenever he was pushed too far. James usually had a calm demeanor, but he had a tendency of holding his emotions in until he exploded when provoked. During our junior high school years, I recall excessively teasing James about something and then we began to fight. I got the better of James and held him down on the ground while punching him. James lost control of himself at one point, ran in the kitchen to retrieve a fork and an iron pan, and tried to hurt me. James had a strange look on his face at the time. He was clearly angry and excited, but the expression on his face was emotionless. James was too slow to catch me, so nothing happened, but the experience was shocking.

40. The first time that I became aware of James's drug use was when we were in our late teens and I was living outside of the house. James and I mostly smoked marijuana and drank alcohol together. Our drink of choice in those days were forty-ounce malt liquor beers, which we drank every day. James and I also smoked a mixture of marijuana and crack cocaine rolled into a single joint. We called them "Uzis." I recall one or two occasions where James and I smoked crack cocaine straight out of a glass pipe. I smoked a lot of crack in my late teens and early twenties, and so did James. However, we spent time in different circles of friends who smoked from the crack pipe. James and his friend Ivri Marrell used to tell me about their competitions to see who could smoke the most crack in one sitting. Ivri usually won, but James often came in a close second. James and his friends also told me about how they would smoke crack together by phone when James lived in Arizona and Nevada and compare notes on the highs they achieved. Ivri was one of James's best friends in the world and could have testified to many details of James's life and addiction. Not having Ivri's testimony at James's 2007 trial was a major setback. The same is true for James Ford who was also one of James's best friends.
41. James stayed with me for a couple of months from late 1992 to early 1993, during his second and final trip back to Michigan. On average, James smoked crack at least five days a week throughout that time period.
42. James was a shy person, especially when he was around strangers. He did not have a lot of friends outside of the neighborhood. His closest friends in school were kids who lived in our neighborhood. James also did not have a lot of experience with girls, unlike most of the guys in our neighborhood. James briefly dated one or two other girls, but Debbie was the only real relationship that he was involved in.
43. I first met Debbie during the late 1980s before she gave birth to their first child JP (James Panos). I did not spend a lot of time around them, but Debbie seemed like a nice person from what I saw. Debbie and James had a very loving relationship, and I could tell that they cared about each other a lot. I did not personally witness any violence or bad

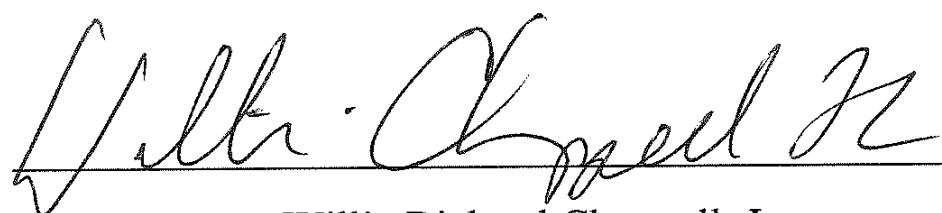
arguments between them, but James told me about some of the problems that they were experiencing at times. Debbie's parents were racist and did not like the idea of her dating an African-American man. James was very upset over the parents' rejection and the way they mistreated him.

44. The situation with Debbie's parents was so tense that Debbie considered aborting JP, which was something that James was against. However, she and James worked through the situation, and she decided to see the pregnancy through.
45. James told me about the series of break-ups and make-ups that he and Debbie went through beginning in 1988 when she initially left Lansing for Arizona. Debbie took JP along with her and left James behind. However, Debbie returned in the spring of 1989 in an attempt to get back together with James. James stayed with me during this period and Debbie had her own apartment. They eventually reunited and decided to move to Arizona together. Debbie and JP went first, and then James followed a few months afterwards in 1990. I was incarcerated at the time when James first moved to Arizona.
46. When James first returned to Lansing in 1991, I did not spend any time with him. However, he stayed with me in late 1992 to early 1993 when he returned to Lansing for the second time. James and Debbie had broken up, and he had no intentions of returning to her, but Debbie pursued James. I recall Debbie calling my house almost every day to speak with James and begging him to come home. James didn't give in until Debbie purchased tickets to a Bobby Brown concert that was taking place in Arizona. Bobby Brown was one of his favorite music artists and he couldn't resist the offer. I dropped James off at the bus station on the day that he left for Arizona, and it was the last time that I saw him until his trial in 2007.
47. I was not contacted by James's first set of trial attorneys from his 1996 trial, nor was I contacted by his state post-conviction counsel during the early 2000s. The first time that I was contacted by any of James's representatives was in February 2007, which was just a month before his second trial took place. I was incarcerated at the time at the Cooper

Correctional Facility in Jackson, Michigan, and was just days away from being released. My conversation with James's attorneys lasted for about an hour and a half, and was not as detailed as my recent conversation with Herbert Duzant of the Federal Public Defender Office. Nevertheless, I covered many more details in my first conversation with James's 2007 attorneys than I was allowed to testify to. My entire testimony at James's trial only lasted about fifteen minutes. It felt like a wasted opportunity because there were so many details and information that were left out.

48. I would have provided James's previous counsel with all of the information contained in this declaration had I been contacted or properly interviewed. I also would have testified to everything stated in this declaration.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ionia, Michigan, on May 16<sup>th</sup>, 2016.

A handwritten signature in black ink, reading "Willie Richard Chappell, Jr.", written over a horizontal line.

Willie Richard Chappell, Jr.



# EXHIBIT 74

### **Declaration of William Richard Chappell, Sr.**

I, William Richard Chappell, hereby declare as follows:

1. I am sixty-nine years old and currently reside in Holt, Michigan. I am the father of James Chappell. I was the eighth of eleven children born to Willie Lee Chappell and Fairy Mitchell-Chappell, in Arkadelphia, Arkansas.
2. My relationship with James's mother, Shirley, began in the springtime of 1966 in Lansing, Michigan. Shirley's eldest son, Lapriest Blocker, was only three months old at the time, and they were both living in the home of Shirley's dad, Arthur Aham. Shirley moved in with me a few months after we began dating, and we married in 1967.
3. Our first child together, Carla Chappell, was born on March 15, 1967, and our second child, William Richard Chappell, Jr., was born on March 2, 1968. After William Jr's birth, my relationship with Shirley became strained. I was working long hours at the Oldsmobile plant and engaging in extramarital relationships. In the Fall of 1968, I discovered that Shirley was having an extramarital affair of her own with James Wells. James Wells met Shirley through his late sister, Barbara Wells. Shirley and Barbara were best friends and may have attended high school together. Shirley admitted she was involved with James Wells when I confronted her about the matter, and I told Shirley that she had to leave my house. I also told Shirley that I would give her time to think carefully and decide whether she wanted to continue our marriage or be with James Wells. I made it clear to Shirley that I was fine with whatever she decided. Shirley moved out and took the children with her.
4. Even though Shirley and I were no longer living together, we continued seeing each other when I visited the children. Shirley and I also continued being intimate with one another, even though she was also intimately involved with James Wells. James Wells and Shirley were not living together at that time, which made it easy for us to be together.

Shirley did not move in with James Wells until early 1970, following James's birth and after I had been arrested and incarcerated on a robbery charge.

5. When Shirley became pregnant with James in 1969, she was sexually involved with me and James Wells. There was some confusion initially following James's birth, but Shirley told me she believed that he was my son. Shirley told me that she let James Wells believe that he was James's father as well. She was worried that our son might not have a father otherwise. Shirley was concerned that my lifestyle might end with me being incarcerated for a long time. James was given James Well's first name and my last name.
6. Shirley was a heavy drinker from the time that we met in 1966 until her death in 1973. I did not care for alcohol and was not a drinker, but Shirley regularly drank with her best friend, Barbara Wells, and others. Barbara Wells and Shirley's mutual friends were alcoholics who drank most days, but especially on weekends. I frequently saw Shirley drunk and smelled alcohol on her breath. Shirley drank alcohol throughout her entire pregnancy with James.
7. Shirley smoked cigarettes from the time that we met until her death, and throughout her pregnancy with James. On average, before, during, and after her pregnancy with James, Shirley smoked one to one and a half packs of cigarettes a day. Shirley even got me in the habit of smoking cigarettes, and I smoked around her as well. Back in those days, we had no idea that cigarette smoke was harmful to a child in the womb.
8. Shirley had a terrible accident when she was about five to seven months pregnant with James. Her stomach was fairly large at the time. In a state of intoxication, Shirley slipped and fell down an entire staircase that had twelve or thirteen steps. Shirley began spotting blood after she got up and was rushed to the hospital where she was treated by doctors. I don't recall the specific nature of the internal injuries she suffered, but the doctors told her that she almost lost James.

9. In the months following James's birth, but before my arrest, I once found Shirley walking down the street nodding her head, as if she was high on something stronger than alcohol. When I confronted her and asked what she was using, Shirley told me that she was abusing heroin with James Wells. Shirley did not want to talk about it, but admitted that she had been using for a few years, which included the time when she was pregnant with James. I was not abusing heroin at that time, but in 1973 after my release from prison and following Shirley's death, became addicted to it myself. I had become severely depressed and was trying to overcome the pain of Shirley's death.
10. After Shirley was killed in August 1973 custody of James and his siblings was given to their maternal grandmother, Clara Axxam,. James was just three years old, and I was serving a state prison sentence at the time. Although Shirley and I had been apart for a few years by the time of her death, I took the news very hard and slipped into a deep depression. Shirley was my wife, the mother of my children, and I still loved her after all we had been through. We also had been corresponding by mail and discussing the possibility of reuniting after my release.
11. I had opportunities to see Clara's interactions with James and his siblings, and I did not like what I saw. Clara treated the children like her personal staff of servants. The children cooked, cleaned, and waited on Clara hand and foot, while she just sat in front of her television with a cup in her hand. I found it odd that Clara rarely entered her own kitchen to prepare a meal for her grandchildren, even though she cooked for a living.
12. Clara was not a loving Grandmother. Clara frequently screamed and cursed at my children and demeaned them in various ways. Clara was not a warm person, and I never personally witnessed her ever show my children any affection. Clara never hugged them, told them that she loved them or gave them any kind of positive reinforcement whenever she was in my presence.
13. The children used to complain to me about Clara physically abusing them and frequently leaving them unattended at home while she went to gambling events or left town. Clara

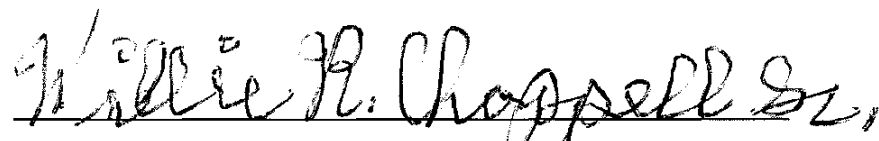
had a gambling problem and made frequent trips to Atlantic City, Las Vegas, Louisville for the Kentucky Derby, and local horse races. She also played the state numbers, lottery, and scratch off tickets. Clara was part of a circle of friends who took turns hosting gambling card parties. When Clara hosted the parties at her house, she made the children stay in their rooms or go outside until the adults were finished gambling. There was always plenty of alcohol and drinking at these parties.

14. It was difficult observing the way that Clara treated my children and hearing their complaints, but I felt powerless to do anything to help them. I once told Clara that I was going to take custody of the children, but she told me that she would fight me if I tried. Clara said that no court in their right mind would give custody of the children to an “unemployed junky ex-convict.” I knew that she was right and feared that she might stop me from visiting the children when I could, so I backed down. The government also provided Clara with a good amount of financial aid and food stamps to care for the children, and she was determined to hang onto these benefits.
15. Shirley often talked about her upbringing in Clara’s household. According to Shirley’s descriptions there were a lot of similarities in the way Clara treated her own children and my children. According to Shirley, Clara was emotionally abusive, physically abusive, and frequently left Shirley and her siblings unattended at home for long periods of time. Clara was a partier and a gambler, and tried to live life as if she were a single woman. Shirley and Clara had a terrible relationship from Shirley’s life. Shirley frequently ran away from home. She dropped out of school and was sent to a girls’ home during her teenage years. Instead of returning to Clara’s house following her release from the girls’ home, Shirley went to live with her dad, Arthur Aham.
16. Clara was only fourteen years older than Shirley and thought of herself as Shirley’s peer. Clara dated many men, some who were close in age to her children, and double-dated with Shirley and me during the early days of our relationship. Clara drank heavily whenever I went out with her, but not around the children. Clara’s drinking habits gave me the impression that she was a weekend alcoholic. Clara was also a promiscuous

woman who often bragged about keeping more than one man at a time. Clara used men for whatever she wanted from them. Clara often mentioned that she was determined not to be dependent on or allow any man to control her life.

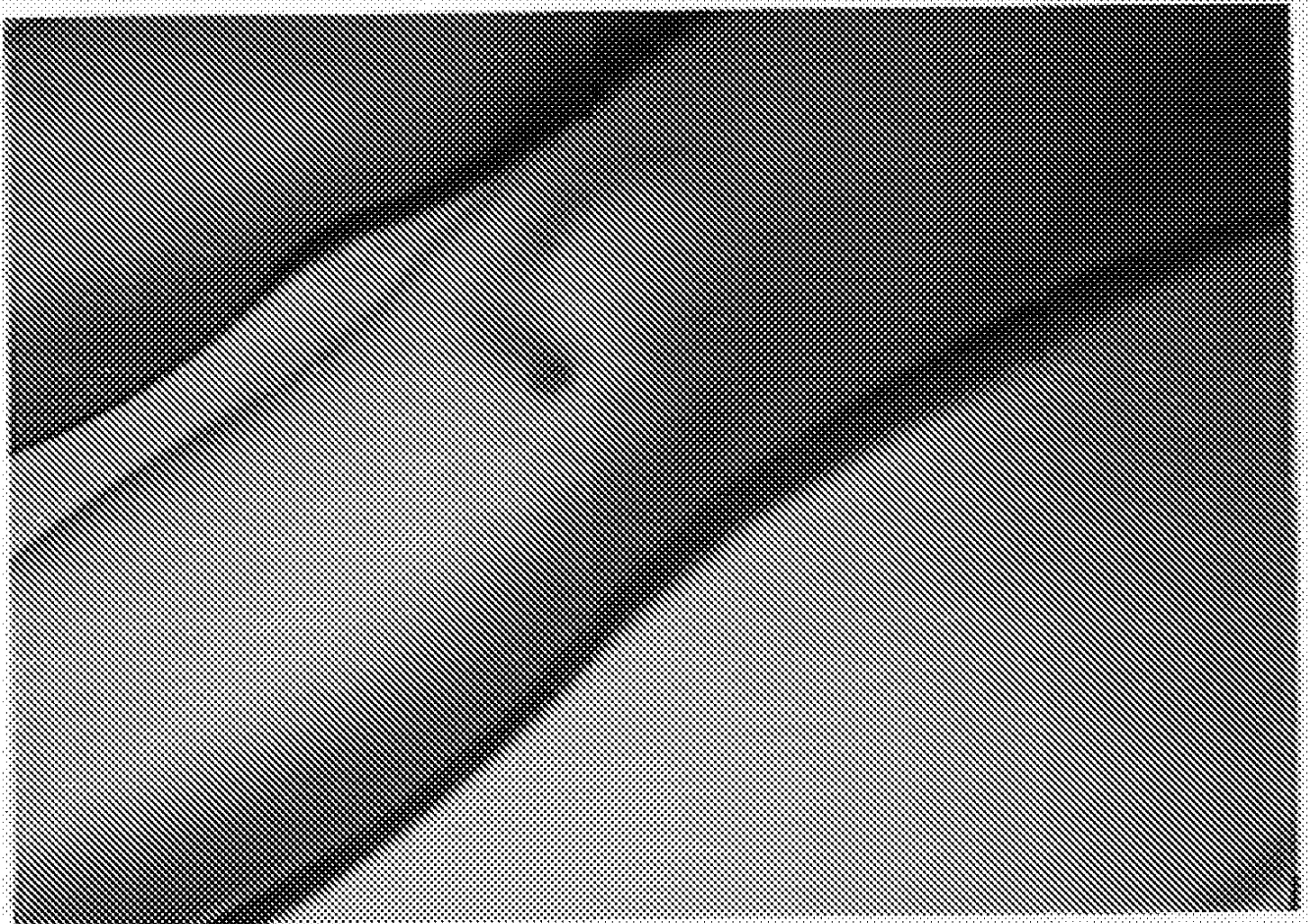
17. Clara once pulled a gun on me shortly after Shirley and I broke up. Shirley and the kids were staying with Clara at the time and were present during this incident. Clara thought that I was coming to harm Shirley, but I was just trying to see my children. Clara lowered the weapon and allowed me to visit the children without incident.
18. Looking back at James's life in Lansing, I wish that I could have been there for him more than I was. James needed a male role model in his life, but I was too caught up in my own negative lifestyle and circumstances. If it were possible to turn back time and relive events, I would definitely have done things very differently with James and the rest of my children.
19. I was never contacted by anyone working on James's behalf until my recent conversation with Herbert Duzant of the Federal Public Defender Office. During the times of James's two trials, in 1996 and 2007, I was in touch with his grandmother Clara, his aunt Sharon, my daughter Myra, my son Willie Junior, and other members of the family. It would have been very easy for James's previous counsel to have contacted me if they were interested. I would have provided James's prior representatives with the information found in this declaration had they spoken with me, and I would have testified to these facts. I also would have asked the jury to spare my son's life.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Holt, Michigan, on April 6, 2016.

  
William Richard Chappell, Sr.

# EXHIBIT 75

JChappell 8JDC-EVVAULT382





JChappell 8JDC-EVVAULT383

STATE'S  
EXHIBIT

25

STATE'S  
EXHIBIT

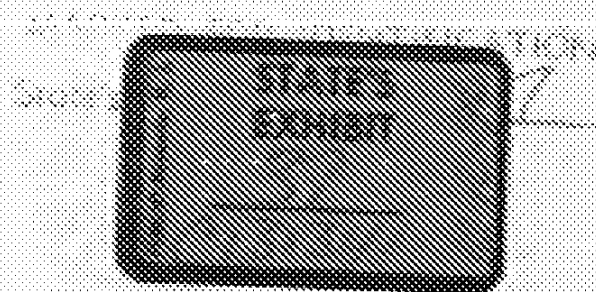
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# EXHIBIT 76

JChappell 8JDC-EVVAULT033



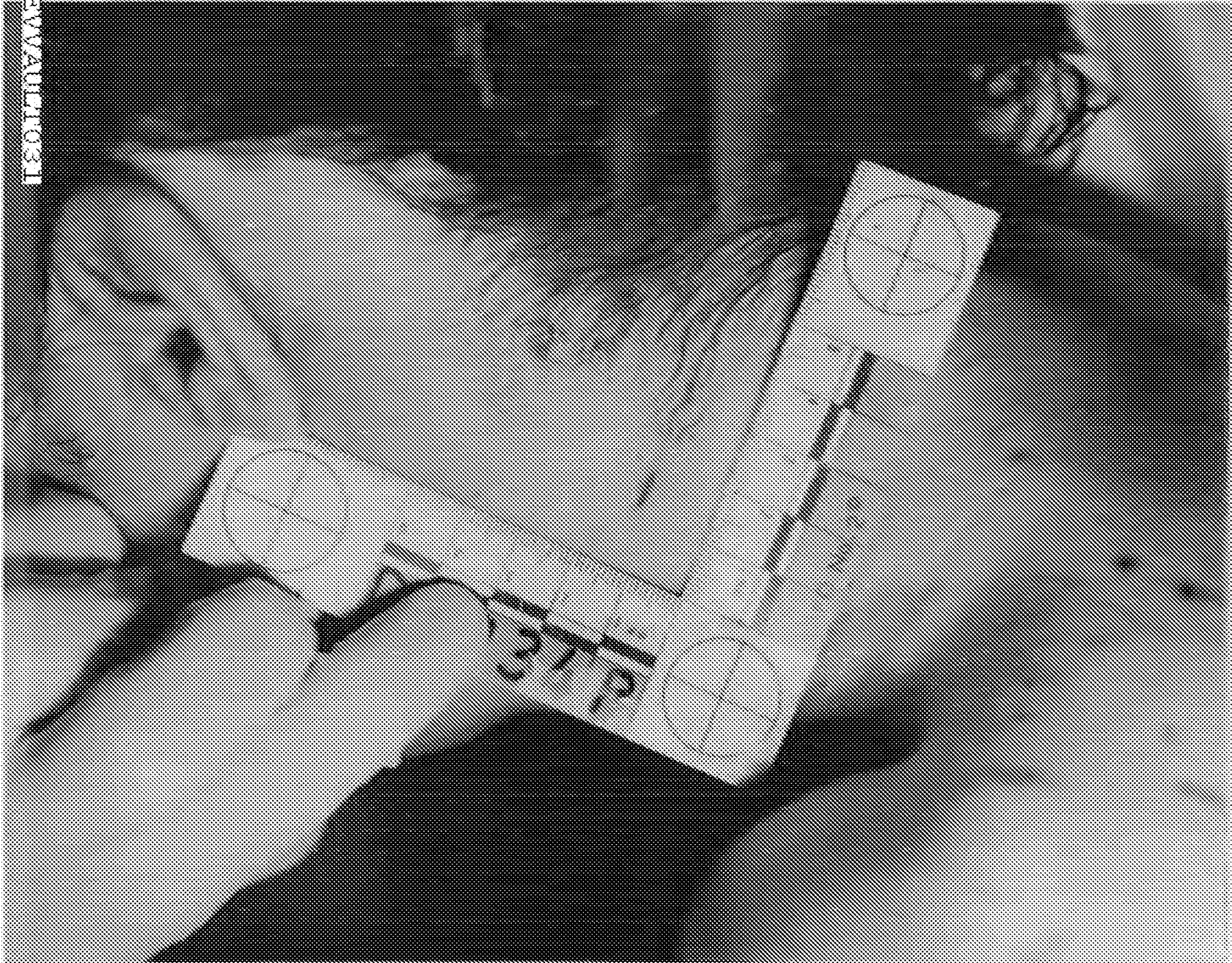
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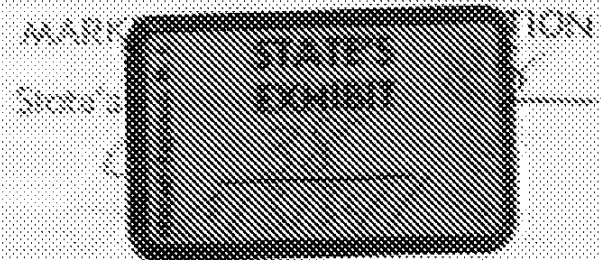
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JChappell 8JDC-EVVAULT031



JChappell 8JDC-EVVAULT032



# EXHIBIT 78



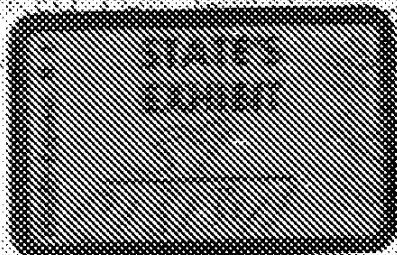
JChappell 8JDC-EVVAULT029



JChappell 8JDC-EVVAULT030

MARKED FOR IDENTIFICATION

State: TEXAS 197



# EXHIBIT 79





JChappell 8JDC-EVVAULT028

STATE'S EXHIBIT

# EXHIBIT 80



JChappell 8JDC-EVVAULT025



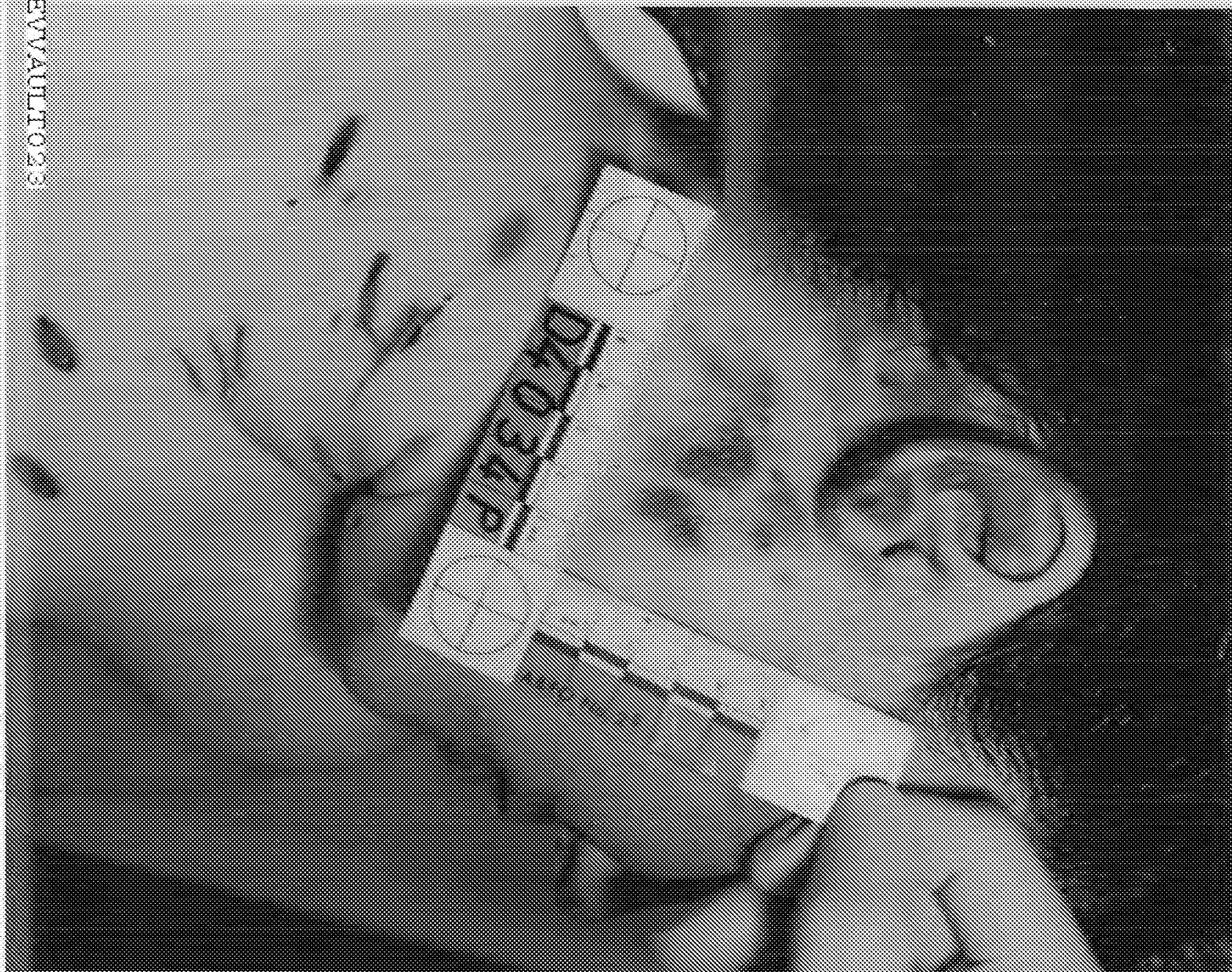
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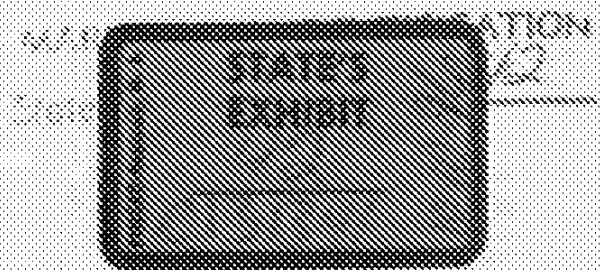


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JChappell 8JDC-EVVAULT023



JChappell 8JDC-EVVAULT024



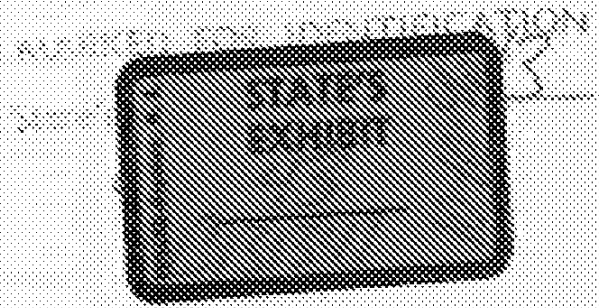
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JChappell 8JDC-EVVAULT021



JChappell 8JDC-EVVAULT022



# EXHIBIT 83

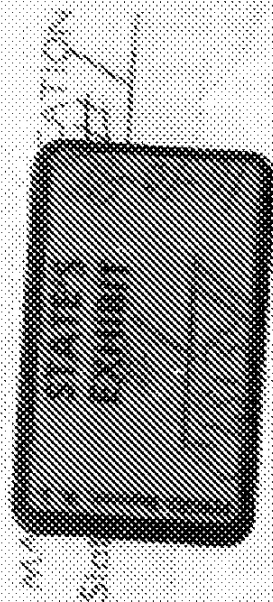




JChappell 8JDC-EVVAULT104



JChappell 8JDC-EVVAULT105



# EXHIBIT 84

JChappell 8JDC-EVVAULT017



JChappell 8JDC-EVVAULT018



# EXHIBIT 85



## **Declaration of Lewis Etkoff, Ph.D.**

I, Dr. Lewis Etkoff, hereby declare as follows:

1. I am a Nevada licensed psychologist who practices in Las Vegas, Nevada. I received my bachelors and master's degrees from Brandeis University in Massachusetts in 1973 and 1975, respectively. I received my doctoral degree in clinical psychology from the University of Toledo in Ohio in 1983. From 1982 to 1985, I was a Captain in the United States Air Force and completed my clinical psychology internship at Wright Paterson Air Force Base Medical Center. Later (1983-1985) I was stationed at Nellis Air Force Base Hospital in the Mental Health Clinic. I was honorably discharged from the Air Force in 1985 and have been in private practice in Las Vegas since.
2. From 1985 until approximately 1988, I had a typical practice of a recently graduated psychologist, consisting mainly of psychotherapy, and performing diagnostic assessments with patients.
3. I was appointed Chief Psychologist at Montevista Hospital around 1990 and saw patients at Charter and Montevista Hospitals in the early 1990s.
4. Since 1985, I have been in private practice as a clinical psychologist and neuropsychologist conducting psychological and neuropsychological evaluations of children, adolescents, and adults in connection with various forensic matters, including child custody, and criminal and personal injury cases. I also have had a clinical practice since 1985.
5. I was awarded a Diplomate by the American Board of Professional Neuropsychology in 1992, and was voted a Fellow of both the National Academy of Neuropsychology (2006) and the American College of Professional Neuropsychology (1995). I also earned added credentials in forensic neuropsychology from the American Board of Professional Neuropsychology (2002).
6. In the mid-1990s, about 10% of my practice consisted of conducting psychological evaluations of defendants at the request of the Clark County Public Defender's office (CCPD) and the Special Public Defender's Office (SPD). I was usually asked to evaluate defendants for purposes of determining competency to stand trial and/or establishing

whether mitigation evidence existed. I stopped working on criminal cases in the early 2000s. In total, I conducted about twenty-five to thirty defendant evaluations for the CCPD and SPD.

7. I was retained by Mr. Chappell's defense team in April 1996 to conduct a criminal psychological evaluation of Mr. Chappell for determining whether mitigating evidence existed. I was not asked to perform a full neuropsychological battery upon Mr. Chappell, nor was I provided with any information indicating that Mr. Chappell might suffer from brain damage. Therefore, I administered an intelligence (IQ) test, an academic achievement test battery, and an objective personality test. The testing I did was not designed to determine if Mr. Chappell suffered from brain damage.
8. In preparation for my evaluation of Mr. Chappell, I reviewed a handful of documents including the police report of the crime, a statement made by one potential prosecution witness, some letters written by Mr. Chappell to the victim, Deborah Panos, and Mr. Chappell's school records. I interviewed Mr. Chappell, and reviewed a forensic life history questionnaire—that I had written for capital crime defendants—which Mr. Chappell had previously filled out with the help of defense counsel.
9. At the time of Mr. Chappell's 1996 trial, I did not have much experience with this type of forensic criminal work and therefore took my direction from trial counsel on what records I should review. Looking back at that period, I was less experienced than I am today regarding my role as an expert in this area. I knew then that it was better to review as much information as possible about the client in order to conduct a proper forensic criminal mental health evaluation and to build a case, including speaking with independent sources for corroboration of what the defendant has self-reported to me, and reviewing as many records as possible including but not limited to medical and mental health records, criminal records, and school records.
10. With that said, I did ask counsel for Mr. Chappell in 1996 if there were family members or friends that I could interview in addition to Mr. Chappell. I was informed that only Mr. Chappell was available. So I had to rely on Mr. Chappell's self-reports both from his clinical interview and from his filling out the forensic life history questionnaire that I had created for this very purpose.

11. Even though my original retention on the case was to evaluate Mr. Chappell for purposes of mitigation, about a week before the start of the trial I was asked by Mr. Chappell's defense team to testify about Mr. Chappell's intent to commit the murder for which he was charged. I rarely was retained to testify about intent issues in criminal cases.
12. After Mr. Chappell's sentence was later overturned, I was contacted in 2007 by Mr. Chappell's second defense team. That team asked me to again testify on Mr. Chappell's behalf. Although I was no longer doing this type of work, I agreed to assist in this case due to my participation in the 1996 trial. I was not asked by the team to do anything but review my prior report, the notes I took during my 1996 interview with Mr. Chappell, and my prior testimony. Again, I was not given access to any witnesses who could have given me additional insight into Mr. Chappell, or corroborate Mr. Chappell's self-reports. I was not given the opportunity to speak again with Mr. Chappell nor was I given a copy of Mr. Chappell's prior testimony. As in the 1996 trial, I was not given any additional documents which could have bolstered or supported my testimony. Second trial counsel did not discuss the possibility of brain damage with me, nor did they ask me to conduct any additional testing including neuropsychological testing.
13. I was recently contacted by Mr. Chappell's current federal counsel, the Office of the Federal Public Defender, District of Nevada. Mr. Chappell's federal counsel requested that I review materials I had in my possession in 1996 and 2007, and materials I had never seen, including Mr. Chappell's trial testimony, and Mr. Chappell's neuropsychological tests scores obtained from newly retained defense expert, neuropsychologist Dr. Paul Connor.
14. It appears from the materials I reviewed that Dr. Connor recently conducted a full neuropsychological battery on Mr. Chappell. I reviewed Dr. Connor's test results and have determined that, if I had been asked to conduct a full neuropsychological battery like Dr. Connor was asked to perform, the results of that testing, more likely than not, would have greatly supported my testimony.
15. For example, the neuropsychological test results show that Mr. Chappell has problems in executive functioning including problem solving, cognitive flexibility and working memory, suggesting possible organic brain damage. All of these neuropsychological deficits would have corroborated my testimony (at both trials) that Mr. Chappell had



limited “free will,” when it came to his killing of Ms. Panos. The testing further lends support to my testimony that Mr. Chappell’s neuropsychological problems mitigate the offense.

16. I am not an expert in Fetal Alcohol Spectrum Disorder (FASD). I knew even less about FASD in 1996. While I cannot remember that defense counsel asked me about FASD, I believe if I had been asked by either set of defense counsel about such a diagnosis, I would have informed counsel that they needed to retain an expert with knowledge Fetal Alcohol Syndrome and Fetal Alcohol Effects.
17. While I am generally aware of the science of addiction, I am also not an expert in drug use predisposition, vulnerability to addiction, and the effects of such on an individual. Had trial counsel had asked me about a diagnosis concerning drug use and/or addiction, I would have informed counsel that they needed to retain a medical expert with board certification in addiction medicine.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Las Vegas, Nevada, on July 11, 2016.

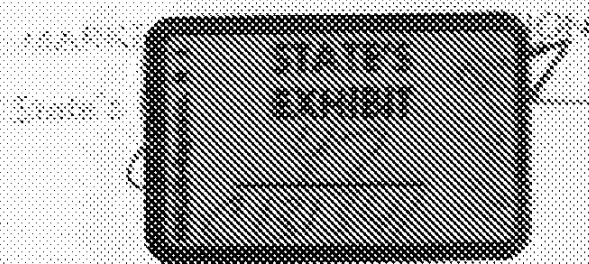
  
Dr. Lewis Etkoff

# EXHIBIT 86

JChappell 8JDC-EVVAULT013



JChappell 8JDC-EVVAULT014



# EXHIBIT 87

**Paul D. Connor, Ph.D.**  
**Neuropsychological Assessment Services**  
**22517 7<sup>th</sup> Avenue South**  
**Des Moines, WA 98198**  
**206-940-1106      Fax 206-400-2764**  
**NEUROPSYCHOLOGICAL REPORT**

---

**NAME: James Chappell**  
**DATE OF BIRTH: 12/27/**  
**DATE OF EXAM: 05/23/2016 & 05/24/2016**  
**DATE OF REPORT: 07/13/2016**  
**PATIENT'S AGE AT TESTING: 46**  
**LAST GRADE COMPLETED: 9**

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**IDENTIFYING INFORMATION / REASON FOR REFERRAL**

James Chappell is a 46-year-old right-handed African American man. He was referred to me by his current federal post-conviction attorneys, the Office of the Federal Public Defender, District of Nevada. There is evidence that Mr. Chappell's biological mother used alcohol and heroin during the course of her pregnancy with him. Therefore, this neuropsychological evaluation was requested to determine if Mr. Chappell's current cognitive functioning was consistent with the diagnostic guidelines for Fetal Alcohol Spectrum Disorders (FASD). This information would be used by Julian Davies, M.D. in determining a final medical diagnosis on the fetal alcohol spectrum, if appropriate. It would also be used by Natalie Novick Brown, Ph.D. in her life-long functional and psychological assessment that addresses the impact of prenatal alcohol exposure on behavior.

Mr. Chappell was seen privately at Ely State Prison in Ely, Nevada over the course of two days. Though initially introduced to me by one of Mr. Chappell's attorneys, no members of the defense team or jail staff were present during the interview and assessment. The purpose of the current evaluation and the limits upon its confidentiality were explained to Mr. Chappell, that a copy of this report would be submitted to his defense team, and that all parties involved in the case would have access to it. He was amenable to this and agreed to proceed with the assessment.

I am a clinical psychologist with a specialization in neuropsychology and licensed within the states of Washington and Oregon. I obtained a Bachelor's Degree from the University of Washington, majoring in psychology. I received a Ph.D. in clinical psychology with a specialization in neuropsychology from Brigham Young University and completed an internship at Henry Ford Health System, specializing in neuropsychology. Following the receipt of my Ph.D., I received post-doctoral training in neuropsychology and FASD at the University of Washington. For nearly 20 years, I have been involved in and conducted research focusing on the effects of prenatal alcohol exposure as it pertains to neuropsychological and mental health functioning and the structural and functional brain anomalies often seen in these disorders. I am currently in private practice, conducting neuropsychological evaluations in clinical and forensic settings, utilizing a battery of cognitive tests that have been shown to be sensitive to the effects



of prenatal alcohol exposure in over 40 years of research on this subject. A copy of my CV is attached to this report.

## **DIAGNOSTIC FEATURES OF FASD**

Fetal Alcohol Spectrum Disorders (FASD) is an umbrella term used to denote the presence of significant damage caused by prenatal consumption of alcohol. It encompasses a number of specific diagnoses. Individuals who have been damaged by prenatal alcohol exposure have been formally and medically diagnosed since the early 1970's. However, the specific diagnostic guidelines have undergone refinement over the years since.

**Fetal Alcohol Syndrome (FAS):** This term was first coined in 1973 when doctors at the University of Washington began noticing children who were born to alcoholic women, had a very specific pattern of facial features, and demonstrated significant cognitive impairments. The Institute of Medicine (IOM) refined the diagnostic guidelines for diagnosis of FAS when it was published in April of 1996. This was further refined when in 2004, the Centers for Disease Control and Prevention (CDC) developed a set of guidelines for the diagnosis of FAS that included more specific criteria for the three main diagnostic features. The first diagnostic feature of FAS is a specific pattern of facial features (short palpebral fissures, smooth or flat philtrum, and thin upper lip). All three of these facial features must be present at some point in the person's life for a diagnosis of FAS. However, the facial features often ameliorate as an individual passes through puberty, such that, someone who may have had the full facial features as a child may not retain these facial features to the same degree in adulthood. The second symptom for a diagnosis of FAS is growth deficiency, defined as height and/or weight below the 10<sup>th</sup> percentile at some point in the person's life, especially as a child. The third symptom group, and the one most germane to my area of practice, is evidence of central nervous system (CNS) abnormalities. This can include hard signs such as abnormal neuroimaging, microcephaly, and neurologic impairments such as motor deficiency, seizures, soft neurological signs, and functional deficits as measured by neuropsychological testing. Functional deficits are defined as intellectual functioning 2 standard deviations below average and/or deficits at least 1 standard deviation below average in at least 3 domains of cognitive functioning (e.g. motor functioning, executive functioning, memory, attention, social skills, cognitive or developmental deficits or discrepancies, etc.).

**Fetal Alcohol Effects (FAE):** This diagnosis was first identified in the late 1970's. It referred to individuals who had been exposed to alcohol prenatally and demonstrated the same CNS abnormalities as individuals with FAS in the presence of confirmed prenatal alcohol exposure. However, individuals with FAE had some or none of the facial features that are seen in individuals with FASD. With the development of the IOM diagnostic criteria published in April of 1996, the term FAE was replaced with the new terms of Partial Fetal Alcohol Syndrome (PFAS) and Alcohol Related Neurodevelopmental Disorder (ARND), described below.

**Partial Fetal Alcohol Syndrome (PFAS):** This was defined by the Institute of Medicine (IOM) in April of 1996 as an individual demonstrating some, but not all of the facial features and or growth deficiency seen in the diagnosis of FAS. However, the requirement of confirmed maternal alcohol exposure and CNS abnormalities is the same as for the diagnosis of FAS.

**Alcohol Related Neurodevelopmental Disorder (ARND):** Based on guidelines developed by the IOM, in ARND there are typically no physical features (facial anomalies or growth

IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \*

JAMES MONTELL CHAPPELL,

Appellant,

v.

WILLIAM GITTERE, et al.,

Respondents.

No. 77002

District Court Case No.

(Death Penalty Case)

Electronically Filed  
May 02 2019 08:48 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

APPELLANT'S APPENDIX

Volume 6 of 31

Appeal From  
Eighth Judicial District Court, Clark County  
The Honorable Valerie Adair, District Judge

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Assistant Federal Public Defender  
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411 E. Bonneville, Suite 250  
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Attorneys for Appellant



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## **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 2nd day of May, 2019. Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

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/s/ Sara Jelinek  
An Employee of the  
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because it was too childish for junior high school and high school aged students, but some did.

4. James was a good guy and not a troublemaker. I cannot recall James ever being engaged in a fight or any other violent activity. He was just a simple guy who loved music, dancing and pretending to be the singer Prince or Michael Jackson. I also never saw James mistreat women. James was far from a lady's man and only had two girlfriends in his life. He briefly dated a girl named Nicole Elliot-Marrell in high school before he became involved with Debbie. I have never seen or heard of James dating any other girls.
5. James had it hard growing up in the home of his grandmother Clara because she was never there. It seemed to me that James and his siblings had to raise themselves. Clara worked long hours with her food services job at the State Police Headquarters, and when she was not working, Clara spent a lot of time playing Bingo, gambling, and traveling out of town. Clara was a heavy gambler. James's house was the most unsupervised home in the neighborhood, and it became the place where neighborhood kids could gather to do whatever we wanted. At first, we used to go to James's house to watch MTV music videos and just hangout, but we soon found other things to do. By the time we were in Junior High School, we were all drinking alcohol and smoking marijuana in James's house on almost a daily basis. James's house was also a place where some of the guys brought girls to have sexual encounters.
6. Clara was very strict. She did not allow any of the neighborhood kids to spend time in her home, which is why we had to sneak in when she was gone. Clara also used to give James and his siblings severe whippings with electric cords whenever she found out that the neighbor children had been in the home while she was away. James and his siblings often told me about the beatings afterwards. Clara was not a warm person, and I did not see her give them much love, attention, or affection. She basically just provided them with a place to live and food to eat.

During my testimony at James's 2007 trial, the prosecutor had me talk about my late mother's disciplinary style and how she beat me with an electric cord at times. This seemed like an effort to demonstrate that James and I had similar upbringings. However, this was a bad comparison because there was a huge difference between the parenting styles of my mother, Barbara Dean, and James's grandmother, Clara. Unlike James, I had a mother who was always present, took an interest in my education, and actively participated in my life throughout my childhood and into my adulthood. My mother had opportunities to work at the Oldsmobile plant or other jobs that paid better money, but she chose to work as a school lunchroom assistant because she was raising three sons and a daughter on her own, and she did not want a job that would keep her away from home. Working as a lunchroom assistant at Moores Park Elementary School did not earn enough money to lift us out of poverty, but it allowed my mother to get us ready for school in the morning, keep an eye on us throughout the day, be present in our home after 3:00pm on school days, help us with our homework, provide us with daily counsel and advice, and make sure we went to bed on time each night. This was important to my mother because she was a single parent who had to do it all by herself. Working at the school also allowed my mother to stay current on our educational progress and the wider issues within Lansing's educational system participating in parent-teacher efforts to address the systemic problems that were present at the time.

7. My mother was known by many members of the Lansing City Council and was involved in political campaign efforts. Most importantly, she was a resource to the neighborhood children and their parents, who were almost all single mothers. No one in our neighborhood went hungry because my mother's doors were always open to anyone who needed a meal. James had a big appetite and ate at my house after school on most days when we were in elementary and junior high school. The reason why the neighborhood kids could not do the things in my house they did in James's house was because my mother was always there. Whenever my friends came to my house, the only thing they could expect was a meal and free advice from my mother.

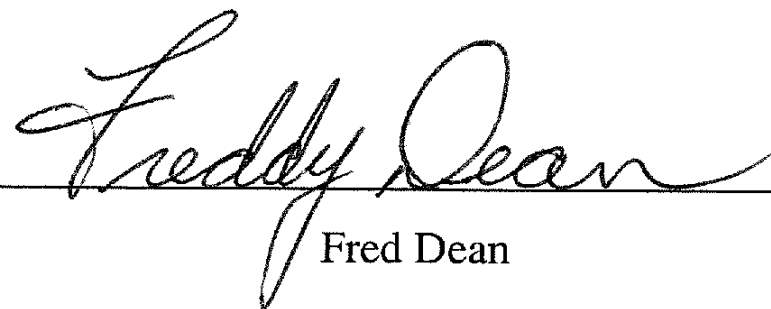
8. There were times when my mother physically spanked me and my siblings, and she sometimes used electric cords. But she also showed as a lot of love and affection. She often told us that she loved us and provided us with positive reinforcement in the words she spoke to us. Our mother also raised us very closely to our southern culture and heritage, which provided us with a foundation. These are things that James lacked in his relationship with his grandmother and it makes a difference.
9. My mother's love and affection was not enough to prevent me from committing crimes and going to prison, but it gave me the strength to learn from my mistakes, choose a better path and create a successful life for me and my family. I also did not have a mental health disorder that would have prevented me from improving myself.
10. James's life was plagued with tragedies. James's mother was killed when he was only three years old. His uncle, Anthony Aham, was stabbed to death when James was just ten or eleven years old. His cousin Laura Underwood was murdered in his Aunt Louise's house, located just across the street from where James grew up. James also witnesses our neighbor Oney Culpepper shoot and kill another neighbor right on his block when James was about thirteen years old.
11. I wanted to say all of these things from the witness stand when the prosecutor tried to compare my upbringing to James's, but I couldn't because James's attorneys did not provide me with an opportunity to explain myself. They were also unaware of this information because they did not spend much time speaking with me in the month leading up to the trial.
12. I was never contacted by James's first trial team in 1996 nor by his state post-conviction representatives in the early 2000s. The first time that I was contacted by James's representatives was in February 2007, just a month before the start of his second trial. My interactions with James's representative took place in a group discussion of about five or six other people and lasted about forty-five minutes. They did not spend a couple hours talking to me one-on-one like Herbert Duzant of the Federal Public Defender did

during our recent conversation. James's trial attorneys seemed to be in hurry and acted like they didn't care much about what they were doing.

13. My mother, Barbara Dean, was interviewed by James's attorneys during their trip to Lansing in 2007 and would have made an excellent witness because she was a close friend of his grandmother, Clara, for over thirty years. My mother knew everything about James's grandmother and their family's history, but no efforts were made to obtain and preserve her statements, after she told the attorneys that she was too ill to make the trip to Las Vegas. James's attorneys made no effort to depose her, take an updated affidavit from her, or to make arrangements for her to testify at his trial.
14. James's trial team miscalculated the time that was required for me and James's other witnesses to testify at the trial. Although we were told that we only needed to be in Las Vegas for three or four days, I did not testify until almost a week after I arrived. This created a hardship for James's two closest friends in life, James Ford and Ivri Marrell. Ford and Marrell had to return to Lansing because their jobs threatened to fire them if they were not back at work that weekend. I have no recollection of James's defense team making much of an effort to work things out between their supervisors and the court to ensure their testimony. The only reason why they wrote a letter to my manager was because I told them to. After speaking to my manager on my own behalf, she told me to have them send her letter to ensure that my company continued paying me during the time that I was away. Not having Ford and Marrell's testimony was a blow to James's defense because they were closer to James than anyone else and could testify to various aspects of his life, especially Marrell. Unfortunately, Marrell passed away in 2013.
15. In the six days between my arrival to Las Vegas and my testimony, the other witnesses and I met with his attorneys on only two or three brief occasions. The lengthiest of the three contacts lasted only fifteen minutes. The attorneys never went over the questions that they intended to ask, so I was totally unprepared and heard them for the first time when I was on the witness stand. I recall that we spent most of our time just walking around Fremont Street waiting for a call from the attorneys in regards to our testimony.

16. The only thing I recall the attorneys telling us prior to our testimonies was to not be critical of Debbie on the witness stand because they feared that it would insult her family and anger the jurors. We did not agree with this tactic because it seemed to us that the jury needed to hear about Debbie's contributions to the things that went wrong in her relationship with James. We did not believe that Debbie's pattern of bad behavior and provocations justified what happened, but it was an important part of the overall story. After going through a trial of my own and witnessing the manner in which my attorneys handled my case, James's attorneys seemed to have done much less on his behalf. This was quite surprising because James, unlike me, was on trial for his life.
17. Looking back, it seems clear that James's trial attorneys should have spent more time interviewing me and preparing me for my trial testimony. Had I been properly interviewed, I would have provided James's attorneys with all of the facts contained in this declaration and I would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Tarrant County, Texas, on June 11<sup>th</sup>, 2016.

  
Fred Dean

# EXHIBIT 57

## **Declaration of Georgette Sneed**

I, Georgette Sneed, hereby declare as follows:

1. My name is Georgette Sneed. I am sixty-four years old and reside in Lansing, Michigan. I grew up on Williams Street with James Chappell's maternal grandparents, William and Gladys Underwood, and their children. My late mother, Dorothy Durham, was also a close friend of the Underwood family. James's mother, Shirley Chappell, was about three years older than me, and we were friends during our upbringing. Shirley spent a lot of time with her grandparents, and I frequently saw her around the neighborhood when we were young.
2. My mother, Dorothy, and Gladys Underwood grew up in the same neighborhood, and my mother told me some of the details of Gladys's background. Gladys's family turned on her when her mother died because Gladys was half black and the family was prejudiced. Gladys was sent to an orphanage and remained there until she met and married William.
3. Shirley's grandfather, William, was a smart man and had a very good job as a master electrician at the nearby Oldsmobile plant. William spent a lot of time working at the plant and frequently left Gladys and their children at home alone. William was a short but domineering man with a quick temper. William valued his rest, and everyone in his house knew not to interrupt him when he was sleeping. William screamed at anyone who disrupted his sleep, and his children would receive beatings if they were the culprits.
4. William was a discipline-oriented parent, and he beat his children almost every day. Without fail, William took time out from his walk home from work to select tree branch switches to beat his children with. Even though he might not have been told that one of his children had been misbehaving, he knew that at least one of them had probably gotten out of line.



5. Gladys's personality was the complete opposite of William's. Gladys was a sweet, humble and quiet woman. I have no recollection of her ever beating her children. Gladys was not a screamer like William. Even though William treated Gladys very nicely, it was clear to me that she did not care for him that much. Whenever William was not around she spoke badly about William and referred to him as "him."
6. William's son Jimmy seemed to have mental health issues. Jimmy lived on the streets like a homeless person, even though he had a home. Jimmy also had extremely poor hygiene, and he often wore the same clothes for days and weeks at a time without bathing. Jimmy was not a dumb person because he kept up on politics and held his own during discussions and debates about certain issues. However, he was weird, and people sometimes felt uncomfortable around him. Jimmy was found dead under a road bridge near a Wendy's fast-food restaurant during the 1980s. When William went through and organized Jimmy's paperwork after his death, he discovered that Jimmy had a bank account with \$7,000.00 in it.
7. William and Gladys's son Bobby was an alcoholic who drank himself to death. Bobby died of kidney failure. Bobby tried to enlist in the Marines when he was a young man, but he was unable to pass the physical examination.
8. William and Gladys's son Tommy was an alcoholic and a drug abuser. Tommy had a short temper, was generally a mean person, and got into a lot of fist fights.
9. William and Gladys's daughter Louise had a mental health diagnosis. I believe that she was diagnosed with schizophrenia. Louise tried to harm herself and others, and was a self-mutilator. When she experienced episodes or fits as a child, the only people who could calm her down were William and my mother, Dorothy.
10. Clara's son Rodney was mentally slow and a received special education services throughout his time in school. Besides being generally slow, Rodney seemed like he suffered from other mental health issues. Throughout his childhood I often saw him

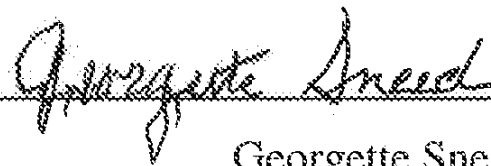
talking to himself, swinging tree branch switches and yelling like he was beating an imaginary child, or teaching a class of invisible students.

11. Clara's son Anthony seemed like he had mental health issues as a child. It's hard to explain, but he seemed a bit off and had a wild personality. Anthony calmed down after coming home from Vietnam and leaving military service, but he still seemed a bit unsettled. Anthony had also become a drug addict.
12. James's mother, Shirley, had issues during her upbringing. I have no recollection of Shirley attending school, although I am sure she must have done so at some point. Shirley had a wild streak and frequently spent time hanging outside in the street with friends who were often up to no good. I lost touch with Shirley during the mid-1960s and did not see her again until about 1970 or 1971 when she was living with James Wells. I recall visiting her home on Chelsea Street, where Shirley offered me heroin. Shirley said that it was "fantastic" and that I needed to try it for myself. She also explained that James's father, James Wells, had introduced her to the drug. I declined her offer because it was not my thing. Shirley responded by telling me that I didn't know what I was missing. By this time, it was clear to me that Shirley was a junkie. Besides abusing heroin, Shirley also drank alcohol.
13. Shirley used her beauty and attractiveness to manipulate men. I recall seeing the way Shirley worked men and got them to give her their money and anything she wanted. Although it was left unspoken, I knew that Shirley was prostituting herself.
14. Shirley spent a lot of time in the streets during the early 1970s, and often left her children with other people. Shirley ended up outright giving her daughter Carla to a woman named Mary Mendenhall. Mary was a close friend of Shirley, and she was unable to have children of her own. Mary took great care of Carla and showed her a lot of affection whenever she watched her for Shirley. However, Shirley still felt attached to Carla after the transaction. Shirley continued to come around and sometimes told Mary that she had changed her mind. Mary became frustrated with the situation and decided to

give Carla back to Shirley shortly before Shirley's death. Mary died about five years ago, which is unfortunate because she had a wealth of information about Shirley and her children in those early years.

15. I was never contacted by any of James's previous representatives until my recent conversation with Herbert Duzant of the Federal Public Defender Office. I would have provided James's previous counsel with all of the details in this declaration had I been contacted, and I would have testified to these facts.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ingham County, Michigan, on May 14, 2016.

  
Georgette Sneed

# EXHIBIT 58

### **Declaration of Harold Kuder**

I, Harold Kuder, hereby declare as follows:

1. My name is Harold Kuder. I am forty-seven years old and reside in Lansing, Michigan. James Chappell and I grew up together on the same block, Nellers Court. We also attended Moores Park Elementary School and Dwight Rich Junior High School together. James's Grandmother Clara Axam was a good friend of my mother, and our families were close to one another. I knew and spent time around James and his entire family.
2. I realized that James was a little slow from the beginning of our friendship in the 1970s. James had a lot of difficulty comprehending basic subjects and earned poor grades. James was very quiet and did not talk much when we were in elementary school. When James did talk he spoke with a limited vocabulary.
3. James and I were in a couple of classes together in elementary and junior high school. James had problems with reading, writing, and mathematics. James also had a short attention span and was easily distracted in the classroom. Whenever James had problems understanding or focusing on the work, he often became disruptive in class by talking to other students or becoming the class clown.
4. James did silly things that made no sense. James used to mix a bunch of different things in a bowl and throw it on people. James also knocked things over at times for no apparent reason. James laughed and smiled a lot when he did these silly things.
5. James was often teased in school and around the neighborhood. James was teased for being slow, the way he dressed, the way he spoke, and other things. When James was chosen to play contact football in the snow, he was often tackled because he was very uncoordinated and couldn't run fast. While he was on the ground, the other kids sometimes rubbed snow in his face and made him cry. It was not difficult to make James cry when we were kids. James sometimes cried just from being teased.

6. James was a social misfit. He was not an outgoing person and was unable to make many friends outside of the neighborhood. James's friends in school were primarily people he knew from the neighborhood. James was uncomfortable and shy with people he did not know.
7. James did not have girlfriends like other guys in the neighborhood. James was shy and uncomfortable around girls, and I never saw him take an interest in any of the ones who were around. I left the block and attended another high school before James became involved with the mother of his children. I did not get a chance to know her.
8. James and many of us started drinking alcohol and smoking marijuana at an early age. James was about twelve years old when he started. I heard that James started smoking crack during his late teens, but he did not do this in front of me.
9. James's Grandmother Clara seemed like a bitter woman when I was growing up and acted like she resented having to raise her grandchildren. Clara was not a loving person and did not show James and his siblings much affection or attention. Clara yelled at James and his siblings, and said a lot of negative things to them. I don't recall Clara saying positive or complimentary things to them.
10. Clara was also a harsh disciplinarian. I saw her make James and his siblings go outside to select tree branch switches which she used to beat them.
11. Clara seemed somewhat neglectful of James and his siblings because she frequently left them in the home unsupervised for long periods of time. These occurrences began when James was in elementary school and continued throughout his upbringing. Clara left her home unsupervised much more than any of the other parents in the neighborhood. I used to cut school with James and other friend to just hang out in James's house all day, drinking alcohol and smoking weed. Some of our friends would crawl through a window into James's house and spend time there even when James was not home.

12. James's siblings had troubled lives as children and adults. James's brother Ricky used to get into trouble for stealing when he was a kid. I once bumped into Ricky while I was walking down the street, and he asked me if I wanted to make a quick twenty dollars. When I told Ricky that I was interested, he told me to stand watch in front of a house while he went inside. The house belonged to one of Ricky's next-door-neighbors who was not home at the time. Ricky then called me from a window and asked me to catch a few items. James's Grandmother Clara was watching us from a window and called the police. Just like that, I was arrested with Ricky and caught my first juvenile case. Ricky was arrested a lot as a juvenile and spent time in a youth detention facility. Ricky continued committing crimes as an adult and has spent many years in prison. James's sister Myra also has a juvenile record and spent time in juvenile detention. Myra also ran away from home. I did not know James's older sister Carla that well because she was not around the house that much. However, Carla became a drug addicted prostitute and hustled in the streets for many years. James caught a few juvenile cases and eventually started smoking crack. It is obvious that things were not right in James's home from the way that he and his siblings turned out.

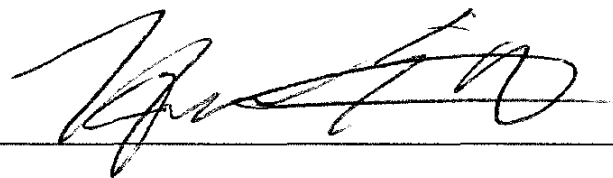
13. I had no idea that environmental contaminants were present at the abandoned Diamond Reo factory site. The kids in the neighborhood, including James, spent a lot of time playing there when were in elementary and junior high school. We used to play around and inside of the empty storage tanks and other areas of the facility. We also had rock and dirt fights in the soil that surrounded the facility. I know that the city purchased and destroyed all of the homes on Nellers Court, but I did not know why. My family rented our home before leaving the block in 1983, which was a couple years before the demolition.

14. I sometimes returned to the old neighborhood to visit James. However, I lost touch with James after his family left Nellers Court around 1985. I only saw him once in a while in passing.

15. I was never interviewed by anyone working on James's behalf until my recent conversation with Herbert Duzant of the Federal Public Defender Office. I have resided in Lansing, Michigan, all of my life and could have easily been contacted by James's prior counsel. I recall the trip that James's attorneys made to Lansing in the month before his second trial in 2007. I was contacted by one of our common friends and told to attend a meeting with the attorney and a group of friends from the old neighborhood. I was slightly delayed and got there a little later than I expected. When I reached the location, the others told me that the meeting with the attorneys went very quickly and had ended. I hadn't seen many of my old friends for a while at that time, so I took the opportunity to spend time with them and catch up.

16. I would have provided James previous attorneys with everything that I have stated in this declaration had I been asked. I also would have testified to these facts.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ingham County, Michigan, on April 17, 2016.

A handwritten signature in black ink, appearing to read 'Harold Kuder', is written over a horizontal line.

Harold Kuder



# EXHIBIT 59

## **Declaration of James Ford**

I, James Ford, declare as follows:

1. My name is James Ford, I currently reside in Graham, North Carolina, and I was best friends with James "Jimbo" Chappell when we were growing up in Lansing, Michigan.
2. I was scheduled to testify at James's 2007 penalty re-trial, but his attorneys miscalculated my travel dates and brought me out too early. I came to Las Vegas on March 13, which was a Tuesday, and I was supposed to testify by Friday of that same week. However, the attorneys told me and the other witnesses that they were experiencing delays, and that it was not possible to testify that week as planned. The attorneys told me that my testimony had to be pushed back until Monday, March 19<sup>th</sup>, but I was scheduled to go home on Saturday, March 17<sup>th</sup> and return to work the next day. As a result, I had to leave before I had a chance to take the witness stand because I was required to return to work. I would have lost my job had I not returned.
3. I have no recollection of James's attorneys requesting assistance from the judge to secure additional time away from my job for my testimony. His attorneys also made no effort to have me disposed, sign a new declaration, or give a sworn statement of any kind to preserve my testimony. I would have testified to all of the information that I have provided in this declaration had I been given the opportunity.
4. My late friend and fellow witness, Ivri Marrell, was in the same predicament in March 2007, and he also returned to Lansing without testifying. We were both in Las Vegas for a total of four days. We spent more time walking around Fremont Street than we did in the courthouse. Ivri and I went to the courthouse twice, and the attorneys only met with us for a few minutes each time. The whole trip seemed like a waste of time.

5. I've known and interacted with James and his family since he was about three or four years old (I am two years older than James). We were best friends from elementary school onwards. I came to learn many things about James's background as we were coming up, and I observed his reactions to different situations.
6. As far as I know, James's father was never a part of his life, and James had no male role models. James's mother was killed by a police cruiser when he was just three years old. I've heard her death was as an accident, but it was believed by many in the community that the police officer intentionally killed her. James's Grandmother Clara had to raise him and his siblings by herself following the death of her daughter.
7. James was mentally slower than his family members and among our friends, and he needed assistance. James suffered from a learning disability and was a special education student throughout his time in school, as far as I know. James dropped out of high school around the 10th grade.
8. James could not read well and had problems with word pronunciations throughout his childhood and early adulthood. He often asked me and others to read things for him, even when he was in his early twenties.
9. James was immature for his age and enjoyed clowning around with folks and making them laugh. He was a funny guy and people enjoyed being around him, but he sometimes went over board and did not know when to stop joking. People sometimes became annoyed with James on these occasions, but everyone loved him and understood that he was a little different from the rest of the kids. So, we gave him space to be himself.

10. James enjoyed trying to imitate and impersonate television celebrities. He tried to talk like them, copy their dance moves and dress like them, especially Prince, who was his all-time favorite artist.
11. James frequently complained about headaches, beginning when he was in elementary school. People thought that his headaches were related to his poor vision and the fact that he needed glasses. I'm not sure whether the glasses ever helped James's condition, and I don't recall when or if he ever stopped complaining about headaches.
12. James was not comfortable or trusting of people he did not know, so he did not make friends outside of the neighborhood. Even the kids that he hung out with in school came from our neighborhood. Almost everyone that he spent time around were from the vicinity of his home on Nellers Court. We were all like family. We looked out for James, and he felt safe around us.
13. James was not experienced when it came to relationships with girls. The only girlfriend that he had, other than Debbi Panos, was Nicole Elliot. James and Nicole dated briefly in high school, and there were no arguments or violence between them.
14. When James was about eleven years old, his Uncle Rodney Aham was murdered. The assailant was a Native American man named Joe Stone. Stone stabbed Rodney in the leg, causing Rodney to bleed to death. Stone claim self-defense. A year later, the jury bought Joe Stone's self-defense argument at trial, and he was acquitted. This was a second emotional blow for James and his family.
15. James was devastated over his Uncle Anthony's murder. Anthony and James lived in the same household, and Anthony was James's favorite relative. James became emotionally withdrawn in the months following the killing and he did not talk much. It

took a while to break out of his shell, but James returned to his old self in time and continued on. James named his second son in honor of his favorite uncle.

16. Our neighborhood was filled with a lot of violence and crime when we were growing up. There were a lot of drug dealers, junkies, thieves, prostitutes, pimps, rapists and other criminals. James also witnessed violence against woman. Two pimps named Alonso and Archie lived James's block when we were kids and they frequently beat the women who prostituted for them in plain sight. James did not like seeing these women being beaten, and often said it was wrong. The fact that they were prostitutes did not make it alright in James's eyes because he saw them as human beings.

17. James also witnessed our neighbor Victoria Brown getting viciously beaten by her husband Vernon. They lived in the Nellers Court house that Harold Kuder and his family previously occupied. Vernon beat Victoria out of the house and in the street as their children ran down the block screaming for help. Victoria was beaten to a bloody mess, and the sight of her condition was devastating to James. Victoria was a kind woman who treated James like he was her little brother. James was visibly shaken by the ordeal and seemed withdrawn for a few days afterwards. James repeatedly kept saying that Victoria did not deserve to have something like that happen to her. I did not witness the incident, but James provided me with all of the details and it was difficult for him to talk about it. James was about fourteen at the time of this incident.

18. Leslie Andrews and her mom, Patsy Andrews, lived behind James's house and were friends with his family. James once witnessed Patsy being beaten by her boyfriend when James was playing in his grandmother's backyard. James told me that he felt sorry for Patsy and that she didn't deserve to be mistreated in such a manner. James was visibly shaken, and it was difficult for him to talk about it. James was between thirteen and fifteen at the time of this incident.

19. James was very protective of women, especially those that he knew. James would break up fights between girls all of the time. On one occasion, James intervened in a domestic argument that seemed like it was about to become violent. The woman involved was a friend of James's named Carla Morgan. James stepped between her and her boyfriend. James looked the boyfriend in the eye and told him that he was not going to touch Carla in his presence. James was in his late teens or early twenties at the time of this incident.
20. When James was about thirteen years old he witnessed a homicide when our neighbor Oney Culpepper shot a man dead on Nellers Court. Oney was an older man who lived down the street with his wife. He was kind to James and the other kids in the neighborhood and sometimes paid us to clean his yard or help him in his small trash collection business. I don't recall why Oney shot the man. I was not present at the time, but James and other people told me what they saw. James was also very disturbed by this incident.
21. James suffered from bladder problems. He wet his bed until he was in his mid-teens, and there was a strong scent of urine usually present in his room. He had wetting accidents when he was awake, as well. When James was about thirteen or fourteen, I saw him run down a flight of stairs, bump into a table, and then urinate himself. James was teased by the neighborhood kids over his bladder issues, and they gave him the nickname "pissy."
22. Around that same time period, James was stripped naked by a babysitter, who then placed him in a diaper and made him walk around the neighborhood as punishment for wetting his bed. I was not living on the block at the time of the incident, but I heard how embarrassing and humiliating the experience was for James. The sitter was a person named "Marge", who was a male transvestite friend of Clara's brother, Phillip Underwood. Marge periodically babysat James and his siblings when he was in

elementary and junior high school. There were several homosexual people in James's family, and some of their friends were like his family members. There were also rumors going around the neighborhood about Marge sexually molesting James around the same time as the diaper incident.

23. James lived a pretty rough life coming up in his Grandmother Clara's house. Clara was very strict and severely beat James and his siblings with extension cords, belts, tree branches, electric toy race car tracks, and other items. When James was about fourteen years old, I saw a nasty bruise that covered his right shoulder and back. James told me that it was from a beating that he received from Clara after she found out that he was sent home from school. Clara also verbally abused James and constantly put him down. I witnessed these events. James had very low self-esteem as a result of this treatment. Clara was not a loving person, and she did not show James much affection.
24. James had episodes where he would sit down and stare into the distance with an empty look on his face. These incidents took place throughout his childhood and early adulthood, were unpredictable, and occurred even when James was sober. Sometimes it was hard to get his attention during these occurrences, and I would have to call his name several times before he came back to reality.
25. James and his siblings were frequently left alone at home while Clara was at work and away on trips. Clara had a heavy gambling habit and made frequent trips to Atlantic City, Las Vegas, and other gaming destinations. As a result of the house being unsupervised so often, James's home became the place where the neighborhood kids could hangout, get high, and party. There was plenty of alcohol and marijuana, which either belonged to his Uncle Rodney or friends brought over. However, James often complained about being hungry when his grandmother was out of town because she never left enough food in the house or money to buy food. James also said he wished his grandmother did not leave them alone so much.

26. James had abandonment issues and often spoke to me about his fear of being left alone. James talked about how difficult it had been for him to lose his mother and Uncle Anthony at an early age and not having a father in his life. James was also affected by his grandmother leaving him and his siblings alone in the house during her frequent trips. James suffered from constant feelings of being unwanted and unloved, and these thoughts dominated his mind.
27. James started abusing substances when he was about twelve years old. At first, he just drank alcohol and smoked marijuana. Marijuana made James giggly, he joked around and laughed a lot, and danced like he was in his own little world. He would disengage from conversations and act like no one else was around as he moved his body to the music.
28. James drank an average of twenty to forty 40-ounce bottles of malt liquor beer during the work/school week. James started drinking in the morning and continued throughout the day and into the evening. James, me and other friends engaged in binge drinking almost every weekend without fail. We pooled our money every Saturday and Sunday to buy various types of liquor like vodka, gin, whiskey, Mad Dog 20/20, Wild Irish Rose, malt liquors, or other alcohol products. We also drank moonshine that was produced in the home of a Mexican family in the neighborhood. No one knew what they put in it, but it was a very strong drink that went straight to our heads. James drank all day long and often passed out. James drank far more on the weekends than he drank on the combined days of the weeks.
29. Alcohol had the effect of putting James to sleep. James may also have experienced blackouts at times when he was drunk. I recall once instance where James took Terrence Wallace's stepfather's car, an Oldsmobile Eighty-Eight, without asking. This made no sense because James did not know how to drive. James ended up crashing the



car on Logan Street into the back of a parked car, before or after passing out. When he woke up he had no recollection of taking the car or driving it. He just had the idea that he was being driven to Debbie's house and thought he was in the passenger seat. As far as I recall, James did not receive medical treatment after the accident. However, a few days afterwards he complained of pains and a tingly feeling that ran from the back of his neck down to the center of his back. James believed that his head must have jerked on impact.

30. James spent a lot of time talking about his problems when he smoked marijuana or drank alcohol. The three main topics were: (1) the murder of his Uncle Anthony Axam; (2) the problems he experienced with his grandmother Clara and the deep sense of betrayal he felt for her; and (3) the problems that he experienced in his relationship with Debbie and his fear of losing her.
31. Even though Uncle Anthony died when James was about thirteen years old, he never got over it. James talked more about the death of his Uncle Anthony when he was high than any other topic. Anthony was his favorite relative and the closest to James in the family. James discussed with me his tremendous feelings of loss that he felt. James said that the people he loved most either died or left him. We attended school with the younger brother of Anthony's killer, and he was a friend of ours. James spoke of the conflicts he had inside in regards to his relationship with the killer's younger brother. James thought he should hate him, but he couldn't.
32. James often talked about how he wished his life could have been different and more positive, but he saw no way out. James spoke with a sense of hopelessness in regards to the issues he was going through and his future prospects.
33. James began smoking crack in his late teenage years. He smoked crack with his Uncle Rodney and other friends. Initially, James smoked crack and weed combined in joints

that were called "Uzis" or "Fifty-Fifties." James also smoked crack out of glass pipes before he left Lansing. James smoked Uzis several times a week, and more when he was going through periods where he seemed depressed – isolating himself, not talking much and emotionally down. James and our friend Ivri Marrell smoked a lot of crack together and I sometimes saw them compete to see who could smoke the most crack at one time. James smoked crack around me when he was at home, at the home of our neighborhood friend Rob Williams, and in the home of Ivri Marrell. Although James was smoking crack before he left Lansing, he did not seem like he had lost control of himself or was strung-out in those days.

34. James became paranoid and behaved oddly when he was high on crack. He became jumpy and easily frightened when someone walked up behind him unexpectedly. James isolated himself and did not speak much when he was high on crack. James complained of hearing voices and suspicious sounds that no one else could hear. He frequently thought the police were coming after him, when they were not. James often talked about hearing Debbie coming down the street, when she wasn't. Most of James's crack related delusions were centered on hearing things.
35. James told me that he continued smoking crack when he lived with Debbie in Tucson and Las Vegas. James told me that he used drugs to escape the problems that he was experiencing with Debbie. Whenever Debbie got on his nerves and made him feel bad, James went out and got high instead of responding to her attacks and doing something that he might later regret.
36. When James was in his early to mid-teens, the family had to leave their Nellers Court home after ground toxins from a former manufacturing plant were discovered. The city gave money to all Nellers Court residents to help them relocate, and the homes were demolished.

37. I attended Everett High School but often hung out at J.W. Sexton High School along with James and Debbie. I knew Debbie before she became involved with James. Debbie dated another African-American guy named Tim Robertson just before she became involved with James. Tim attended Sexton as well. Debbie seemed like a nice girl.
38. I later came to know Debbie very well through her relationship with James. James and I were always together and Debbie often spent time together with us. Debbie and James sometimes stayed at my house, even during her first pregnancy. After their first son JP (James Panos) was born I saw Debbie on a daily basis when James, JP, and I waited for her at the bus stop to walk her home after work. I also babysat JP on several occasions. The things that I know about James and Debbie's relationship are based on the things that they both told me and the events that I personally witnessed.
39. Debbie's parents first learned of Debbie's relationship with James when their neighbors told them that Debbie had been sneaking a Black guy in and out of their home while they were away at work. Debbie's parents confronted her with the reports and demanded that she give them the name and address of the guy. After Debbie provided her parents with James's information, they called the police and a squad car showed up at James's house one day when he was not home. James's grandmother told the cops that he wasn't there and she knew nothing about his relationship with Debbie. The cops told Clara that they weren't going to arrest James, that they were just trying to help her parents find out what was going on to give them peace of mind. When James learned that the police were looking for him, he became afraid and did not return to his house for a few days. James stayed with me and other people in the neighborhood, until he felt safe enough to go home. The cops never returned.
40. As time passed, Debbie told her parents that she was dating a boy, but she did not tell them who he was or that it was the same Black guy that she had been sneaking into the house. The parents, not knowing who the boyfriend was, encouraged Debbie to bring

him home so that they could meet him. When Debbie brought James to meet them, he was greeted with hostility and rejection. They told Debbie to stop seeing James. They forbade her from bringing him back to the house and called him a “nigger” in front of his face. In fact, Debbie’s step-father told her that he would “kill that fucking nigger” if he ever set foot in his house again. James’s friends, family members, and I told him not to bother with Debbie, mostly out of our concern for his physical safety. We were afraid that the stepfather might shoot him or call the police and have them shoot him. Nevertheless, James kept sneaking over to Debbie’s house to see her and would sometimes spend the night. I wondered whether it was just love or that James was too slow to realize the danger that he was putting himself in.

41. It was hard for James to reason and figure things out on his own at times, and he often called me for advice, explanations and to help him think things through whenever he encountered issues that he did not know how to handle. These were issues that most people could easily figure out, but they were not obvious to James.
42. James was very hurt and confused by the reaction of Debbie’s parents. He couldn’t understand why they were so angry with him. He had no concept of racism and prejudice, so I had to explain things to him in the best way that I could.
43. James called me for advice on a number of occasions following arguments with Debbie, during which she had referred to him as a “niggers” and JP as his “nigger kid.” I heard Debbie called James “nigger” on several occasions myself. James was hurt and confused, and he did not understand why Debbie would say these words to him, and especially about their son. Again, I tried my best to explain things to James and I would tell him that she was upset and probably didn’t mean it. I also reminded him that her parents were bigots who also referred to him as a “nigger,” and that it was probably the result of being raised in a racist family. Whenever I asked James why he didn’t just leave Debbie, he always said that he loved her too much to leave.

44. After Debbie became pregnant with their first child, JP, her parents temporarily kicked her out of the house. James's grandmother, Clara, did not approve of his relationship with Debbie, so she did not allow Debbie to stay in her home. Clara did not care that Debbie was white, but she was upset with James for staying in a relationship with a person from such a racist and hateful family. Clara was also still angry about Debbie's family sending the police to Clara's house to look for James at the beginning of the relationship. Clara put James down for getting a girl pregnant and bringing a child into the world that he was not capable of taking care of. Clara knew that James could not take care of himself, much less someone else. As a result, both James and Debbie were basically homeless for a while. James had to put Debbie up in the homes of various friends and family members. I let James and Debbie stay in my basement on several occasions without telling my mother. James and Debbie also stayed with James's sister Carla, our late friend Ivri Marrell, our friend Robbie Williams, and many other people, until they were able to get their own apartment. Debbie parents eventually allowed her to return home after a few months and she was living with them at the time of JP's birth.

45. After this, Clara turned her back on James. I have no recollection of Clara allowing James to stay in her home again, even when he had no other place to stay. James also stopped communicating with Clara on a consistent basis. Given James's abandonment issues, I'm sure he felt abandoned by his grandmother.

46. James was only able to get low paying jobs that did not require much skill or knowledge, and even then he could not hold on to them for long. I only recall James having three or four jobs as a food handler at cafeterias and restaurants, but he lost them after a few weeks or a couple months. James worked at the Harry Hill High School faculty cafeteria one summer and he also worked briefly at Cheddar's Restaurant. I can't recall the one or two other jobs he had before leaving Lansing. James was usually collecting

unemployment and unable to care for himself. James totally depended on his grandmother, Clara, when he lived with her and later became totally dependent on Debbie when they lived together. Debbie was the bread-winner for the family and covered the rent and expenses for herself, the children, and James. She even provided James with an allowance, and I personally witnessed her hand him money on many occasions. Debbie also bought James shoes and clothes, took him to concerts and on trips, and did many things for him that he could never have done for himself. The only thing James had to do was babysit the children while she was at work.

47. James was a loving dad and had a great relationship with his children, but he was also immature in his role as a father. James cleaned and fed his children, but he interacted with his kids in a child-like manner. He allowed them to run around the house and do whatever they wanted to do, when Debbie was not home. James was not able to provide the kids with a structured environment or discipline, like Debbie did when she was present. James was like a big kid himself, and Debbie was everyone's mother. When I was not working, I stopped by to help James out with the kids, and I sometimes watched them myself if he needed a break.
48. Debbie could be manipulative and controlling towards James. Debbie did not like James to hang out with his friends during the evenings when she came home from work, or weekends, and she was very jealous and accused him of cheating on her when he was out with his friends. To get back at James, she would return to her parents' house for extended periods of time, and leave him alone in the apartment with JP. Debbie's mixed race children were not allowed in her parents' home. Debbie would continue to pay for the rent during her absences, but not the utilities. As a result, James and JP were often without electricity, gas, or heat, and the apartment became a place where they could just lay their heads. James had no resources and he did not have the ability to maintain a job, manage financial responsibilities, or care for himself and JP. When Debbie was ready to make up, she would return home and have the utilities turned back

on. I believe this was psychological punishment that Debbie inflicted on James to get him to do and behave in the ways that she wanted him to. James would not spend time with his friends when Debbie returned, but he eventually would start hanging out with us again, and Debbie would do the same thing all over again. James and Debbie broke up and got back together on almost a weekly basis when they were in Lansing.

49. Debbie could be very harsh in the things she said to James at times. Besides using the "N" word, Debbie sometimes told James that he could not make love to Debbie as good as her ex-boyfriend Tim Robinson did. Debbie also would tell James that Tim had a larger and more pleasing penis than his. Debbie knew how much James disliked Tim, so she sometimes brought his name up to get to James.
50. James was completely committed to Debbie and I never witnessed him cheating on her in any way. James did not even speak of a desire to see any other women. There were times when girls around the neighborhood tried to get with James and offered to have sex with him, but James turned them down. In fact, James was sometimes teased by other guys in the neighborhood for turning down these easy opportunities, but James did not pay them any mind. James often told me that he could not see himself being with anyone else besides Debbie because she was his ideal woman. James often spoke about how much he loved her even during the bad times in their relationship.
51. Debbie sometimes criticized James over his inability to get and maintain jobs. She called him lazy and useless at times, and complained about how much money James spent even though she was the one giving him the money freely. Debbie frequently reminded James of the things that she did for him and that his family did nothing for him. Debbie often used money and gifts as carrots to control James and get him to do the thing that she wanted him to do or return to her after break ups. I personally witnessed these exchanges on many occasions.

52. There were times when James became so upset with Debbie that he would leave their apartment to stay with me or other friends. During these occasions, Debbie constantly called me in an effort to locate James, but I refused to give her any information. She also asked me to pass along messages instructing James to call her and come home. Debbie also stopped by my house looking for James, but I usually told James to get out of sight while I told Debbie that he was not there. Debbie also resorted to bribing James into returning home, by promising to buy him things, give him money or take him on a trip. Against his friend's warnings and better judgement, James returned to Debbie. It seems like he was unable to understand that his relationship with Debbie was unhealthy and bad for both of them.

53. I recall one instance where I dropped James off at a location where he and Debbie were staying in Lansing. As I made a U-turn to drive away, I saw James immediately walk back outside of the house. I had no idea that something was wrong, and James was not waving me down, so I did not stop. James called me later that night to tell me why he walked back outside after I dropped him off. He said Debbie had become angry at him for coming home late and slapped him in the face as soon as he walked in the house. To avoid hitting her back, James went back outside to take a walk and cool off. James walked around until he found a payphone, which is what he used to call me. I told James that he did the correct thing and not to return home until he got his mind together. I stayed on the phone with James for a while that night until he calmed down and felt better. When we spoke the next day James told me that everything was fine when he returned home that night.

54. I personally witnessed a heated argument that took place between James and Debbie at a park that was located near the home of James's sister, Carla. JP was less than a year old and with them at the time. I don't recall what the argument was about, but at a certain point I heard Debbie yell out, "Fuck you and your nigger kid!" James became furious, he began to breathe rapidly and started moving towards Debbie. I jumped in



his way and grabbed him. As I was calming James, he told me that he was about to hurt Debbie. Debbie had already turned and started running towards Carla's house at that point. When James asked me what to do, I told him to let Debbie go her way, and that we would take JP and go our own separate way. Debbie knew how to push James's buttons and get him to respond emotionally. I am glad that I was there to calm him down and stop him from doing anything crazy. James usually became very nervous following arguments with Debbie, but this was the only time that I had seen James respond aggressively towards her.

55. When Debbie's family decided to relocate to Arizona, they invited her to come along. They even told her to bring the kids, as long as she left James in Lansing and went on with her life. Debbie accepted her parents' offer and agreed to their terms but secretly plotted to bring James to Arizona. Debbie told James nothing of her agreement with her parents, and invited him to move to Tucson. Debbie's plan was to travel there first and prepare a place for them to live. We begged James to stay in Lansing. We knew his mental challenges and inability to take care of himself, and that Debbie and her family could never look after James and have his best interest at heart the way that we did. We also knew that James would not be able to deal with the problems that he experienced with Debbie by himself.
56. Debbie left James in the Lansing apartment by himself when she left for Arizona with the kids. At first, the utilities were shutoff, and then he was evicted. Debbie called James and enticed him with all of the things she promised to do for him in Tucson.
57. When James reached Arizona a few months later, he found himself in the same situation that he had previously been in with Debbie and her family. Debbie's family was furious with her for breaking their deal, and James was forbidden from coming to their home. James stayed in an apartment that Debbie had found for them on the other side of town. When Debbie became angry at James, she would call him "nigger" and other

demeaning things. She threatened to leave James and prevent him from seeing his kids again. She would kick James out of the house, leaving him without anywhere to go, and then allow him to return after a day or two. This happened on at least eight to ten occasions when they lived in Arizona. James usually called me collect during these occasions so that I could talk to him and keep him company. James told me that he would stay with a coworker or just walk the streets all night until morning and hope that Debbie would let him back in the house. When James told his grandmother, Clara, what was going on, she purchased a ticket for James to return to Lansing, and he returned home.

58. James stayed with our friend, Ivri Marrell, and others during his return trip to Lansing. It wasn't long before Debbie started calling James again, begging him to come back and bribing him with the things she would do for him if he returned to Arizona. We told James to ignore her and not to return, but James was unable to resist. Debbie ended up purchasing a one-way ticket for James. James packed his things and left Lansing without telling anyone. The next thing I knew, James called me from Arizona and told me that he was back with Debbie. Nothing changed in their relationship, and James continued to experience the same problems and issues.

59. I knew what was going on with James because he called me regularly for advice or just to hear my voice. James sometimes called me for help in the middle of arguments with Debbie, and I could hear Debbie yelling and cursing at him in the background. I said things to help James calm down and instructed him to separate himself from Debbie. I'd tell him to get JP and go in another room, take a walk, or go anywhere where Debbie was not going to be, and James followed my advice. Unfortunately, James did not reach out to me on the day of Debbie's death. I wish that I could have helped him find a way out of the situation without anyone having to be harmed, like I had before.

60. James returned to Lansing for a second time in 1992, after he and Debbie had broken up. James felt their relationship was not working out, and his drug use was getting out of control. James complained about having no support system in Arizona when things were bad between him and Debbie, especially at times when she kicked him out of the house. James wanted to get his mind right by returning home to be around people who loved and cared about him. Debbie kept calling James and begging him to come back, but James had no intention of returning to her. James stuck to his decision until Debbie manipulated him into returning by purchasing tickets for James and her to attend a Bobby Brown concert. James did not want to go back to Arizona, but Bobby Brown was his favorite singer after Prince, and he could not resist her offer. Bobby Brown was one of the icons who James frequently imitated for years. James used to dress like Bobby Brown and wore a sloped haircut like Bobby Brown too. James spent hours dancing to Bobby Brown music and looking at his videos on television. Everyone, including me, tried to talk James out of returning to Arizona and not giving in to Debbie's manipulation, but it was useless effort. James's determination to see one of his heroes clouded his judgement. I would not see James again until fourteen years later when I attended his second death penalty trial in Las Vegas in 2007.

61. At some point, James and Debbie left Arizona for Las Vegas, Nevada, and the same problems that plagued their relationship followed. Debbie kicked James out of their home and allowed him to return on about three occasions. The reasons for their break-ups in Las Vegas centered on Debbie's suspicion that James was cheating on her; James smoking too much crack cocaine; and James taking Debbie's car. James was not allowed to come home for three consecutive days during the longest incident. I remember having long talks with him on the phone during each of those days. James was homeless and stayed where ever he could to get by. James told me that his drinking and drug abuse escalated to an all-time high during his time in Las Vegas. James admitted to me that he was going on frequent crack binges and that his addiction had gotten beyond his control. James also told me that the crack cocaine in Las Vegas was much more potent

than what he was used to smoking in Michigan. James was trying to cope with the difficulties of his relationship by using drugs, but life continued to get worse for him.

62. A few months before Debbie's death, James called my house and spoke with my mother and me. He said that Debbie had put him out of the house again and he was walking the streets because he had nowhere to go. James did not know where he was going or where to find a shelter. My mother and I tried to get James to come home, but he didn't want to leave Debbie.

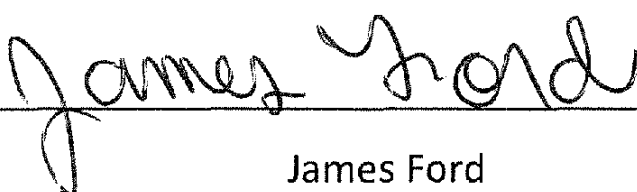
63. I communicated with James in the months following Debbie's death. When I asked him what happened, he told me that he had no intention of harming Debbie after his release from the county jail. James told me that there were portions of the incident that he could not remember. He said it was like he blacked out.

64. I met with someone working on James's behalf in 2002, when his case was being appealed in state court. This gentleman traveled to Lansing from Las Vegas, and met with me and other people who knew James at the same time. The exchange only lasted for about thirty to forty-five minutes, and then the person sent us short affidavits to sign by mail. The affidavit that I signed did not say much and was reflective of the effort that was put into it, because the person did not take necessary time to sit down with me individually and speak with me in a non-rushed fashion.

65. When James's attorneys met with me in Lansing in 2007, just a month prior to his second trial, I provided them with more details than were present in the 2003 declaration. The 2007 trial team did not spend as much time speaking with me as Herbert Duzant, of the Federal Public Defender, did during our recent conversation. Nevertheless, I told them most of the details about James's relations with Debbie that have been provided in this declaration. I would have provided James's 2007 trial team

with all of the details found in this declaration had I been asked. I also would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Alamance County, North Carolina, on May 19, 2016.

  
James Ford

# EXHIBIT 60

## **Declaration of James Wells**

I, James Wells, hereby declare as follows:

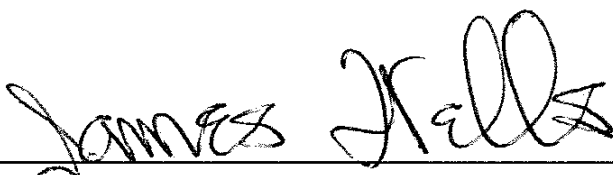
1. I am seventy-two years old, I currently reside in Memphis, Tennessee, and I am the biological father of James "Jimmy" Chappell and his younger sister, Myra Chappell-King.
2. I became acquainted with Jimmy's mother, Shirley Chappell, during the mid-1960's, but did not get to know her until she came to visit me in the hospital, in 1968, while I was recovering from a gunshot wound. I had been shot by a jealous ex-girlfriend during an argument. Shirley and I began dating as soon as I was released from the hospital, which was also about a year or more prior to Jimmy's birth. Shirley was a single mother at that time and not addicted to any substances, as far as I knew. However, I had been struggling with a heroin addiction when our relationship began. My addiction started in the mid-1960's and continued for many years.
3. About two or three months into our relationship, I learned that Shirley began abusing heroin behind my back with some of my friends on the streets. I was upset when I first found out about it, but I quickly came to accept the situation and we started getting high together on a daily basis. Shirley and I used heroin as much as we could, but usually no less than two or three nickel bags a day. Heroin was cheap in those days and only cost five dollars a hit.
4. Shirley abused drugs on a daily basis throughout her entire pregnancies with both Jimmy and Myra. We had no idea how a developing fetus might be affected by a mother's drug use during pregnancy, and the potential lifelong consequences. This information was not well known back then. In fact, I have no recollection of Shirley visiting doctors or receiving much, if any, prenatal care during both pregnancies.

5. Shirley and I never married, which is why our two children have her last name. However, Shirley chose the name "James" to honor me. Shirley and I were living together in the same household with our two children, and her older kids, during our relationship.
6. My relationship with Shirley continued until her death in 1972 or 1973. I was incarcerated and serving a one year jail sentence for a larceny theft conviction at the time of Shirley's death. I heard that she was killed by a police cruiser while crossing a street. Myra was a newborn and Jimmy was about three years old during the time of my arrest and their mother's death. Shirley's mother, Clara Aham, had to take custody of Shirley's children and raise them.
7. I visited Jimmy and Myra a couple of times in that first year after my release from jail, in 1973, but Clara did not like me and made me feel unwelcomed in her home. I was also still struggling with the complications of my own addiction, so, I eventually stopped coming around.
8. Although I was not able to raise or spend any quality time with Jimmy and Myra, they knew who I was and acknowledged me whenever we bumped into one other around the community, in passing. Jimmy seemed like a good child and always treated me with respect despite the circumstances. I completely lost touch with Jimmy at some point during his childhood and did not find out about his situation until we was already on death row.
9. I was never contacted by anyone working on James's behalf until yesterday, when I met with Herbert Duzant, of the Federal Public Defender office. I was living in the Lansing, Michigan, area during the time of Jimmy's trials in 1995 and 2007, but was never contacted by his attorneys. Had I been contacted by James's previous representatives, I would have provided them with everything that I have stated in this declaration. I also



would have testified to these fact and ask the jury to spare my son's life, had I been called as a witness.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Memphis, Tennessee, on January 22, 2016.

  
James Wells

# EXHIBIT 61

### **Declaration of Joetta Ford**

1. My name is Joetta Ford. I am seventy-eight years old, and I currently reside in Graham, North Carolina.
2. I lived in Lansing, Michigan, where I was a neighbor and close family friend of James Chappell. My son James Ford was one James's best friends when they were growing up during the 1970s and 1980s. I first met James and his family when I moved my family into the neighborhood. James Chappell was either three or four years old at the time and was living on Nellers Court.
3. James's mother, Shirley, had been killed by a police cruiser around the time that I moved into the neighborhood. Shirley's death was a tragedy because she was a beautiful young mother who left behind five children. Although her death was officially determined to be an accident, there were rumors around the community that Shirley and the officer had known one another which created suspicions around the circumstances of her death. The officer worked for the Ingham County Sheriff's Department, and the incident made the local newspapers. Other neighbors and I encouraged Shirley's mother, Clara Axam, to speak up and have the death investigated, but Clara was too afraid to get involved because she was employed as a cook by the State Police department and feared retribution. Clara also did not believe that the courts would prosecute a white police officer for killing a young Black woman who was also a known drug addict.
4. After Shirley's death, Clara took in all but one of Shirley's children and raised them. Shirley's eldest child, Lapriest Blocker, went to live with his father, Rev. Otho Blocker, and stepmother. The Blockers were my next door neighbors and they were a wonderful family. Otho raised Lapriest well, and his stepmother treated him as though he were her son. The stepmother continued to have a loving relationship with Lapriest even after his father's untimely death in the mid-1990s. James and his other siblings were not as fortunate as Lapriest and had the opposite experience growing up in their grandmother's home.

5. Although Clara loved her grandchildren, she was resentful of having to care for her daughter's four children in her older years. Clara was just finishing the raising of her own children and had no desire to do it again. Clara used to go on extended trips and vacations and would leave the children at home unsupervised. I used to ask Clara if she thought it was a good idea to leave the children in the house by themselves, especially the two girls. Clara usually told me that "they are my daughter's kids, not my kids", "I didn't ask to raise anyone else's kids," and that she had a life of her own to live. Clara used to complain about how difficult it was for her to raise four children on her own.
6. Clara gambled excessively and may have had a gambling addiction. Clara made frequent trip to Las Vegas, Atlantic City, and other gambling destinations. Clara religiously played lotto, the legal numbers, and the illegal numbers every week. She made weekly purchases of at least \$30.00 or more in scratch-off tickets. Clara was very lucky and often won money from one game or another, but she usually spent her winnings on herself. Clara wore fine clothes, bought nice cars every couple of years, and took trips to Hawaii, the Caribbean, and other places. However, she did not spend much on James and his siblings and she did not take them along on her trips. Clara just gave them enough to get by.
7. I had the impression that Clara did not keep enough food in the house, because of the way that James carried on in school when was hungry. My good friend, the late Barbara Dean, used to work in the kitchen at James's elementary school and told me that James was always hungry. James asked for one or two additional portions of lunch every day. If one of the staff refused his request, James would start to tremble, become angry, and agitated. Tears would begin to well and stream from his eyes. I personally witnessed James do this on one occasion when I was visiting the school. To avoid these reactions, the cafeteria staff would provide James with snacks throughout the day to prevent him from being so hungry.
8. Clara was very strict with James and his siblings and beat them with extension cords and other objects. Beating the children did not make Clara a bad parent, because I believed in

corporal punishment myself. However, Clara deprived James and his siblings of love and affection. Clara was not the type of caregiver who picked up her grandchildren, read books to them, or provided them with hugs and kisses. Clara was not a nurturing person. She did not talk to James and his siblings about life, or the consequences of certain actions and behaviors. She just spanked and yelled at them. James was never placed in a position to thrive, as far as I observed.

9. Even though Clara did not treat James lovingly, he always remained respectful towards her. I never saw James speak in a disrespectful manner towards Clara or talk badly about her when she was not around. Whenever Clara verbally abused James, he sat there and took it without saying anything. James was respectful of all the adults in our neighborhood.
10. James wanted to do the right thing but had a problem with controlling his impulses. James often acted without thinking or being aware of consequences. James often found himself getting into trouble repeatedly for the same issues.
11. As far as I know, James was a special education student throughout his time in school. He seemed to be slower than other kids in the community. I was a nurse during my working years and had some background knowledge to recognize signs of intellectual disability.
12. During a visit to James's elementary school, one of his teachers mentioned that James's IQ was in the low 70s. That was a red flag to me because I was aware that people with IQ scores that low normally do not function well.
13. James struggled with reading throughout his childhood and as a young adult. James used to bring me letters and other materials and ask me to read them to him, even when he was in his twenties.

14. When James was about eleven years old, his uncle Anthony Aham was killed. One of the neighborhood children came to tell me and Barbara Dean that Anthony was stabbed, so we ran to the scene in an attempt to help him. However, Anthony was nonresponsive by the time we arrived. Anthony was dead by the time EMS technicians arrived. Joe Stone was tried a year later for murder, but he was acquitted for reasons of self-defense, which further added to the family's grief.
15. While Anthony's death was a tragedy for his entire family, James took it particularly hard. Anthony was James's favorite uncle, and they shared a very close relationship. James became depressed and did not talk much for a while after Anthony's death. James named his second son "Anthony" in honor of his uncle's memory.
16. Clara sometimes spoke fearfully about how Shirley's children might turn out in the future. She worried most about James because he was the most disabled and needy of his siblings. Clara believed that James was not capable of taking care of himself, but she did not invest much time in addressing his issues.
17. When James was about thirteen, there were whispers around the neighborhood that he was being sexually abused by a caregiver named "Marge." Marge was a white male transvestite, and a friend of Clara's brother, Phillip Underwood. Marge babysat James and his siblings from time to time. Once Marge stripped James naked, wrapped him in a cloth diaper, and forced him to walk around the neighborhood as punishment for wetting his bed. James had a bladder problem, but humiliating him publicly was not the way to help him overcome this problem. It also seemed strange that the sitter would strip an almost grown teenage boy naked and place him in a diaper. Whatever this was, it was not a healthy relationship. I don't know if Marge ever babysat James and his siblings after this incident, but he continued to be around the family.

During the mid-1980s, environmental ground contaminants and toxins were discovered under the homes on Nellers Court, which is where James's family home was located. The toxins were remnants of the old Diamond Reo trucking plant, which had closed years

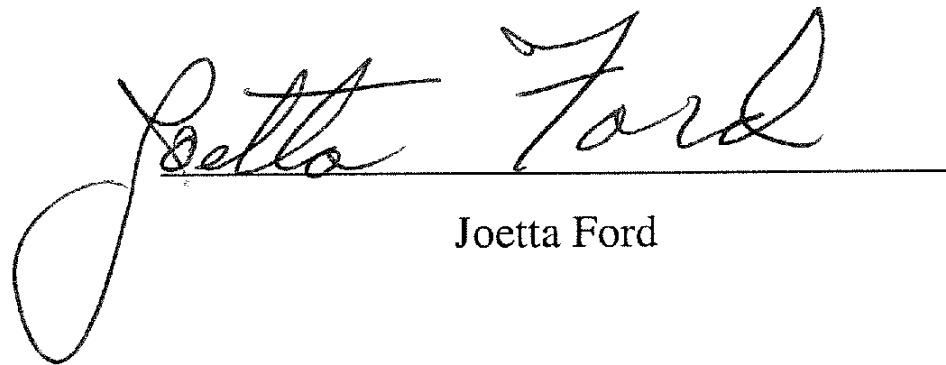
earlier during the 1970s. The vacant facility was located across the street from Clara's house. I do not recall the names of the contaminants, but they were harmful to human health and wellbeing. They were so dangerous that the City of Lansing purchased all of the homes on James's block and demolished them. The plant had previously been in operation for several decades prior to James's birth.

18. As James became older, his mental health problems persisted. James was unable to complete high school because of his learning disabilities and lack of support, and dropped out. Because he was a person of low intelligence with no high school diploma, James was only able to get menial jobs that did not require much skill or interaction with the public. James had a hard time keeping these jobs and was usually unemployed. Clara's fears had become a reality. James was incapable of taking care of himself by the time he was an adult.
19. When James became involved with Debbie Panos, she picked up where Clara left off in caring for him. James and I spoke a lot about his experiences with Debbie, when they were in Lansing, Tucson, and Las Vegas. James often called collect and ran up my telephone bills. From everything that he told me, it seemed like Debbie may have been mentally abusive towards James. James often questioned whether she had his best interests at heart.
20. When James told me that he was moving to Arizona to be with Debbie, I told him that it was a bad idea. I knew that James would not be able to make it without the support of his friends and his family. I knew that James would have no place to turn to when Debbie mistreated him in the ways that he often described. When Debbie left town, I thought it would be the end of their relationship, but she pursued James and encouraged him to join her.
21. I received a collect call from James in the middle of the night in the months before his arrest in 1995. James was living in Las Vegas and told me that Debbie had put him out of the house following a disagreement. James was new in town, had no one to turn to and

no place to stay. I told James to find a shelter, but he didn't know where one was located in Las Vegas. James told me that he only called because he felt alone and afraid and needed to hear a familiar voice of someone who loved him. His plan that night was to keep walking around until the sun came up. James had no idea where he was walking, but he was too afraid to fall asleep in public because he feared that someone might hurt him. I told James to be careful and to come back home as soon as he could.

22. I was only visited once by James's attorneys in 2007, when they came to interview Barbara Dean. They spoke with us together at the same time. Most of their attention was focused on Barbara, and they did not ask me many questions. The entire conversation lasted about half an hour. I did not speak with anyone else working on James's behalf prior to that time or afterwards, until my recent conversation with Herbert Duzant of the Federal Public Defender office. Had James's attorney taken the time to properly interview me, I would have provided them with all of the information contained in this declaration. I also would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Graham, North Carolina, on May 18, 2016.

  
Joetta Ford



# EXHIBIT 62

95C131341

JChappell 8JDC4233

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 18, 1995**

95C131341

The State of Nevada vs James M Chappell

**October 18, 1995**

**9:00 AM**

**Initial Arraignment**

**INITIAL**

**ARRAIGNMENT**

**Court Clerk: TINA**

**HURD**

**Reporter/Recorder:**

**PATSY SMITH**

**Heard By: A. William**

**Maupin**

**HEARD BY:**

**COURTROOM:**

**COURT CLERK:**

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

Bassett, Kedric

Attorney

Chappell, James M

Defendant

Public Defender

Attorney

Silver, Abbi

Attorney

**JOURNAL ENTRIES**

- DEFT. CHAPPELL ARRAIGNED, PLED NOT GUILTY AND WAIVED THE 60-DAY RULE.  
COURT ORDERED, matter set for trial. Upon Court's inquiry, State advised they have not  
determined if this will be a capital case but it will be determined within the next few days. Court  
advised, if that determination is made, counsel is to place the matter back on calendar.

CUSTODY

5-29-96 9:00 AM CALENDAR CALL

6-3-96 10:00 AM JURY TRIAL

PRINT DATE: 09/20/2011

Page 1 of 8

Minutes Date:

October 18, 1995

8JDC4233

AA01299

# EXHIBIT 63

## **Declaration of Michael Chappell**

I, Michael Chappell, hereby declare as follows:

1. My name is Michael Chappell. I am forty-five years old and reside in Pontiac, Michigan. I am the first-cousin of James Chappell as his father, Willy Chappell, Sr., is my uncle. I have known James for most of my life, and we lived in the same neighborhood during our teenage years after his family moved to Wedgewood Drive in the mid-1980s. James and I also attended Dwight Rich Junior High School and Sexton High School together.
2. Although I knew James most of my life, I did not spend a significant amount of time with him until I was in the ninth and tenth grades. James was two years older than me, but we were in the same grade. James and I were never in the same classes because I was not a special education student. I graduated from Sexton High School in 1989, but James dropped out in the tenth or eleventh grade. During our time at Sexton, James and I spent a lot of time together around our neighborhood and school, and traveling by bus to and from school.
3. James grew up in a chaotic environment. Many people in his family were addicted to drugs and alcohol. James lost his mother as a small child and grew up in an emotionally unsupportive household. James's grandmother Clara was not kind to him and his siblings. She did not permit James to forget mistakes that he made and frequently belittled him. Clara often spoke about the things that she did for James and his siblings, like providing them with food, a place to live and other things, as if they were privileges that she could take away because they didn't deserve them. Although Clara received financial benefits to assist in the raising of her grandchildren, it appeared that she actually spent very little on them. Clara also spent a lot of time away from the house working and doing others things, leaving James and his siblings at home alone. When Clara was around, she yelled and screamed at James and his siblings over one thing or another. I used to hear Clara tell James that she couldn't wait until he was able to take care of himself and get out of her house. Clara was not an affectionate person. I never heard her speaking to James and his siblings in a loving manner. I did not ever see Clara hugging

or kissing James and his siblings, or telling them that she loved them. James did not grow up in a loving and supportive environment as I did, so I felt sorry for him.

4. James enjoyed himself whenever he spent time in my house around my family. My father, William Chappell, was a strong and positive male figure and James appreciated his interactions with my dad. James was very respectful whenever he came over to my house, and he did not give my parents any problems. James had a big appetite and my mother enjoyed cooking meals for him. My mother had a tradition of cooking for all of the children in the family and making their favorite deserts, especially on their birthdays. James loved my mother's food, but he seemed to love the positive attention that he was shown even more. Nevertheless, these moments were short lived, and James had to return to the reality of his own household.
5. James seemed like a lost person who was searching for an identity. James spent a huge amount of time watching television, and imitating his favorite singers, rappers and actors. It seemed like the television personalities were his role models. He tried to dance, dress, walk, and talk like them, and he also tried to copy their mannerisms. James also quoted different sayings of the celebrities he admired at odd times. It seemed very weird.
6. Prince's first movie, "Purple Rain", was James's favorite film, and he watched it whenever it was on. Whenever James watched the movie he sat emotionless and silent as he stared at the television screen. James's demeanor slightly changed during the domestic violence scenes, like it reminded him of something that made him uncomfortable.
7. James frequently seemed like he was depressed throughout the time that I knew and interacted with him. James was often quiet and withdrawn, and seemed distracted by his thoughts. James often sat around with a haunted look on his face as he stared off into the distance. I usually had to call James's name several times or touch him to regain his attention whenever he was in these states. During our teenage years, James did not seem like he wanted to go home whenever we spent time together around the neighborhood. I

had to be inside by the time the street lights came on, but James usually lingered around with his head held down.

8. James was a very sensitive person, and he created walls to protect his emotions and pride. When I asked James what was wrong when he seemed down, he became angry and told me there was nothing wrong with him and that he "didn't need no help!" When James responded this way I backed off and gave him some space. I didn't take it personally because I knew what he was going through.
9. James smoked a lot of marijuana and drank a lot of alcohol during our high school years. It appeared to me that James was abusing substances to escape his problems. The more depressed he was, the more substances he would abuse. Whenever James was having a good day, he smoked less marijuana and drank less alcohol. James seemed to be using these substances to decrease the emotional pain that he was going through.
10. James was never a lady's man, and I only knew him to have two girlfriends throughout the time that I know him. Before he became involved with Deborah "Debbie" Panos, James briefly dated a girl named Nicole Elliot. Debbie attended Sexton High School with us, and we were acquainted through James's relationship with her. Debbie was a shy and quiet person, but she seemed to liven up whenever James was around. They seemed to have a good relationship in the early years, and I saw no problems between them.
11. James and I did not spend much time around one another by my junior year. James had dropped out of school and was spending time around a different crowd, while I was focused on finishing school and attending college.
12. I remember having a deep conversation with James around 1991, just before he was about to leave Lansing for Tucson, Arizona, to be with Debbie. James had been experiencing a lot of problems with Debbie's racist family, and I was trying to help him think his way through the decision to move to Tucson. I tried to get James to consider the difficulties he was about to face in a hostile environment and without the support of his family. The family looked out for James and made sure he was alright. Debbie's

family hated him and had no intention of doing anything for him. In fact, according to what he told me, Debbie's parents preferred that he stay away from Debbie.

13. I tried to help James understand that he faced an uphill battle, and told him to make certain that he was going to Arizona for the right reason. James told me that he needed to be with Debbie because he loved her, and wanted to be a father to his son, JP. James also said that he needed to get away from Lansing and the negativity that he was experiencing in his family and around the community. James spoke of Arizona like it was the promised land and a place where he could make a fresh start. James wanted to get away from the drugs and bad company that he was keeping. James reflected on how most of his friends in Lansing had been incarcerated at one time or another, and he did not want that for himself. However, James did not speak in a manner that suggested he had a plan. It seemed like he believed that his troubles would all just go away as soon as he reached Arizona. James also mentioned that Debbie was threatening to turn her back on him and prevent him from ever seeing their son, JP, if James did not follow through with their plans to reunite. James seemed a bit delusional on one hand, but a bit coerced by Debbie at the same time.

14. I was never contacted by any of James's representatives until my recent conversation with Herbert Duzant of the Federal Public Defender Office. Had I been contacted by James's prior counsel, I would have provided them with all of the details contained in this declaration. I also would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Oakland County, Michigan, on May 14, 2016.

  
Michael Chappell

# EXHIBIT 64



### **Declaration of Myra Chappell-King**

1. My name is Myra Chappell-King, I am forty-four years old and reside in Conyers, Georgia. I am the sister of James Montel Chappell, and I am the youngest of his siblings. James and I have the same biological mother, Shirley Chappell, and father, James Well. I testified at my brother's penalty re-trial in 2007.
2. James and I are the youngest of five maternal siblings. Our three older siblings, in order of birth, are Lapriest Blocker, Carla Chappell and Willie Richard Chappell, Jr. (Ricky Jr.). Willie Richard Chappell, Sr. is the father of our siblings Carla and Willie Jr. The late Rev. Otho Blocker fathered our brother Lapriest. James and I never had a relationship with our father, James Wells, while we were growing up, although we knew who he was and saw him around the community from time to time. Our brother, Lapriest, is our only sibling who was raised with a father in his life.
3. When our mother, Shirley, was killed in 1973, I was only one and James was three. Neither of us has a recollection of our mother. All that I know about my mother was told to me by the adults in my family including that she struggled with an addiction to heroin and alcohol, and that she heavily used both of these substances throughout her pregnancies with all of us, except for Lapriest.
4. Ricky Jr., James and I have struggled with lifelong behavioral problems, attention deficits, impulse control issues, educational difficulties, trouble with law and substance abuse problems. I believe that these issues stem from our mother's habits and activities. While we all had our individual struggles, it was clear that James had the most problems. James is mentally slower than the rest of us, he was diagnosed with having a learning disability at an early age, and was placed in special education classes.

5. Drug addiction was a major problem in the lives of almost all of my family members, including my siblings, our mother and fathers, our aunts and uncles, and some nieces and nephews. Our grandmother Clara Axam was not a drinker or drug user, but she had a gambling addiction. She made frequent trips to Atlantic City, Las Vegas the Kentucky Derby, the Jackson Horse Races, and other gaming destinations. Clara frequently played "the numbers", as well as the state lottery and scratch-off games, and held gambling card game parties in the house.
6. After our mother's death, our eldest sibling, Lapriest Blocker, went to live with his father and stepmom. The rest of my siblings and I moved in with our maternal grandmother, Clara. Clara took over our care and raised us from that time forward. Our maternal uncles Rodney and Anthony Axam also lived in our grandmother's household during our upbringing. Our grandmother's brother, Phillip Underwood, sporadically lived with us as well. Our aunt, Sharon Axam, did not have a good relationship with our grandmother and left home to live on her own when she was a teenager.
7. Our grandmother's first house was located on Nellers Court in Lansing, Michigan. The house was pretty run down and located on a dead end street. Railroad tracks sat right behind our home and the house shook each time the trains rumbled by at various times of the day. James and I often played on the train tracks with our siblings and neighborhood kids.
8. Our grandmother, Clara, worked as a cook in the cafeteria at the Michigan State Police headquarters. She often left for work before my siblings and I went to school and came home hours after our return from school. Grandmother Clara also made frequent trips out of town, leaving us at home with no supervision. As a result of our grandmother's work schedule and her trips, my siblings and I were often left alone to our own devices. Our grandmother arranged for caretakers to be present at times, but this was not the case in most circumstances.

9. Our uncle Rodney was sometimes in the home during our grandmother's absences, but he never provided us with any structure. Uncle Rodney was also a drug addict who frequently left his drugs and alcohol out around the house, which provided us with many opportunities to experiment with them at early ages. Uncle Rodney kept open sacks of marijuana around the house and we regularly skimmed off of the top to roll joints. It was not noticed when we drank alcohol out of any bottles that sat around the house.
10. For as long as I can recall, our Aunt Sharon had a very bad relationship with her mom, Clara. Sharon held deep resentments towards Clara over the way that Clara treated Sharon, and her other siblings, when they were growing up. Whenever Sharon attended family gatherings - which was not too frequently - she usually drank until she became intoxicated and started talking about various things that Clara did to her and her other siblings when they were children. These recollections had to do with Clara not showing her children enough love, not showing any interest in their education and wellbeing, beating them, verbally putting down and demeaning them, dressing them in poor clothing, allowing the education system to put them into Special Education classes, etc. Sharon outbursts usually ended with her screaming and cursing at Clara, before she stormed out of the house. Years sometimes went by with Sharon having no contact with Clara, and Sharon refused to attend Clara's funeral. Clara left everything in her will to Sharon and Rodney, her only two living children, but Sharon refused to take so much as a penny from her mother, even though she was struggling financially. Sharon's dislike for Clara was so intense that she wanted nothing to do with her. Sharon signed her portion of her mother's estate over to her brother, Uncle Rodney.
11. Sharon ended up treating her daughter, Keesha, in the same manner that Clara had treated her. Sharon was emotionally distant towards Keesha, showed no interest in her life and they never bonded. Keesha was raised by Clara.

12. I believe that Aunt Sharon suffered from an undiagnosed mental illness, possibly bipolar disorder.
13. As teenagers, our house became the place where neighborhood kids came to party, hang out and get high because of the lack of supervision. These activities did not take place whenever Clara was around, and we often received beatings when she found out afterwards.
14. James must have been about twelve years old when he began smoking marijuana and drinking alcohol. James started smoking crack with friends later in his teenage years.
15. Whenever marijuana was not available at home, we bought individual joints for one dollar a piece from one of the two houses that sold weed on the block. We also drank MD 20/20 and Brooze Farm Wine that we purchased at local stores.
16. Although I all loved our grandmother Clara, she was not a very affectionate person. While she provided us with clothes, a roof over our heads, and the physical necessities, she was very cold and emotionally distant. She did not give us hugs and I have no recollections of her picking us up and holding us in her arms when we were children.
17. Our grandmother lived a pretty good lifestyle, although our home was not the best or located in a good neighborhood. She had a large wardrobe filled with the finest clothes, she purchased new cars every other year, took trips around the world, and enjoyed her life as a "single woman." My siblings and I lived a separate reality from our grandmother's lifestyle because she never included us in her luxury purchases and excursions. Although Clara traveled extensively, , she never took us any further than Cedar Point amusement park on Balboa Island, just across the state border in Ohio. The clothes we wore cheap were no-name brands that were out of fashion. In fact, kids around the neighborhood and school often teased us about the weird clothes that Clara

bought us. The difference in the way that Clara lived, compared to us, seemed intentional because she received government assistance checks each month for our care and could have given us even just a little bit more than she did.

18. The manner of physical discipline that our grandmother used with James and my other older siblings would be considered child abuse by today's standard. Clara beat them with extension cords, belts, hangers, broom sticks, tree branch switches and other objects. In fact, Clara made them go outside to pick the branches off of the tree that she then used to beat them. To shorten the length of the beatings, my siblings sometimes retrieved large branches that broke easily. However, doing this sometimes made the punishment worse. The beatings often left behind lumps, bruises and sometimes cuts on the bodies of James and my other siblings.
19. Beatings were often given out for minor issues like and our grandmother always wanted to see tears whenever she beat James and my other siblings. She often became angrier and intensified the whippings whenever my siblings tried not to cry. This happened many times with my sister, Carla. On many occasions, Carla refused to cry during beatings which caused her to receive some of the most severe beatings. Clara rarely beat me because I was the baby of the house, and when she did it was nothing like what James and my other siblings endured. However, she had a sharp tongue and punished me with her words.
20. Our grandmother, Clara, frequently yelled and cursed at us, and her verbal abusiveness occurred throughout our childhood. Her words were demeaning, highly critical, demoralizing and gave me the feeling of having my soul crushed. What made the situation worst was that there was no balance of kind or affirming comments. Clara almost never recognized our achievements or told us that she loved us, but she frequently pointed out our shortcomings and made us feel small.

21. Even when Clara was mistaken and scolded us for no reason, she did not own up to her mistakes or apologize to us. I recall different instances when she accused us of taking or misplacing something that she was unable to find and she cursed at and belittled us while she looked for the item. Whenever she managed to locate the item in an obvious location, such as her pocketbook, she never acknowledged that she was wrong.
22. I recall our grandmother yelling and cursing at me because I called her "Mommy", which is the way that we often referred to her because we had no other mother figure. During this exchange, Clara told me to stop calling her mommy because she was my grandmother and not our mother. She did not left us forget that our mother was dead. Clara gave me the impression that she was resentful over having to raise the children of her deceased daughter. As a result, we all felt unloved and unwanted.
23. Looking back, I believe the verbal abuse that we experienced was much worse than physical abuse. Our grandmother's words emotionally wounded us all more deeply than her beatings. Bruises and cuts left by the whippings healed. However, the emotional injuries caused by her words are still with me today. Sometimes I wish she could have just whipped me instead putting me through her verbal abuse. I believe that Clara loved us, but she must have had experiences in her past that made her the way she was.
24. My older sister Carla had a particularly rough time in our grandmother's home. Carla looked and behaved promiscuously like our mother, which bothered Clara. Clara, and other adults in the family, frequently compared Carla to our mother and told her that she'd never amount to anything. I'm told that Clara had a very rocky relationship with our mother, Shirley, and it seemed like her relationship with Carla was just an extension of former relationship. Carla ended up running away from home at age fifteen, and she never returned. Although Clara knew where Carla was and could have sent the authorities to retrieve her, she just turned her back on Carla and left her on the streets.

Carla ended up dropping out of high school and started smoking crack a few years afterwards. Carla has struggled with drug addiction ever since.

25. Ricky Jr, James and I were placed on juvenile probation at the same time after we were convicted of breaking into a neighbor's house, along with our cousin "Lonnie" and a neighborhood kid names "Curtis Lyons". James was about fourteen or fifteen years old at the time. I continued getting into trouble and getting picked up by truant officers until I was sent to a girl's home, at fourteen years old, for two years. Our brother Ricky continued getting into trouble as well and he was sent away to a boy's home.

26. James's childhood and early adult life was plagued by difficulties and struggles. He was born mentally slow, diagnosed with a learning disability at an early age and placed in special education classes. Being a special education student was hard for James, because he was embarrassed by his learning and comprehension difficulties and feared being labeled "slow." James was also teased by other children throughout his time in school, which made the experience worse. James dropped out of school around the tenth grade. I have no recollection of ever seeing James sitting down doing homework and our grandmother never show much of an interest in our education.

27. James struggled with reading throughout his childhood and into his early adulthood. James had difficulty reading various types of materials and often needed assistance. Even though I was younger than James, I read at a higher level than he did and helped him whenever I could. I usually helped James with various items that he wanted to read like letters, sections of a music magazine, and other miscellaneous materials.

28. James was a good imitator and often imitated things that our Uncle Rodney did, like cooking.

29. James never had a big vocabulary, and was not very expressive when he spoke throughout his childhood and early adulthood. He spoke in short and simple sentences, and he did not appear to understand people well if they used big words.
30. James was very immature throughout his childhood and early adulthood, and he seemed like a person of a younger age than he was.
31. For example, James had a difficult time with his pronunciation when we were growing up. He often became frustrated, and sometimes gave up, when we trying to pronounce unfamiliar words.
32. James was very hyperactive throughout his childhood and into adulthood. It seemed like he had ants in his pants form the way that he was always moving around. It was difficult for James to sit still and focus for any extended period of time. James could not even sit through a cartoon or even a thirty minute television show. James had a short attention span.
33. James frequently imitated singers and other celebrities that he saw on television. James imitated the singer, Prince, so much that at times it seemed like he thought that he was Prince. James's other favorites were Bobby Brown, Hammer and Michael Jackson during the Thriller Album era. James wore his hair like Bobby Brown, learned all of the dance steps to Michal Jackson's "Thriller" video and walked around with parachute pants like MC Hammer, while imitating his moves. James's outfits and dancing made people laugh and it was fun to be around him because he was like a big clown.
34. During gatherings, James would often withdraw from conversations, turn on a radio or put on head-phones and start dancing by himself. During these episodes it seemed like we was zoned out, in his own little world, because he did not pay anyone else any attention. It seemed like he was dancing by himself.



35. Before I was sent away to a girls' home for disciplinary problems, at age fourteen, James was unkept and not interested in his own appearance. James wore clothes with mismatched colors and patterns, and his hair was frequently unkept in a nappy afro hairdo. However, James bathed daily because our grandmother required him to do so. When I returned from the group home at age sixteen, James had improved his appearance and cared more about it. He started wearing matching clothes and outfits, and hair was always cut, and he looked presentable. James was eighteen years old by this time. I don't know why it took James so long to become concerned with his appearance, other than it took James a longer time to learn and catch onto things. It wasn't that James couldn't learn how to keep himself up, he just needed more time to learn than everyone else.

36. James had a hard time making friends outside of the ones he had in the neighborhood's social circle. Most of the people that James spent time around came from the immediate neighborhood. The people in the neighborhood circle were kids that James knew for most of his life and our families were interconnected as well, so he felt safe around them and they protected James. It was like we were all a part of the same family. James had low self-esteem and was shy and did not trust people that he did not know. James also seemed to be very concerned with what other people thought of him, and that new-comers might think he was not smart or might reject him.

37. Compared to his friends, James did not have much experience with dating and relationships when he began dating Deborah Panos. Deborah was only the second girlfriend that James had in his life. James's first girlfriend, Nicole Elliot, was stolen away by his good friend Ivri Marrell during high school. This situation did not cause any disturbances in James and Ivri's relationship, and they remained just as close as ever after Ivri became involved with Nicole.

38. James is the type of person who keeps his feelings bottled up inside. James avoided discussions about his feelings and I often had no idea when he was experiencing emotional difficulties because he often tried to give people the impression that everything was fine with him. This made it hard to read James's emotions.
39. James was respectful and obedient to elders. Even though James was treated very badly by our grandmother, he never uttered a word against her and did not like it when my other siblings and I were critical of her. In his life, James seemed to run into difficulties when he was unsupervised.
40. James had little to no responsibilities when we were growing up, outside of cleaning day, which was every Saturday in our grandmother's home. This is the day that my siblings and I all worked together to mop, vacuum, wipe the baseboards, do the laundry, clean behind the refrigerator and stove, and polish all of the furniture in a group effort.
41. Clara bought clothes and other items for James, even when he was older, and I almost never saw him shopping by himself.
42. After James dropped out of school, he worked low end jobs that did not require many skills. James washed dishes, worked as a stock boy, prepared food at restaurants and he had a few other jobs where he was not given much responsibilities. These jobs did not pay much and James never earned enough money to live independently or, later, take care of his family. James never managed to hold down a job for long and he was frequently let go after short periods of time.
43. James had no money management skills, and he was usually broke right after he received his paycheck. James never had a bank account and did not understand the concept of saving money. James spent his money recklessly and sometimes spent his entire paycheck on purchases for friends. James was a very unselfish person and people

sometimes took advantage of him when he had money to spend. He also purchased alcohol and drugs for himself and others too. James never spoke about goals or plans for the future, even after he had children. He just seemed to be existing day-to-day.

44. Our family believed that James suffered from a bladder problem because he wet his bed until he was in his mid-teens. James also used to urinate into plastic bottles and keep them in his room for days at a time. The bottles of urine often produced a foul and unpleasant odor. James never explained why he did this, but I assumed that he used the bottles at night whenever he thought that he might not make it to the bathroom. However, I am not sure why he did not discard them the next day though.

45. A friend of the family named "Marge" used to periodically come over to the Nellers Court house and watch me and my siblings. Marge was a Caucasian or Latino male transvestite who was a close friend of our Uncle Phillip Underwood. Marge became so angry with James for wetting his bed on one occasion that he took off all of James's clothes and placed him in a diaper made from a folded towel. Marge then made James walk outside and around the block so that everyone in the neighborhood could watch as she ridiculed him. James, who was thirteen at the time, was completely humiliated as everyone looked on and laughed at him. When our grandmother learned what Marge had done, she fired Marge and never asked anyone else to watch us. Marge maintained his friendship with the family afterwards the incident, and we continued to see Marge at gatherings and whenever she visited with the family.

46. There was a disproportionate balance of responsibilities and power in James's relationship with Debbie. Debbie was Caucasian and came from a more affluent family, whereas James was African-American and came from the side of town which was considered to be the ghetto. Debbie was smarter than James and had the ability to take care of herself and their family, unlike James. Debbie was the bread-winner for their household and took care of all the responsibilities. Debbie helped James leave our

grandmother's home because there was no way that he could afford or maintain an apartment on his own. In fact, James dependence on our grandmother was replaced by his dependence on Debbie.

47. James was pretty much a house dad, as his only responsibility in the relationship was to babysit their children while Debbie was at work. James's main source of income during his time with Debbie was the allowance that she provided him. When James did not have money, he sometimes took items out of their home and sold them on the streets. James used much of his allowance to buy alcohol and marijuana which he used in the evenings when Debbie returned home from work. The evenings were James's time for himself and friends.

48. James was great with the kids and he was a good cook, so they were always well fed. It was obvious that he loved his children very much. However, James was not able to provide the children with much in the way of a structured environment when Debbie was not around. He pretty much allowed them to do whatever they wanted, as long as they stayed quiet and out of the way. James was unable to provide his kids with much discipline, but he was very playful with them. At times it seemed more like he was more their big brother than their father, and Debbie was everyone's mother. James's and Debbie's household became more structured, disciplined and organized whenever Debbie was present.

49. Overall, Debbie was a good person and provider for her family, but she had control issues. Debbie did not like James hanging out with his friends around the neighborhood, so she tried to control James by threatening to withhold money from him or by taking away other benefits. Debbie also threatened to leave James and not allow him to see their children. Without having any other means of support and being fearful over not being allowed to see his kids, James usually gave into Debbie's demand, but he sometimes pushed back which was a source of some of their disagreements.

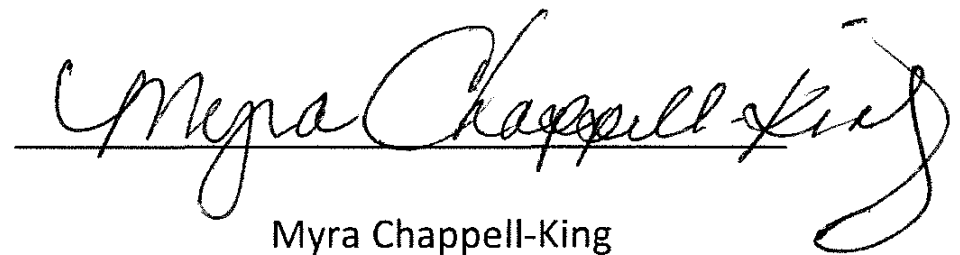
50. James could be argumentative at times, but he was not a violent person. I never saw James involved in a fist fight. James was not a type of person to back down or become intimidated by others, but he did not start trouble. It took a lot to make James angry, but he really became upset when he was angry and it was difficult to calm him down. I recall one situation where one of James's friends disrespected me by calling me an unpleasant term. James became so angry that it seemed like he lost control of himself. James's began to tremble, his eyes watered, his nose started to sweat and he had a twisted look on his face. James then started demanding that the friend leave our home. The friend tried to tell James to calm down and that he was only joking, but it seemed like James didn't hear him as he kept yelling at him and telling him to leave. James did not become violent during this incident, and the friend left. You could usually predict that one of these episodes was about to occur with James whenever his eyes began to water when he became upset or frustrated. This was usually the point where most of his friends and family left him alone.

51. I have no recollection of being contacted by James's first set of lawyers at any time before or during his initial trial in 1996. I was contacted by his second set of attorneys in 2007, just a month prior to his trial. My conversation with James's attorneys, in 2007, seemed very rushed, the conversation lasted only thirty to forty minutes and they did not ask me a lot of detailed questions. They also spoke to us in groups for the most part. When I flew out to Las Vegas the following month to testify, James's attorneys spoke with me one time for about five minutes, but they did not take time out to ask me additional questions or prepare me to testify. I had no idea what to expect when I took the stand. James's attorneys also made an error in calculating the time that was required for me and the other witnesses to be in Las Vegas for our testimony. They told us to come out too early which caused problems for some of us who had jobs.

52. No one has ever sat down to have a detailed discussion with me about my observations of James behaviors and our family background until my recent conversation with

Herbert Duzant of the Federal Public Defender office. I would have provided James's previous representatives with all of the information in this declaration had they taken the time to ask. I also would have testified to these facts.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Lansing, Michigan, on April 20, 2016.

A handwritten signature in cursive script, reading "Myra Chappell-King", written over a horizontal line.

Myra Chappell-King

5/20/2016

# EXHIBIT 65

## **Declaration of Phillip Underwood**

I, Phillip Underwood, hereby declare as follows:

1. I am sixty-nine years old and am the brother of James Chappell's grandmother Clara Axam, and I currently reside in Lansing, Michigan. I lived in Clara's home on Nellers Court on a couple of occasions during the 1970s and 1980s and visited her home during family gatherings.
2. I am the youngest child of Gladys and William Underwood, and Clara was the oldest. The names of my siblings, in order of birth, are Clara, William-Jr, Jimmy, Tommy, Louise, Bobby, and me. We all had the same mother and father and grew up in the same household. William, Jr., Louise, and myself are the only ones still living.
3. Our father William Underwood, Sr. originally came from Birmingham, Alabama, and his mother's name was Clara Benson-Underwood. I did not know my paternal grandfather because he died before I was born. He had several siblings, but I only knew four: his brothers Wilbur and Robert, and his sisters Rosa Lee and Olivia. Aunt Rosa Lee's children Helen and Wallis stayed with us at different times when I was a child. Helen became one of the first African-American school teachers in Lansing and her husband Sam was Lansing's first Black Pharmacist. Helen's brother Wallis went into the military upon leaving our home. I did not know many of my other first cousins.
4. My father William moved to Michigan during the 1920s in search of a better life. Like most African-Americans during that time period, he was trying to escape the cycle of poverty and racial oppression in the South. William worked for Oldsmobile, which provided him with a good income that was sufficient to take care of his wife and seven children.



5. William was about fifteen years older than our mother, Gladys, who was only eighteen years old when she gave birth to my eldest sister, Clara. William spent a lot of time away from our home working at the Oldsmobile plant and gambling during his free time. William was a horse race betting fanatic and would go to the track everyday if he could. Our mother was often left to care for me and my siblings by herself because there was no one else to help watch us. Our mother was a very warm and loving person, and she did not beat us. William was the disciplinarian in the home and spanked us whenever we misbehaved in his presence or while he was away from the home. I was not beaten much as a child, but my older siblings received more whippings from William according to their accounts.
6. Our mother, Gladys, was the youngest of five or six maternal siblings, and she was a woman of biracial heritage. Her mother was white and her father was Black. Gladys's mother was married to the father of the other siblings, but her first husband died. Gladys's mother became involved with the father after her husband's death, but the two never married, and he was never a part of Gladys's life. Gladys's mother then met another man who asked for her hand in marriage. Gladys's mother died during her second marriage and while Gladys was still a minor. The second husband was a prejudiced white man who was not interested in raising a half-Black stepchild. He initially placed all of the children in an orphanage after their mother's death, but eventually brought them all back home, except for Gladys.
7. Gladys continued communicating with some of her white siblings after she was abandoned by her stepfather, but not frequently. I did not meet any of Gladys's siblings when I was a child, but I did meet her sister who lived in Florida when I was an adult. I don't recall her name. She was visiting Lansing at the time, and I was accompanied by Gladys and Clara. Uncle Myles, Aunt Ethel Green and Aunt Frida lived in Lansing, and visited with Gladys in the early years, but stopped by the time that I became old enough to remember.

8. Clara was only fourteen years old at the time of Shirley's birth, and I was two. When I became older, I learned from the family that Clara and Shirley's father, Arthur Aham, were forced to marry one another by our father William. William was upset that a grown man had impregnated his underage daughter. However, the marriage was annulled shortly afterwards, and they never lived together.
9. James's mother, Shirley, was just two years younger than me, so we grew up together. Shirley frequently came over to our house to visit with my parents and the rest of the family. I used to visit Clara's house as well, so we were close to one another when we were growing up.
10. Shirley had it rough as a child because she was the oldest of Clara's four children and often left by herself to take care of her younger siblings. Clara was a single parent; none of her children's fathers were in the picture, and she did not have much of a support system. Shirley had to cook and clean for the family and look after her siblings while Clara spent many hours outside of the home working and gambling. Like our father William, Clara developed a gambling habit and spent a lot of time around the horse tracks and playing cards. Shirley and her siblings were often left at home unattended for extended periods of time. It was really unfair the way that Clara treated Shirley.
11. Clara was a very strict disciplinarian, and she frequently beat her children for various reasons, big and small. I've seen Clara beat her children with hair brushes, shoes, belts, sticks, tree switches, and just about anything that was within the reach of her hands. Shirley and her siblings often moved around during beatings, but Clara would swing as though she was not too worried about where she struck them. Clara's beatings were made worse by the way that she screamed and cursed at her children during the beatings. It was a frightening sight to observe and made me feel very uneasy.
12. Clara was not a warm or domestic parent. I have no memories of seeing Clara hugging her children, playing with them, or telling them that she loved them. Clara was a cold

person and nothing like our mother Gladys. Overall, Clara seemed like a frustrated mother who was not happy with her life. Having children at an early age may have given her some resentment and the feeling that she missed out on a portion of her youthful days.

13. Shirley accused one of Clara's boyfriends, a man named Floyd, of sexually abusing her. When Shirley reported the incident to Clara, Clara refused to believe it. Clara chastised Shirley and accused her of making up the story. Shirley responded by running away.
14. Shirley developed a bad relationship with Clara and became rebellious as she grew older. By the time Shirley was fourteen or fifteen years old, she was sent away to a reform school in Adrian, Michigan, for repeatedly running away from home. When Shirley returned from the reform school, she went to live with her father Arthur Aham instead of returning to Clara's home. Shirley had her first child, Lapriest Blocker, shortly afterwards at age seventeen.
15. I kind of lost touch with Shirley after she moved in with her father. I later learned that she had become an alcoholic and a drug addict around that time. Drugs and alcohol were not my thing, so Shirley and I did not travel in the same circles. All of Shirley's siblings were negatively impacted by their upbringing because they all struggled with drug and alcohol addictions at different points in their own lives.
16. It was a devastating tragedy for the entire family when Shirley was killed in 1973. I moved into Clara's home shortly after Shirley's death and stayed there until 1975. Even after I moved out of the house, I continued to visit Clara periodically and briefly stayed in the house a second time during the early 1980s. Clara screamed at Shirley's children in the same way that she screamed at her own kids and continued spending a lot of time outside of the house working and gambling. Clara's daughter Sharon was often left with the task of babysitting and caring for Shirley's children when they were younger, and Sharon resented it. Sharon was also deeply resentful of James's eldest sister Carla, at the

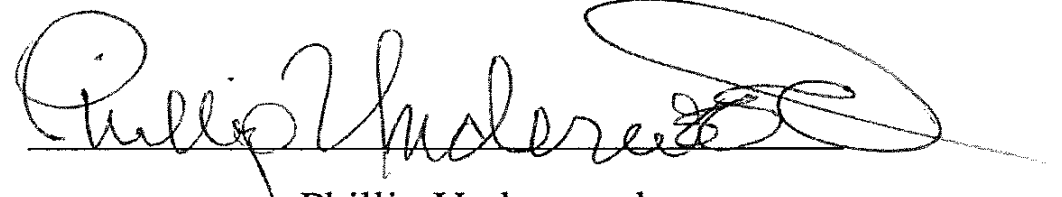
time, for some unknown reason. Sharon developed a bad relationship with her mother, Clara, as time went on and they often argued.

17. James's brother Ricky was experiencing a lot of problems in school when I stayed with the family during the 1970s. Ricky frequently got into trouble during his preteen and teen years.
18. James, on the other hand, did not have disciplinary problems, as far as I recall, but he was noticeably slower than his other siblings. James was a shy child and did not talk much, keeping to himself during the 1970s. James was a sensitive child and it did not take much to make him cry. I recall an instance when James was playing a balloon tossing game at a picnic during the late 1970's. James dropped a balloon at some point and became so upset that he began to cry. People had to console James to help him calm down. Generally speaking, James seemed like a happy child because he was always smiling. He often smiled a lot and laughed for no apparent reason.
19. It was a difficult task to wake James up and get him ready for school in the morning when I lived in the house. Whenever James finally awoke, he often just sat on his bed without saying anything as we tried to tell him to get busy. He often just stared off into the distance without responding or acknowledging that he was being spoken to. James's other siblings did not have this problem.
20. Robert Saur, aka "Marge", was a friend of the family who watched James and his siblings from time to time when they were young. I was not told of the public shaming incident, where Marge placed James in a diaper and made him walk around the neighborhood for everyone to see. I would not have tolerated such behavior from Marge had I known.
21. As far as I knew, James Wells was the father of James and his younger sister Myra. Clara expressed doubts that Wells was really James's dad because she believed he looked like Willie Chappell, Sr., the father of James's older siblings Ricky and Carla. James

Wells was a drug addict and not involved in the lives of James and Myra. In fact, Willie Sr. did not play a major role in the lives of his children either. A major part of the reason why Willie, Sr. was not around was his frequent incarcerations. There were no father figures or male role models in their home.

22. I was not living in Clara's home at the time when the city bought her home and the rest of the houses on the block, during the mid-1980s. According to Clara, she had been told that the Nellers Court homes had been purchased as part of a plan to expand the Diamond Reo facilities for a city project. I had no idea that environmental toxins had been found in the area and never heard anyone speak of it.
23. I was never contacted by any of James's previous representatives before my recent conversation with Herbert Duzant of the Federal Public Defender Office. I would have provided James's previously attorneys with all of the information found in this declaration had they contacted me. I also would have testified on James's behalf and asked the jury to spare my nephew's life.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Lansing, Michigan, on April 17 2016.

  
Phillip Underwood

# EXHIBIT 66

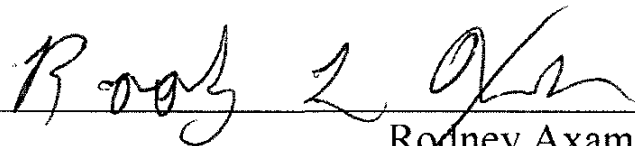
### **Declaration of Rodney Aham**

I, Rodney Aham, hereby declare as follows:

1. My name is Rodney Aham. I am sixty-six years old and reside in Lansing, Michigan. I am the maternal uncle of James Chappell. James's mother, Shirley Chappell, was my eldest sibling. Shirley and I had the same mother, but different fathers. My mother's children, in order of birth, are as follows: Shirley Aham-Chappell, Rodney Aham, Anthony Aham and Sharon Aham.
2. My sister Shirley was one year older than me, and we grew up in the same household. Shirley had a very troubled relationship with our mother, Clara. Shirley frequently ran away from home and was ultimately sent to a girls' home when she was about fourteen years old. Shirley stayed in the girls' home for one or two years and then went to live with her father, Arthur Aham, after her release. I was about thirteen years old when Shirley and I last lived under the same roof.
3. My siblings and I had a difficult time growing up in the home of our mother, Clara. Clara frequently left us alone while she spent a lot of time working as a cook at the State Police facility, gambling, or hanging out with her friends. Shirley was usually left in charge and took care of us while our mother was away from our home.
4. Clara gambled frequently, and it seems like she may have had a problem. Clara played the horses at various tracks, she played the numbers every day, she played gambling card games with friends every weekend, and she spent a lot of time playing Bingo. The weekend card games rotated between the homes of her friends. When it was Clara's turn to host the card games, she usually sent my siblings and me upstairs and told us not to come back down until the morning. There was always a lot of drinking, smoking, loud talking and carrying on during these card games. Clara was lucky because she often won money from one game or another.
5. The way that Clara disciplined us would be considered child abuse today. Clara frequently beat us with bushes, shoes, belts, sticks, and tree switches that she made us go outside to pick. In fact, she often instructed us to grab handfuls of switches, which she braided together before whipping us with them. Clara's beatings often left bruises, welts, cuts, and scrapes on our bodies.
6. Clara was not an affectionate parent. She did not hug us, play with us, help us with our homework, or show much of an interest in our education. She also did not tell us that she loved us. She was not the type of parent who sat down with her children to see what was going on in their lives and provide them with advice and direction. Clara just kept a roof over our heads and fed us.
7. My siblings and I all did poorly in school, were diagnosed with learning disabilities, and were classified as special needs students. I am the only one who finished school, but I continued to have difficulties with reading and writing afterwards.

8. Alcohol and drug addiction were major problems for me and my siblings, Shirley, Anthony, Sharon, and I were all addicted to substances, starting at early ages. All of my siblings had arrest records and tragic lives. Shirley died while walking down a highway in the middle of the night while intoxicated, Anthony was stabbed to death during an altercation that started in a bar, and Sharon has spent a lot of time going in and out of jail.
9. I lived with my mother, Clara, and Shirley's children at different periods during the 1970s, 1980s and also in 1992, at both the Nellers Court and Wedgewood homes. When I moved back in 1992, Clara did not have a trusting relationship with James and did not allow him to have keys to the house. Whenever James came home and found it vacant, he was expected to stay outside until someone came home. However, James used to open windows and jump through them to gain access to the house when no one was home. I recall James tripping the security alarm, after one had been installed, on a couple of occasions.
10. I have spoken with a couple of James's previous representatives, but they did not spend as much time with me as did Herbert Duzant, of the Federal Public Defender Office, during our recent conversation. I also was not asked to testify on James's behalf or sign an affidavit, declaration, or statement of any kind. I would have provided James's previous representatives with all of the information contained in this declaration had I been asked. I also would have testified to the information at James's trials and ask the jury to spare my nephew.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Lansing, Michigan, on April 16, 2016.

  
Rodney Axam



# EXHIBIT 67

### **Declaration of Rose Wells-Canon**

I, Rose Wells-Canon, hereby declare as follows:

1. My name is Rose Wells-Canon. I am seventy-five years old, and reside in Lansing, Michigan. James Chappell is my nephew, and his father James Wells is my younger brother. I will refer to James Chappell's father as James, Sr. in this declaration to avoid confusion between him and my nephew James.
2. James Sr. and I were born in Memphis, Tennessee, but our youngest sibling, Barbara Wells, was born in Lansing, Michigan. Barbara is now deceased. James Sr. is two years younger than me, and Barbara was two years younger than James Sr. Our parents were James Wells and Daisy Bullock-Wells, and they were also born in Memphis. My maternal grandmother was Loretta Nelson, and her husband of many years was Warren Nelson, who was my mother's stepfather. My mother had no siblings. I do not know the names of my father's parents, but he had half siblings whom I never had a chance to meet.
3. James Sr. was quiet and always kept to himself as a child, and he is still the same way. It was difficult to know what was going on in his mind and life because he did not like opening up to others.
4. I was two years old and James Sr. just a baby when our family relocated to Lansing, Michigan, in the 1940s. Our parents moved to Michigan for better employment and to escape the Jim Crow south. My father obtained a job in a local factory and our parents earned enough money to purchase a house. Things were stable in our household for a while, until our parents divorced in 1953. I was twelve years old at the time and James Sr. was ten. Our father left our home and remarried a woman named "Janie." He and Janie moved back to Memphis and remained there until his our father's death from cancer in the 1970s.

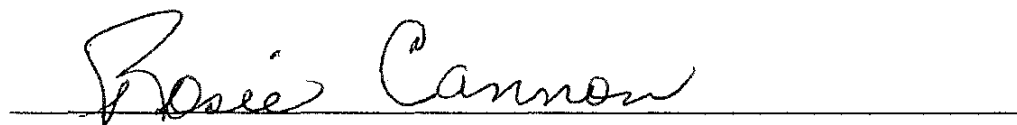
5. Our mother remarried around 1957 and left for Detroit to join her new husband shortly afterwards. I was sixteen years old and married my husband around that same time period, so I remained in Lansing. James Sr. was only fourteen, so he moved to Detroit with our mother and stepfather. James Sr. attended high school in Detroit but ended up dropping out at some point. They stayed in Detroit for about five or six years until my mother divorced her second husband around 1962 or 1963. My mother and James Sr. returned to Lansing after her divorce.
6. James Sr. was about twenty years old when he returned to Lansing. There wasn't much for him to do in town, so he decided to enlist in the Army and was stationed in Korea. He received an honorable discharge four years later, just before things started to heat up in the Vietnam War. James Sr. did not spend time in Vietnam and did not engage in combat during his service, as far as I know.
7. Life was good for James Sr. when he initially came home from the Army. James Sr. had a good job at Oldsmobile. He had a nice apartment and a beautiful car. He was living the American dream and enjoying his new found independence. However, he soon met up with the wrong crowd and began using drugs. Within a couple years, James Sr. became drug addict, and lost everything that he worked so hard to obtain. James Sr. abused drugs for almost fifty years and has only been clean for the last three. James Sr. has been arrested on several occasions, has been homeless at times, and has lived a tumultuous lifestyle over the years. Cleaning himself up was not an easy task, and I'm proud of the progress that he's recently made. One of the worst parts of his addiction was that it took him away from the lives of his children, James and Myra Chappell. James Sr. was an absent father who did not contribute to his children's upbringing in any way.
8. James Jr.'s mother, Shirley Chappell, was the best friend of my sister Barbara. Shirley and Barbara had knew one another since school days and were friends for many years. Barbara was an alcoholic and frequently drank with a group of alcoholic friends. Shirley was a part of this group, so I assume that she was drinking as well. Barbara was not a heroin abuser like our brother, and I have no recollection of ever seeing her hanging out

with junkies. I often saw Shirley and Barbara intoxicated and behaving in the same manner when I encountered them in passing.

9. Barbara introduced Shirley to James Sr. in the late 1960's, and a relationship developed between them. James Sr. had already been abusing drugs by the time he became involved with Shirley, and they soon started to abuse drugs together. Shirley had small children at the time, and did not seem like a responsible parent. She spent a lot of time in the streets getting high with her friends.
10. Shirley and James Sr. had two children together, James and Myra Chappell. Shirley and James Sr. never married, which is why the children did not have his last name. However, Shirley named their son, James, after my brother to make sure everyone knew who his father was. It was my impression that Shirley was abusing substances throughout her pregnancies with James and Myra, because she did not change her behaviors and I observed her drunk or intoxicated on various occasions. My brother interacted some with James and Myra when they were babies but soon disappeared from their lives, especially after Shirley's passing. I interacted with James and Myra, but have not seen them since the early 1970s. However, Myra and I have regained contact through Facebook in recent years.
11. Shirley's family and I lived on the same block, on Chelsea Street, at one time during the late 1950s or early 1960s. I have no memory of Shirley and Sharon being in the home, but I recall seeing her brothers Rodney and Anthony with their mom, Clara Axam. One of the brothers was slightly retarded and required extra help. Clara seemed like a nice person, but she was very hard on her boys. Clara did not let them get away with anything, and I remember seeing her holler at them on many occasions. I lost touch with Clara when she moved away from the block and have had no dealing with her since.
12. I was never interviewed by anyone working on my nephew James's behalf until my recent conversation with Herbert Duzant of the Federal Public Defender Office. I have resided in Lansing, Michigan, throughout the time of James's two trials and state appeals

and could have easily been contacted by James's prior attorneys. I would have provided James's previous attorneys with everything that I have stated in this declaration, had I been asked. I also would have testified to these facts.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ingham County, Michigan, on April 16, 2016.

A handwritten signature in cursive script, reading "Rose Wells-Canon", is written over a horizontal line.

Rose Wells-Canon

# EXHIBIT 68

### Declaration of Sharon Aham

I, Sharon Aham, hereby declare as follows:

1. My name is Sharon Aham. I am sixty-one years old and reside in Lansing, Michigan, and I am the paternal aunt of James Chappell. James's late mother, Shirley Chappell, was my older sister. Shirley and I were separated in age by six years. Our other siblings are Rodney and Anthony Aham. Anthony was murdered in 1981 when he was fatally stabbed during a street altercation.
2. My siblings and I had the same mother, Clara Aham, but different fathers. Shirley's father was Arthur Aham, who was briefly married to Clara ~~when Shirley was one year~~ *old*. Clara and Arthur had a forced marriage because Clara was underage at the time when she became pregnant with Shirley and her parents insisted they marry. Clara never married again after her divorce from Arthur, but she went on to have three more children by two other men. *SA*
3. Leroy Walker is the father of my older brothers Rodney and Anthony Aham, and my father's name was "Joe Blackman." None of our fathers lived in our home, and they were not a part of our lives. Our mother, Clara, was a single parent and raised us without their support or financial assistance.
4. When I was a young child, our family lived on Olds Avenue in Lansing's Westside community. The Westside was a poor community that was predominantly Black. The *Family then moved to Mellers Court on the South Side where we attended* ~~children were bussed to~~ Moores Park Elementary school and Walter French Junior High School, which were on the Southside of town. The Southside community was predominantly white during the 1950s and early 1960s and had better schools. My siblings and I were among the first Black students to integrate the schools in that area. *SA*

5. The Westside community was filled with crime and blight. There were a lot of drug dealers, addicts, alcoholics, pimps, prostitutes, robberies, and violence of all kinds. This is where James's mother, Shirley, first became acquainted with the street life.
6. Our family left the Westside and moved to Lansing's Southside area in the early 1960s when I was about six years old. Our mother was trying to place the family in a better environment, and we were forbidden from returning to the Westside. However, most of Shirley's friends and associates were on the Westside, so she frequently returned to our old neighborhood to spend time with them.
7. Shirley was frequently in the streets when we were children and did not come home at times. Shirley also ran away from home on several occasions. She developed an extensive juvenile record and once spent two to three years in juvenile detention after our mother, Clara, reported Shirley for stealing checks from her. Clara was actually responsible for sending Shirley away. Shirley did not return home after she was discharged from juvenile detention because she went to live with her father, Arthur Axam. I was only about eight years old when Shirley entered the detention facility, so I don't have many memories of her being around the family home. Most of the memories that I have of our home life are not good ones.
8. The way that Clara disciplined my siblings and I would be considered child abuse by today's standards. Clara used to beat us with electric cords and various items from around our home. Clara used to make us go outside to pick tree branch switches off of trees and bring them back inside. Clara would then tie the tree switches together and beat us with them. Clara's beatings often left bruises, welts, and sometimes cuts on our bodies. Shirley received the most and worst beatings of any of our siblings because she was stubborn, defiant, and often spoke back to Clara. Clara and Shirley had a pretty terrible overall relationship.
9. Besides being physically abusive, Clara was not a warm and loving mother. She did not show me and my siblings much affection. She did not kiss us, tuck us in bed at night,



read to us, play with us, pick us up, or hug us. Clara did not help us with our school work or take an interest in our education. ~~All of my siblings~~ <sup>My brother Rosner</sup> and I were diagnosed with

learning disabilities and classified as special needs students, but Clara hardly interacted with our teachers and school officials. She just allowed the school to push us through the system and do as they pleased with us.

10. Clara did not give us compliments or provide us with positive reinforcement. She was verbally abusive on frequent occasions. Clara had a cold and distant personality.

Looking back, it seems like Clara took after her father, William Underwood, in many ways.

*The only difference is that my grandfather did not hit the girls, or the grand kids. Grandpa would stick up for her boys and protect them from William at times.*

11. My grandfather William was born in the south, but traveled to Michigan at age sixteen in

search of a better life. William was a tough, self-taught man, who worked his way up in the car industry to become Oldsmobile's first Black electrician. William was a strict

disciplinarian, who frequently whipped Clara ~~and her siblings~~ <sup>brothers</sup>. William was particularly

hard on his sons. William did not have a warm personality or show his children or grandchildren much love and affection. William was a good provider to his wife and

children, and took care of their physical needs, but he ~~was emotionally absent~~ <sup>Spent a lot of time working outside of the home</sup>.

12. As a result of the circumstances at home, my siblings and I developed low self-esteem, encountered problems in our own relationships as adults, and all struggled at one point or another with alcohol and/or drug addiction. I loved my mother, but I believe that she was the cause of many of the problems that my siblings and I struggled with in life. I believe that things could have been different had we had a healthier upbringing.

13. By the end of the 1960s, the white folks started leaving the Southside area, and the community started experiencing many of the same problems that plagued the Westside. Clara purchased the family's Nellers Court home in 1968 when the area was in decline. There were a lot of home evasions, substance abuse, violence and prostitution. There was also racial tension present in the community because of the social inequalities and racism that existed in the city. In 1967, a race riot occurred in Lansing around the "Drop

SA In Center" where youths in the community came to play basketball and other sports and activities. Shirley was living across the street from the Center at that time with her eldest children, Carla and possibly Lapriest. Our mother, Clara, had to drive over to Shirley's home to retrieve the children while the riot was taking place because no one knew where Shirley was. This riot was a smaller scale offshoot of the larger and more notorious riots that had taken place in Detroit around the same time.

14. Shirley was a drug addict by the time she became pregnant with James, and it is my understanding that she abused heroin throughout her pregnancy with him. SA I saw Shirley SA intoxicated on various occasions during her pregnancy with James and she had tracks on SA her arms. Shirley loved her children, but she was an incompetent mother. Shirley often SA left the children SA with baby sitters SA. She did not provide her children SA with a healthy environment. With the exception of Lapriest, none of the fathers of Shirley's children were present in their lives, and the children had no positive male role models.

15. Clara took custody of James and his siblings, Carla, Ricky, and Myra, following the death of their mother, Shirley. Shirley was struck and killed, by an Ingham County Deputy Sheriff's squad car, while walking in the middle of a freeway one night. Shirley was decapitated in the accident, and we had to have a closed-casket funeral. Clara filed a wrongful death lawsuit against Ingham County in an effort to obtain money for James and his siblings, but Shirley's husband, Willie Chappell, Sr., took over the suit after he was released from one of his stints in prison. Willie was still married to Shirley at the time of her death and asserted that he had more grounds to bring the suit than Clara. Nevertheless, Willie's case was ultimately thrown out, and Shirley's children received nothing for the loss of their mother.

16. I was a teenager and living at home at the time of Shirley's death. Clara often left me with the responsibility of caring for James and his siblings by myself while she spent long hours away from home working and doing other things. I could tell that James was

mentally slow from the time that he was a child. It took him a bit longer to learn things that other children picked up quickly. *His siblings Rick and Myro were fast learners.* (SA)

17. I was aware that James started using crack cocaine prior to leaving Lansing for Arizona, and I had a chance to see the difference that it made in his personality and behaviors. James was generally an easy-going and fun loving person when he was sober. However, when he was on crack, he became paranoid, agitated, and aggressive. From what I observed, the problems that James experienced in his relationship with Debbie were based on his drug use. ~~The worst episodes took place when James was in need of a fix.~~ (SA)

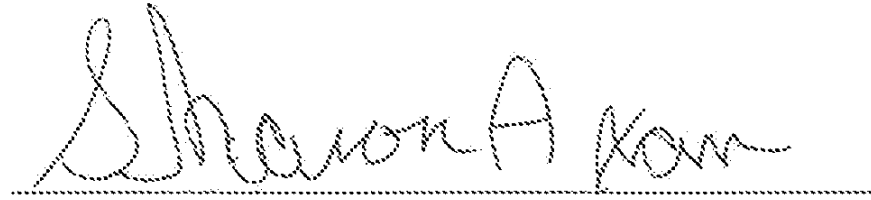
When James was in need of crack, he took or demanded money from Debbie, removed various items from their home to sell on the streets, or returned recently purchases items to get the money back. *I smoked crack with James on a few occasions, but not regularly. James frequently drank 40oz bottles of beer and smoked marijuana, but these substances made him happy.*

18. James reminded me of my mother's brother, Bobby Underwood. Uncle Bobby was a very nice person when he was sober, but alcohol had a terrible effect on his personality and behaviors. When Uncle Bobby drank, he became very mean and sometimes violent, *which was the opposite effect that it had on James.* (SA)

19. When James's first set of attorneys came to Lansing in 1996, they only met with Clara and me, as far as I recall. I have no recollection of them speaking with other members of the family or neighborhood friends. It was a short conversation and seemed a bit rushed. They spoke with both Clara and I at the same time. When they brought Clara and I out to testify on James's behalf, they did not meet with us beforehand to go over the areas that my testimony would cover. Clara and I were placed on the witness stand without any preparation.

20. I have not been contacted by any of James's representatives since the time of his 1996 trial until my recent meeting with Herbert Duzant of the Federal Public Defender Office. I did not know about James's second trial in 2007 until it was already completed and James was back on death row. I would have provided James's previous counsel with the details contained in this declaration, had I been asked, and I would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ingham County, Michigan, on April 18, 2016.

A handwritten signature in cursive script, reading "Sharon A. Aham", written over a horizontal dotted line.

Sharon Aham

# EXHIBIT 69

### Declaration of Sheron Barkley

I, Sheron Barkley, hereby declare as follows:

1. My name is Sheron Barkley. I am forty-nine years old and reside in Lansing, Michigan. James Chappell and I grew up in the same neighborhood, and attended the same elementary and junior high school. We were also friends.
2. I first met James and his family when I was in the fourth grade. James is two years younger than me, so I was a couple of grades ahead of him. James, his siblings and I were in the same of circle of friends in our community, and we all spent a lot of time around one another.
3. Our group came from single parent homes, and had no relationships with our fathers. In fact, I have no recollection of even meeting anyone's father, and I didn't meet mine until I was twenty-seven years old. None of us mentioned the word "father" or cracked jokes about the matter because it was such a sensitive issue. We just tried not to think about it.
4. Our community was filled with drug dealing, drug addiction, prostitution, poverty, and various criminal activities. With all of the negative influences, it was hard for someone to come up in that environment without being impacted in some way. *we lived right around the corner from the main prostitution drag and saw hookers being beaten by pimps and johns almost everyday.*
5. James was a special education student, and I could tell that he was slow from the beginning of our friendship. James was an immature person throughout the time that I knew him. James acted in ways that a person of a younger age might act. There were younger kids in the neighborhood who were more mature than James was.
6. James was generally a quiet person, but when he talked, he spoke slowly or in a delayed manner. There were often space gaps between the time someone asked James a question and when he responded, even for simple questions. It was like James took extra time to process questions before he could gather his thoughts for a response. James gave a lot of one-word-answers and used simple phrases during conversations. James misused words at times, if he didn't understand their meanings. James also spoke in unusual word

patterns that did not make sense until you had a chance to think about what he was saying. Throughout his upbringing James was often teased about the way that he spoke. Kids would ask James random questions just to hear him talk so they could laugh at him. James usually answered the questions seriously, and seemed to have no idea that he was being used as the butt of jokes. James did not talk more until he was in high school, but many of his verbal difficulties continued.

7. During elementary school, James sometimes had episodes of where he drooled on himself while looking off into the distance. James looked like a zombie on these occasions, and it was sometimes hard to get his attention. You'd have to call James several times and touch him to snap him out of it. We teased James about these episodes.
8. James was physically uncoordinated and not good at playing sports. When James played basketball, he didn't know how to handle the ball or dribble. James just held the ball at times without doing anything at all, like he was confused and didn't know what to do. We often teased James for his inability to play sports.
9. James's favorite thing to do while we were growing up was to watch music videos on MTV and BET. James sat for hours at a time watching videos. James learned how to dance by watching the music video and did his best to imitate the singers, especially Prince who was his all-time favorite. James tried to wear his hair, dress, dance, and talk like Prince. I once asked James if he would ever have sex with Prince, and he said yes after thinking about it for a minute. James was serious.
10. James's Grandmother Clara was a very strict and harsh disciplinarian. Clara frequently yelled at and severely beat James and his siblings. I once saw Clara beat James with a shoe for being in the front yard instead of inside of the house. Clara beat James on his head and about his body with a shoe, and the beating left James with bruises. I heard more of Clara's beatings than I saw because they occurred more frequently inside of their home. Clara's beatings were loud because she usually screamed at James and his siblings when she whipped them, and you could hear the belt, or whatever she was using, striking them. I also heard the crying screams of James and his siblings, and their begging for her

to stop. I often saw bruises and welts on various parts of their bodies after the beatings. The children in the neighborhood, myself included, often laughed as James and his siblings were being whipped and teased them afterwards because we didn't know better. Looking back from an adult's perspective, I now understand how cruel this was. The teasing must have added insult to the injuries that were inflicted upon them by their abusive grandmother.

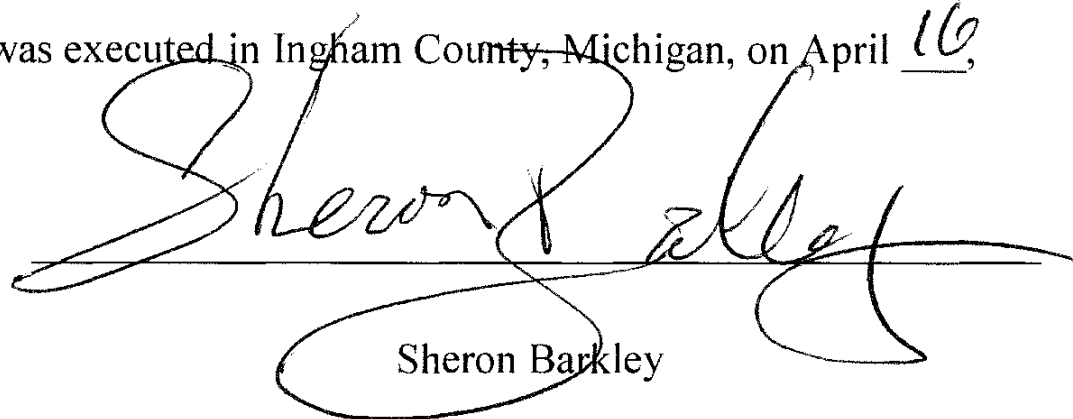
11. Clara spent a lot of time outside of the house and left James and his siblings unattended in the house for long periods of time. Between work, gambling and out-of-town trips, Clara was hardly there. This created a situation where kids in the neighborhood could hang out in James's house and do whatever they wanted to do most days. The neighborhood kids drank alcohol, smoked marijuana, had sex, and partied in James's house frequently beginning in junior high school. Another popular place to drink was at the home of Robbie William, a gay adult neighbor who lived down the street from James. Robbie use to purchase alcohol for James and the others because they were underage. Robbie allowed the kids to get drunk and high off weed as he cooked food for them.
12. Clara was not an affectionate person and seemed to have no emotional connection to James and his siblings. She left them alone most of the time, and beat the hell out of them when she was around. There was no love shown to them between these times. After a while I developed the impression that Clara had taken custody of James and his siblings as part of a scheme to collect government benefits. It seemed like they were worth nothing more than a check to her.
13. James was about twelve years old when he began smoking marijuana and drinking alcohol. James did not get into smoking crack until his late teenage years. James smoked "Uzi's" at that time, which were marijuana and crack rocks rolled into joints. Crack was not my thing, so I did not stay around James when he was smoking it.
14. When James's older sister, Carla, was about fourteen years old she became sexually involved with a neighbor named Grover, who was almost thirty years old. Clara allowed



Carla to date Grover and even let him come over to spend time with Carla in the home. Carla used to braid Grover's hair on their front stoop and Grover frequently drove Carla around in his car. Carla ultimately became pregnant by Grover and had her first child by him. I do not know of any other mothers in our community who would have allowed something like this to happen. It seems like Clara could not care less about what happened to her daughter. Carla ended up running away from home and becoming a drug-addicted prostitute. Carla was once tied up, held against her will, and raped over several days until she managed to escape. James and his siblings have all experienced hardships and tragedies during their lives.

15. I believe that James never had much of a shot to make it in life. If you asked all of our old neighborhood friends and associates who among us was most likely not to succeed, they would say James. James was mentally slow, emotionally damaged, and not equipped to take care of himself.
16. I met Debbie on a couple of occasions in the early part of their relationship, but I did not know her well. I just remember thinking to myself about how much James was in over his head when I first saw them walking down the street pushing a stroller with their first child. James couldn't take care of himself, much less a family.
17. I was never interviewed by anyone working on James's behalf until my recent conversation with Herbert Duzant of the Federal Public Defender Office. I would have provided James's previous attorneys with everything that I have stated in this declaration had I been asked. I also would have testified to these facts.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ingham County, Michigan, on April 16, 2016.

  
Sheron Barkley

# EXHIBIT 70

### **Declaration of Terrance Wallace**

1. My name is Terrance Wallace. I am forty-six years old and currently reside in the Montauk, New York and work as a chef. I own a successful catering company which handles accounts throughout the United States, and I'm an executive sous chef at a famous Long Island Yatch Club. I am a former neighbor and classmate of James Chappell. James and I are the same age, and he was one of my best friends. James periodically stayed with me when he did not have a place to go.
2. I first met James in the mid-1980s when I relocated with my family from Alabama to Lansing, Michigan. James and I lived in the same neighborhood and met through common friends. We instantly connected and became friends because both of our fathers were not a part of our lives. In fact, none of the guys in our neighborhood had relationships with their biological fathers.
3. James's grandmother was very strict and had a strained relationship with James. I don't recall the details, but I heard rumors there was a lot of drama and problems in his household before I moved to town. James did not spend a lot of time in his grandmother's house by the time we were spending time around each other.
4. I briefly attended Sexton High School with James, until we both flunked out and were made to attend adult education classes at the Harry Hill Vocational Center. We both took up cooking at the Vocational Center. I completed the program but James dropped out.
5. James seemed to be mentally slow throughout the time that I knew him. James frequently needed assistance with tasks that most people take for granted. For example, James could not read well and often needed me to read things for him and fill out job applications and paperwork. James was very self-conscious about his inability to read well, so I did not do anything to bring attention to his difficulties. When James didn't understand words on an application, while in the presence of others, he pretended like he couldn't see the words on a page. This was usually his sign that he needed help. I

responded by joking about his poor vision, taking the papers out of his hand and reading everything for him. James feared embarrassment and tried to avoid exposing his shortcomings whenever possible. James always appreciated my discretion.

6. Although James did not read very well, I was surprised at his nice penmanship. James was also an excellent artist and could draw almost anything he saw.
7. James was more of an audio-visual learner, which is why he took to cooking. James was an imitator. He learned by observing physical demonstrations of how things were done.
8. James usually spoke using short words, phrases, and slang. James did not have a large vocabulary and did not speak descriptively. James also used words incorrectly at times, especially when he was trying to give someone the impression that he was smarter than he actually was. James also used words incorrectly when trying to imitate others.
9. James acted immature for his age, and he liked to joke around and make people laugh. James did not mind being the butt of jokes and had no problems with laughing at himself. James was like a big kid and the class clown.
10. James enjoyed imitating people that he saw on television. James loved and imitated Prince so much that he gave you the impression that he actually thought that he was Prince. He copied Prince's dance moves, mannerisms, and expressions. James developed the idea that he needed a white girlfriend because Prince had white girlfriends in his videos and in real life. James was very impressionable and mimicked other celebrities like Michael Jackson, Bobby Brown, LL Cool Jay, Run-DMC, and other performers. James enjoyed imitating the way that DMC wiped his mouth with his hand. James thought this was really cool for some reason. James dressed up and wore his hair in the same styles as the celebrities he imitated.
11. James did not have much experience with girls, unlike the rest of the guys in the neighborhood. Debbie was one of only two girls that James ever dated. James's first

girlfriend, Nicole, was “stolen” by our common friend Ivri Marrell. Ivri began dating Nicole because it seemed like James did not know what to do with her. James and Ivri’s relationship did not change after Ivri started dating Nicole. They both remained just as close to one another as ever.

12. Many of us did not understand what James saw in Debbie. She came from a very racist family. I witnessed her stepfather, Dale, call James a “nigger” on several occasions. The only thing I could see is that Debbie accepted James with all of his shortcomings, where most women would not.
13. James did not make friends with people outside our neighborhood group. He did not feel comfortable around strangers and was not outgoing with people he did not know. James felt supported within our circle and knew we would not allow him to go hungry, become homeless, or go without his needs being met. We all had his back. This is the reason why everyone in our circle told James not to leave Lansing to join Debbie in Arizona. We knew that she could not protect James like we did and that she did not always have his best interests at heart. James told me that he had to be with her because he loved her. I didn’t lecture James during our discussion because I didn’t want him to feel bad. I just supported him in his decision, like I always did, and wished him good luck.
14. James called me from Arizona in 1992 and said, “It’s not handling, get me out of here.” That was James’s way of saying that things were going wrong and he needed help. James then asked me to send him a bus ticket so that he could return to Lansing, and I did. When James returned, he told me that he was “on the tip” and doing badly in Arizona. “On the tip” means that he was abusing drugs heavily, and he felt like he was losing control of himself. James was also having problems with Debbie and believed that she was slipping away from him. He told me that Debbie had a good job as a 911 operator, but started “acting funny” towards him. James did not speak in great detail about everything that was good on, but I didn’t press him. I was just there for him as a friend.

15. I helped James get his first two jobs. The first was a summer position with the Michigan Youth Corps, where we worked as cooks in the faculty cafeteria. The second job was at a hamburger restaurant where we flipped burgers and cooked fries. I had a car at the time and used to drive James to and from work each day. If I couldn't drive James to work, he usually stayed home.
16. James had a hard time keeping jobs. He was usually unemployed and without a source of income. James lived off of his grandmother, his friends, and Debbie. When I won a financial settlement after a car accident, I opened my wallet and home to James. I had my own apartment and allowed James to stay there whenever he did not have any place to go. I even allowed Debbie to stay at my place with James. I also purchased clothing and many other things for James. I appreciated James as a friend because he had a good heart. He also helped nurse me back to health in the time following my accident. James cooked and cleaned for me, and assisted me until I regained my strength. We were about seventeen years old at the time.
17. James was unemployed so often that he tried his hand at selling drugs to earn money. However, it was short-lived because James did not know the value of money. Besides not being a street person or fitting the typical image of a drug dealer, James was terrible at math and was constantly cheated by junkies in their purchases. At times it seemed like James was giving the drugs away. The dealers that James worked for knew that he was slow and not really cut out for the work, so he was not harmed. They just fired him, like all of James's other employers.
18. James had a poor sense of direction and had a difficult time getting around town on his own. James was driven around to most of the places that he needed to go. James used public transportation, but only to places where he had previously travelled. James had a hard time traveling to new places. You could not give him an address or verbal instructions on how to get somewhere because he would get lost.

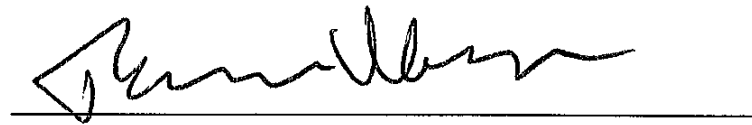
19. I tried to teach James how to drive on many occasions during his teens and early twenties, but driving seemed like an impossible task for him to learn. James complained about how difficult it was to do so many things at once - steering the wheel, using indicators lights, using the mirrors, pressing the accelerator and breaks, and paying attention to the road. I eventually gave up trying to teach him after several attempts.
20. James once got drunk and took my stepfather's car without permission. James crashed the car that night, but I don't recall the details. My stepfather did not press charges against James because he knew that James was slow and did not mean any harm.
21. James often sat down and looked off into the distance with a blank look on his face. James seemed like he was in a trance or his mind was somewhere else during these episodes. To get his attention, I would smack him on the back of his head. When James snapped back into reality, I asked him what he was thinking about. James usually laughed it off without saying much.
22. James was never good at math. It took him a while to figure out how much money he needed to purchase items or how much change to get back.
23. James did not have a savings account and spent his money in a carefree manner. He spent his entire paychecks almost as soon as he got them. Most of James's money went to music, drugs, and clothes, because he never had any financial responsibilities.
24. When I first moved to Lansing in 1985, the community was filled with drugs and prostitution. The biggest group of customers were the local factory workers. James had an unlimited supply of drugs because his Uncle Rodney and Aunt Sharon were drug addicts, and James received drugs from them. Our neighbor, the late Rob Williams, would purchase alcohol for us from local liquor stores when we were under the drinking age. James was also friends with local drug dealers and they sometimes gave him drugs at no charge.

25. James told me that he and the other guys in the neighborhood had been getting high since the sixth grade. Getting high seemed like it was no big deal to them at all. James and our other friends were the first people in my life to hand me drugs and alcohol.
26. James started smoking crack cocaine around 1987, when we were around seventeen years old. James's favorite way to smoke crack back then was in "50/50 Joints", which were made from a mixture of crack and marijuana.
27. Different drugs effected James in different ways. Alcohol turned him into a big clown. James laughed a lot and joked around. Alcohol seemed to lift his spirits and make him happy. Marijuana mellowed James and calmed him down. He seemed relaxed and peaceful when he smoked weed.
28. Crack cocaine made James very paranoid. After smoking crack, James became overly alert to his surroundings. He also spoke about possible threats and dangers that he was trying to avoid, and believed that "people" or the police were out to get him. It seemed like crack played tricks on his mind. James did not have enemies and he was not being pursued by anyone.
29. Overall, James was not a violent or aggressive person, and he had a lot of respect for his elders. I've seen his grandmother scream, curse, and talk to him in a very harsh manner, but James remained respectful and obedient in her presence, no matter how badly she treated him.
30. My mother loved James like a son. He was one of the few friends that she allowed in our home. I recall one occasion where my mother kicked me out of the house for some reason, while James was staying there. When I tried to enter the house while my mother was away, James locked the door and told me that my mother told him not to let me in. At first, I thought James was joking, but he was serious, and I did not enter my own home that day.



31. I was never interviewed by anyone working on James's behalf until my recent conversation with Herbert Duzant of the Federal Public Defender office. I heard about James's trials in 1996 and 2007, but none of his previous attorneys tried to speak with me. I was living in Michigan during the time of both trials and could have been easily contacted. I would have provided James's previous representatives with all of the information contained in this declaration. I also would have testified at both proceedings.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Suffolk County, New York, on May 17, 2016.

A handwritten signature in black ink, appearing to read 'Terrance Wallace', is written over a horizontal line.

Terrance Wallace

# EXHIBIT 71

### **Declaration of William Earl Bonds**

I, William Earl Bonds, hereby declare as follows:

1. My name is Earl Bonds. I am seventy years old and reside in Lansing, Michigan. James Chappell's mother, Shirley Chappell, was a close friend of mine, and our families were close to one another. I grew up on Williams street with Shirley's grandparents and their children. I attended elementary and junior high schools with Shirley's younger uncles and Aunt Louise Underwood. I knew Shirley when we were children, but we did not start hanging out together until the mid-1960s.
2. Shirley and I traveled in the same circle of friends, and I also associated with some of the men in her life. Shirley's husband, Willie Chappell, Sr., was a friend of mine. I heard that he fathered Shirley's second and third children, Carla and Ricky. However, Shirley was sexually involved with Willie Sr. and his brother Billy Ray Chappell at the same time. Billy Ray may be the father of Carla and/or Ricky.
3. James Wells became involved with Shirley after the birth of her third child, Ricky. James Wells, Shirley and her children moved in together at the home of Shirley's father, Arthur "Sugar" Axam, on Butler Street. Sugar was living somewhere else at the time, and was using the Butler address for rental income. James was the father of Shirley's fourth child, James Chappell. Little James favored his father and shared his mannerisms. Willie Chappell, Sr. was not James's father, as far as I know. I also saw no interactions between Willie Sr. and James during his childhood.
4. Shirley's youngest children, James and Myra, were given the last name "Chappell" at birth because Shirley had not divorced Willie, Sr. and still carried the Chappell name. Myra's father was a drug dealer from Detroit who used to supply Shirley with heroin. I do not remember his name, but Myra looks just like him. James Wells and Shirley were not in a committed relationship, and they both saw other people on the side. Shirley also

engaged in prostitution to earn money to support her drug habit. Shirley was a street walker who picked up johns along the main prostitution strolls around Lansing.

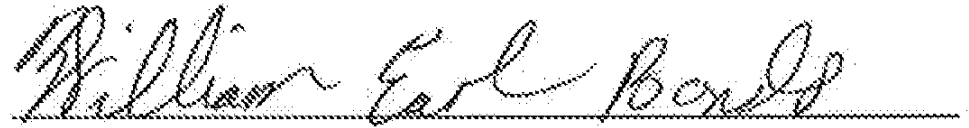
5. I spent the most amount of time with Shirley when she lived on Butler Street with James Wells until her death in 1973. James Wells was one of my closest friends back then, and we abused drugs together. Shirley's home was the place where our friends gathered to get high on almost a daily basis. The main drugs of choice in our group were heroin and cocaine, and we sometimes drank alcohol as well. James and his siblings were all exposed to the drug activity and lifestyle of Shirley and her friends. Everyone in the group shot heroin, snorted cocaine, freebased, and drank alcohol in their presence.
6. Shirley's lifestyle did not change at all during her pregnancies. She continued to abuse heroin and cocaine on a daily basis while she was pregnant with James. She also continued to engage in prostitution whenever she was short on cash. Shirley also continued to drink alcohol during her pregnancy with James, but not as frequently as she abused other drugs. Shirley drank alcohol a couple times a week, as far as I recall, but not on a daily basis because it was not her drug of choice. Shirley liked hard liquor and usually had several drinks in one sitting when she drank, even while pregnant. Shirley typically abused heroin and cocaine on the occasions when she drank alcohol.
7. In my opinion, Shirley was not a competent mother. She never stopped running around and getting high, even though she had small children who depended on her. Shirley often left the children alone in the house, or with others, so that she could go out and get high. Shirley sometimes left the kids with people she didn't know well. Occasionally, Shirley did not have much food in the house, so I had to come over and feed her children. Other friends did this as well. Shirley was too involved in her addiction and lifestyle to spend quality time with her children, and James Wells spent even less time at home. While James Wells sometimes fed the children, he spent more time in the streets than Shirley and was hardly around. I have no recollection of James Wells showing James much attention or affection. James Wells was too caught up in his addiction.

8. I saw James almost every day from the time of his birth until Shirley's death. James was slower than his siblings and did not seem to pick up on things as quickly as they did. James was also less interactive than his siblings. James did not talk much. He did not run up to me and Shirley's other friends to jump on our lap, play, or ask for things like his other siblings did. James rarely smiled or laughed. James just quietly sat looking at everything going on around him with a puzzled look on his face.
9. Shirley moved out of her father's house in 1972, during the last year of her life, and moved back in with her mother, Clara. Sugar was putting the house up for sale and needed to have it cleared out. Shirley left her mother's home after a couple of months and moved around until the time of her death. Shirley was staying with me at the time of her death, along with her boyfriend at the time, Terrance Rosario, and our other friends Loretta Wells (no relation to James Wells) and Charlene Jameson. My apartment was located at Aurelius and East Jolly Road in Lansing. Shirley's children were not with her at the time.
10. We were all getting high together on the night of Shirley's death, when Shirley and Terrance got into an argument. I don't recall what the argument was about, but they usually fought over Shirley's lifestyle. Terrance earned good money on the streets as a "numbers runner," and he often tried to stop Shirley from prostituting by giving her a lot of money. Shirley took Terrance's money, but she disregarded his wishes and turned tricks in the streets anyway. Whatever the argument was about on that evening, Shirley became very angry and left the house. When Shirley grabbed her coat and headed towards the door, we asked where she was going and told her to stay in the apartment because she was high and the streets were not safe. Shirley insisted that she needed fresh air and walked out of the door. It was about 2:00 to 3:00AM when Shirley left, and it was the last time that we saw her alive. We all stayed up for hours waiting for Shirley to return, but she never did. Terrance had to pick up his numbers that morning, so he had to leave. When Terrence returned later that day, he told us that Shirley had been hit by an Ingham County Sheriff squad car and was dead.

11. Shirley's funeral service was held at The Riley Funeral Home. I was one of six pallbearers who carried Shirley's casket. The others were Otis Banks, Stanley Ellis, Paul Wiley, Larry Benson, and Randolph "Chi-Chi" Young. It seemed clear to everyone that the officer had to be traveling at an extremely high velocity to cause the type of damage that was done to Shirley. This is why there were suspicions that Shirley's death was an intentional act. The same officer was also said to have encountered Shirley just minutes before her death when he stopped her on the highway bridge to ask why she was on the streets so late. It all seemed too coincidental.
12. While all of Shirley's children took her death very hard, James shut down and stop talking altogether. James often sat down and stared off to the distance with an empty look on his face. I saw James periodically until he was about twelve years old, and his affect did not change much whenever I saw him. He seemed like a quiet and depressed boy. I have not seen James since he was about twelve years old, so these are my last memories of him. Clara frequently said that James needed help, but I do not know if she ever obtained any for him.
13. Carla and Ricky are the only children of Shirley's that I continued to see around the streets as they were growing up. Like her mother, Carla became a drug addict and street prostitute. However, Carla was worse than her mother in a way, because she did not have any boundaries and seemed more desperate. Ricky became a thief. I often saw him around the neighborhood stealing things and trying to sell them. Ricky has been in and out of prison over the years.
14. My late sister, Betty Watson, was a close friend of James's grandmother Clara, and would have been an excellent source of information. Betty used to keep up with Clara and her family, and knew a lot about what was taking place in the household. Betty passed away in 2012.
15. I was never contacted by any of James's representatives until my recent conversation with Herbert Duzant of the Federal Public Defender Office. Had I been contacted by

James's prior counsel, I would have provided them with all of the details contained in this declaration. I also would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Ingham County, Michigan, on May 13, 2016.

A handwritten signature in cursive script, reading "William Earl Bonds", written over a horizontal dotted line.

William Earl Bonds

# EXHIBIT 72



### **Declaration of William Roger Moore**

I, William Roger Moore, hereby declare as follows:

1. I am seventy-two years old and currently reside in Lansing, Michigan. I am a retired Ingham County Juvenile Probation Officer, and my duties included investigating new case referrals to the Juvenile Court, constructing social histories, referring juvenile defendants and their families to social services, providing limited counseling to juvenile defendants and their families, making recommendations to judges and supervising juvenile probationers. During the 1980s, I supervised James Chappell and his siblings, Willie Ricky Chappell, Jr. and Myra Chappell. I supervised James from August 1985 thru January 1986, but I supervised his siblings before and after that time period. Altogether, I spent a total of about six years working with James and his family, from 1983 to 1989.
2. What most stands out in my memory of James is that he was not the typical juvenile delinquent who was on a clear path to becoming a criminal. James was a mentally slow child, who came from a terrible environment and was exposed to many bad things. James was also a gullible child, who was easily influenced and went along with the crowd. James's two juvenile breaking and entering cases involved other kids from his neighborhood, and I recall that James was a follower in these circumstances and by no means the ring leader. Had James been smarter, come from a better environment, and had less negative influences around him, I believe that he would not have had a juvenile record. James's siblings, Ricky and Myra, were different because they were higher functioning, extremely street smart, and committed their wrongdoings with an intentionality that was not present in James's behaviors. Ricky and Myra were also very angry children, unlike James, who was calmer and more compliant. They also got into a lot more trouble than James, and I had to supervise them much longer than I did James.

3. I came to know James and his family very well over the years that I supervised him and his siblings, and I still recall the family's background. I also had a chance to review my testimony from James's initial trial in 1996, which was based on my review of his social services and education records, as well as my direct interactions with James and his family members.
4. James had a very rough start in life. He was born to an alcohol and heroin addicted mother. Drugs and alcohol were a problem for James's aunts, uncles, and other family members as well. A year before her death, it was determined that his mother's substance abuse problems had caused her to neglect her children, so James and his siblings were removed from her custody and placed in the home of their maternal grandmother, Clara Axam. James mother was killed when he and his siblings were just toddlers and babies, so James's grandmother had to assume permanent custody and raise them by herself. James and his siblings had different fathers who were all absent from the children's lives. James and his siblings had no male role models in or outside the home.
5. James's grandmother, Clara, was a cook at the State Police Department. Clara did not make enough money to care for the children on her own, so her income was supplemented by Aid to Dependent Children ("ADC") funds. To qualify for these funds, a family had to be financially poor and without a father in the home. It is also given to families with special needs children.
6. I visited the family's Nellers Court home on several occasions and had opportunities to see James's living conditions firsthand. The home was filthy, disorganized, and in disrepair. The family's home was so bad that it really was not fit for people to live. The houses on either side of the family home were abandoned and dilapidated, as well as half of the other homes on the block. These abandon houses were used by drug dealers, dope fiends, prostitutes and their johns, and other people engaged in criminal activity. There were many children in the neighborhood with extensive juvenile records and no fathers in their home. I supervised many of them. Most of these children went on to commit

crimes as adults and serve prison sentences for felony convictions, like James's brother Ricky. James's childhood neighborhood was one of, if not, the worst section in the City of Lansing at that time.

7. James was a child with severe deficits. He was a special education student with a learning disability and had difficulties with various school subjects. Reading, writing, and mathematics were particularly difficult for James. I referred James to the Volunteer Probation Officer Program ("VPO") to receive tutoring assistance for various subjects and mentoring. The volunteers were students from Michigan State University and Lansing College who were primarily interested in the fields of social work and education. The students also received course credit for their services. I also tutored and mentored James myself. I allowed James to work for me that summer in an effort to build a relationship with him and give him a sense of accomplishment because he had such a low self-esteem. James spent a few hours each week cleaning and doing gardening work at a group home and in my front yard. What I found was that I could hand James a broom or a rake and show him how to clean a yard, but it was almost impossible to teach him intangible concepts.
8. It seemed at times like James had an inability to grasp and internalize the ideas that the tutors and I tried to teach him. I repeatedly had to tell James the same things, but it seemed like "no one was home". I have no recollection of James ever connecting with the mental concepts of self-care, the importance of going to school, reading comprehension, and other areas. James did not have the proverbial "ah ha" moments during my time with him, and the VPO students had the same experience with him as far as I recall. James experienced minor improvements at times, but they were not sustained. Nevertheless, James enjoyed the positive male interactions and seemed to really enjoy our time together.
9. James was like a puppy dog around me. He seemed to crave the attention of adult males and did not behave in a rebellious manner whenever we were together. James had a very

malleable personality and made an effort to please others, especially the adults and authority figures in his life. James seemed sad and at times gave me the impression that he struggled with depression. James was generally a quiet person; he did not speak much and seemed almost non-verbal at times. His grandmother once told me that James did not speak for a couple years after his mother's death. James wanted to do good and tried hard to improve himself. The juvenile court personnel and volunteers all liked James very much and rooted for him to succeed, but James had trouble overcoming his disabilities. James took failures very hard, and it was sometimes challenging to get him motivated again. James lacked introspection and had no insight into the problems and how to overcome them. James's deficits and behaviors were typical of the other children I have supervised who were prenatally exposed to alcohol and drugs.

10. In hindsight, it is clear to me that James needed more assistance from the Juvenile Courts than was provided. The weekly tutoring and counseling was not enough. A child with James's issues should have been placed in a residential program to receive twenty-four hour intensive care. The fact that James was receiving ACD funds meant that he was most likely eligible for placement in a residential program, but budgetary concerns probably got in the way. The Juvenile Courts experienced fiscal cuts during the mid-1980s, which impacted the manner in which children received placement. Residential placement became reserved for children with behavioral problems that were much worse than James's. The individual mental health needs of children were no longer enough to qualify them for residential placement by themselves. As a result of the budgetary cuts and changes to the placement process, many children like James fell between the cracks.
11. It was easy for me to relate to James and his siblings, despite that fact that I am Caucasian, because I was raised in a single parent home and did not have much of a relationship with my father, who was also an alcoholic. I also was not born into a wealthy family. But I had the good fortune of having the ability to play basketball well, which earned me a college scholarship. I understood that it was by God's grace that I was not a statistic myself, which provided me the motivation to help as many children as

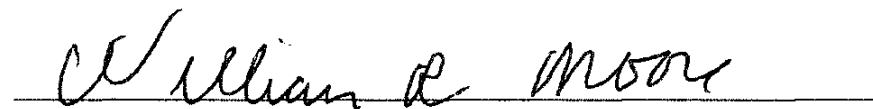
I could, regardless of their background. I believe that my experience set me apart from many of the colleagues that I worked with.

12. Looking back, it seems clear that James had little to no chance to succeed in life. James had too many issues to contend with in his life, and he lacked the intellect, intuition, and self-esteem to help himself.
13. James's first set of lawyers showed up at my office, located within the Ingham County juvenile court building, unannounced one day to discuss his case. This exchange took place a couple months before James's trial began, as far as I recall. They asked me general questions about my memory of James and his family, but they did not have his records during the discussion to refresh my memory. The conversation seemed rushed, only lasted for approximately thirty minutes, and their questions were not detail oriented. It was not clear to me that they knew much about James's background. It seemed like they just wanted me to talk.
14. James's attorneys asked me to testify on James's behalf, which I was willing to do, but they never asked me to obtain or review James's records prior to taking the stand. The attorneys also did not prepare me, in any way, for my testimony in the time leading up to the trial. I took it upon myself to retrieve and review James's juvenile records, and bring them to the trial in support of my testimony. I arrived in Las Vegas a couple of days prior to taking the witness stand. James's attorneys told me that they wanted to meet with me on the evening before my testimony to go over the content and review his records, but this never happened. I took the stand without knowing the direction or content of their questions.
15. I was puzzled by the questions from James's attorneys during my testimony and found it hard to follow their direction. It seemed like they did not have a plan and just wanted to talk and come up with things to say. I tried to mention as many details that I was able to gather from James's records and my personal experiences with him. I tried to highlight

James's deficits, his environment, his family background, and most importantly his beginnings as a fetus that was prenatally exposed to drugs and alcohol. I have worked with children who were prenatally exposed to drugs and alcohol throughout my career, and I understand the impact that it has on an individual's mental capacities and life outcomes. However, I am not an expert in this field. James would have been well served had his attorneys sought out an expert to explain its relevance to James's case.

16. I hoped that my testimony would be sufficient and useful for the purposes of everyone involved in the trial, but in the end I do not think that it was. I felt like I only scratched the surface in my efforts to convey my knowledge of James's background to the jury. I also feel like my testimony could have been more cohesive and comprehensive had the attorneys met with me prior to my taking the stand. It was the first time that I heard many of their questions. James's attorneys seemed like they were just going through the motions and did care much about what they were doing on his behalf.
17. I had no idea that James's initial death sentence was subsequently overturned and that he was re-tried in 2007. I was never contacted by James's second set of trial attorneys, nor his state post-conviction attorneys. Herbert Duzant of the Federal Public Defender Office has been the only person to contact me on James's behalf since the time of my testimony at his trial in 1996. I would have provided James's previous representatives with everything that I've stated in this declaration, had I been contacted, and I would have testified to them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Lansing, Michigan, on April 17, 2016.

  
William Roger Moore

# EXHIBIT 73

## **Declaration of Willie Richard Chappell, Jr.**

I, Willie Richard Chappell, Jr., hereby declare as follows:

1. My name is Willie Richard Chappell, Jr. I am forty-eight years old and reside in Ionia, Michigan. I am currently incarcerated at the Richard A. Handlon Correctional Facility and my Michigan Department of Corrections number is 207804. I am James Chappell's older brother and I testified at his penalty trial in 2007. Our other siblings are Lapriest Blocker, Carla Chappell, and Myra Chappell-King.
2. My siblings and I have the same mothers and different fathers. Otho Blocker was the father of our eldest brother, Lapriest. Lapriest was raised in another home by his father and stepmother.
3. Carla and I had the same father, Willie Richard Chappell, Sr. Willie Sr. spent a lot of time hustling in the street and serving time in prison throughout our upbringing. He came around once in a while, but was not a significant part of our lives. The memories of my limited experiences with Willie Sr. are filled with broken promises and unfulfilled dreams. I cannot remember a single instance when he ever followed through on any of the things that he said he would do for us. I spent years being angry at my father, and it has taken a lot for me to overcome the feelings that I had for him.
4. Willie Sr. was also a heroin addict who often left the paraphernalia of his drug use lying around. I came across his burnt bent spoons and hypodermic needles on the few occasions when I visited his home. Willie Sr. knew how abusively we were being treated by our grandmother Clara, but he did nothing to help. He couldn't even help himself, much less his children.
5. Even though James and Myra carry the last name Chappell, they are not the children of my father. Their biological father is James Wells. Wells came around less than Willie Sr. did and was absent from the lives of his children. Wells visited James and Myra a