

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

\* \* \* \* \*

SIAOSI VANISI,

Appellant,

vs.

WILLIAM GITTERE, WARDEN,  
and  
AARON FORD, ATTORNEY  
GENERAL FOR THE  
STATE OF NEVADA.

Respondents.

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Volume 31 of 38

**APPELLANT'S APPENDIX**

Appeal from Order Denying Petition for Writ of  
Habeas Corpus (Post-Conviction)  
Second Judicial District Court, Washoe County  
The Honorable Connie J. Steinheimer

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- 36 Suggestion of Incompetency and Motion for Evaluation, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516  
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12-13	Transcript of Proceedings – Post-Conviction, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 28, 2003.....	AA02576 – AA02582
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## **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26th day of September, 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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Sara Jelenik  
An employee of the Federal  
Public Defender's Office

1 A PROSPECTIVE JUROR: Since she's been gone.  
2 I'll be working again tonight.

3 MR. BOSLER: Under these circumstances, we'll  
4 stipulate.

5 MR. STANTON: I'll join in the stipulation,  
6 Your Honor.

7 THE COURT: Mr. Lafond, then because the  
8 counsel will stipulate to you being excused, I'm going to go  
9 ahead and excuse you from service. Okay.

10 A PROSPECTIVE JUROR: I'm sorry I can't help  
11 you.

12 THE COURT: Well, that's okay. We understand.  
13 Thank you for bringing it to my attention.

14 (Whereupon Prospective Juror Lafond was excused  
15 from the courtroom.)

16 THE COURT: Go ahead and bring the jurors in.  
17 What I'm going to have the clerk do is draw two more names  
18 while we're waiting for the jury so you can pull up their  
19 questionnaires and know who they are. So be prepared to ask  
20 any additional questions of them.

21 THE CLERK: Mary L. Slocum.

22 THE COURT: And Miss Slocum will take  
23 Miss Arlitz' place.

24 THE CLERK: Joel M. Fox.

25 THE COURT: Mr. Fox will take Mr. Lafond's

1 place.

2 (Whereupon, the following proceedings were held  
3 in open court, in the presence of the jury  
panel.)

4 THE COURT: Mrs. Davis, have these jurors been  
5 with you at all time since they left the courtroom?

6 THE CLERK: Yes.

7 THE COURT: Counsel stipulate to the presence  
8 of the jury panel as it is constituted at this point in the  
9 record?

10 MR. STANTON: At this point in the record, yes.

11 THE COURT: We'll take a short recess while the  
12 remainder of the individuals come in and find a seat in the  
13 back of the courtroom. Court is in recess. Everyone stay.

14 (Recess taken at 3:35 p.m.)

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1 RENO, NEVADA, TUESDAY, JANUARY 12, 1999, 3:40 P.M.

2 -o0o-

3  
4 (Whereupon, the following proceedings were held  
5 in open court, in the presence of the jury  
6 panel.)

7 THE COURT: Miss Lopshire, the main jury panel  
8 has been with you during their recess?

9 MS. LOPSHIRE: Yes.

10 THE COURT: Have any of them left your presence  
11 during the course of the break?

12 MS. LOPSHIRE: They did go on a smoke break,  
13 but they were escorted by two of the deputies.

14 THE COURT: Okay.

15 MS. LOPSHIRE: And I did do a head count upon  
16 them leaving and upon them returning.

17 THE COURT: Thank you very much.

18 Counsel stipulate to that procedure without  
19 calling the roll?

20 MR. STANTON: State will, Your Honor.

21 MR. SPECCHIO: Yes, Your Honor.

22 THE COURT: Mr. Bosler, are you ready to  
23 proceed?

24 MR. BOSLER: We are, Your Honor.

25 THE COURT: We have called the names of two  
additional people to take the spots of some people who were

SIERRA NEVADA REPORTERS (702) 329-6560



1 excused, Mr. Joel Fox and Miss Mary Slocum.

2 Go ahead and review that witness list that you  
3 have been handed.

4 Mr. Fox, are you acquainted with or familiar  
5 with any of the individuals listed on that sheet?

6 A PROSPECTIVE JUROR: I do not recognize any of  
7 them.

8 THE COURT: Miss Slocum?

9 A PROSPECTIVE JUROR: I do not recognize any.

10 THE COURT: Okay. My additional questions are  
11 addressed to both of you. I'd ask that you answer the  
12 questions independently however. Have you been able to hear  
13 my questions through yesterday and today?

14 A PROSPECTIVE JUROR: Yes.

15 A PROSPECTIVE JUROR: Yes, I have.

16 THE COURT: Based upon my questions, would you  
17 have wanted to raise your hand and answer any of my  
18 questions affirmatively?

19 A PROSPECTIVE JUROR: No.

20 A PROSPECTIVE JUROR: I would have wanted to  
21 answer quite a few of the questions, yes.

22 THE COURT: Did you make a mental or written  
23 note of those questions?

24 A PROSPECTIVE JUROR: Mental note.

25 THE COURT: Go ahead.

1 A PROSPECTIVE JUROR: Quite a few of them. As  
2 I put on my sheet that I am familiar with some of the Reno  
3 police officers. I work with some of their spouses in my  
4 current employment.

5 So I didn't have any direct information, but  
6 the only information I had through my co-worker whose  
7 husband is a Reno police officer is that it was -- he was  
8 disturbed over the case, and that was the extent of any  
9 insider information. I do know him.

10 As to giving preferential treatment to  
11 officers, I would give them honor just simply because of the  
12 office that they hold, but I can judge independently as to  
13 the testimony.

14 I would fit into the average category of  
15 everybody with the exception that I do, to your questions on  
16 law, the matter of law, I am extremely religious and hold  
17 very religious viewpoints and believe that biblical law can  
18 overshadow any law in any land. I have not found any reason  
19 to believe that this case would do that, but just so you  
20 know that I do hold that viewpoint. I am a minister in a  
21 church here in Sparks, and I held this viewpoint for a  
22 considerable time.

23 THE COURT: If there came a point in time --  
24 you have heard the discussion about the potential exists in  
25 this case for you as a member of the jury to be required to

1 determine the penalty?

2 A PROSPECTIVE JUROR: In the penalty part, of  
3 course would determine if first degree murder was returned,  
4 if that was --

5 THE COURT: That's right. The jury does not  
6 even consider penalty unless that happens to be the verdict.  
7 Then there will be a separate mini trial, at which point  
8 evidence will be presented, and then I will give  
9 instructions and I will tell the jury that the law requires  
10 that certain things be considered by the jury prior to  
11 making a decision with regard to the appropriate penalty.

12 Will you be able to follow that instruction?

13 A PROSPECTIVE JUROR: I believe so as long as  
14 it doesn't conflict with any biblical laws, which I don't  
15 know if it would or not, because I don't know what  
16 instructions you'd be giving.

17 THE COURT: Do you believe that any time there  
18 were a decision with regard to a case where the death  
19 penalty was available, that you would always vote for the  
20 death penalty no matter what the instructions or the law?

21 A PROSPECTIVE JUROR: In most circumstances I  
22 would vote for the death penalty. There are some  
23 mitigating, obviously. The reason why I would vote that way  
24 is because I do believe that the biblical law does allow for  
25 the death penalty in first degree murder cases.

1 THE COURT: Do you believe that biblical law  
2 allows you to consider mitigation before deciding the  
3 appropriate penalty?

4 A PROSPECTIVE JUROR: Yes, in some instances.  
5 Mental capacity, something like that. But if a first degree  
6 murder was committed, then that would be my obvious choice.

7 THE COURT: Miss Slocum, did you hear my  
8 questions with regard to the potential for the jury to have  
9 to return a penalty decision?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: And did you understand the  
12 instruction that I read about what the jury will be required  
13 to do?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you have any disagreement with  
16 that instruction?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Would you be able to accept it and  
19 follow it?

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Do you believe that in every case  
22 that you would vote for death no matter what the evidence or  
23 the instructions?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Do you believe in every case you

1 would vote against the death penalty no matter what the  
2 instructions or the evidence was?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Counsel, I will allow you to  
5 inquire further.

6 Mr. Stanton, would you like to inquire?

7 MR. STANTON: Yes. Miss Slocum, were you able  
8 to hear all my questions to the panel?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Is there any questions that I  
11 asked that you would like to respond to?

12 A PROSPECTIVE JUROR: No.

13 MR. STANTON: Mr. Fox, were you able to hear  
14 all my questions to the panel?

15 A PROSPECTIVE JUROR: Yes, I was.

16 MR. STANTON: Were there any questions that I  
17 raised that would cause you concern and you need to address  
18 at this juncture?

19 A PROSPECTIVE JUROR: Not at this point.

20 MR. STANTON: Miss Slocum, if you were selected  
21 foreperson in this case, could you sign a verdict form if  
22 according to the facts and the law you felt the death  
23 penalty was appropriate to put that man to death?

24 A PROSPECTIVE JUROR: Could you repeat that,  
25 please?

1 MR. STANTON: Certainly. Did you hear my  
2 comments to you about that there is a foreperson that is  
3 selected and the jury does that?

4 A PROSPECTIVE JUROR: Right.

5 MR. STANTON: If you were selected the  
6 foreperson in this case - that person is the person that  
7 signs the death verdict - could you do that in this case  
8 that puts that man to death?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Pardon me?

11 A PROSPECTIVE JUROR: Yes.

12 MR. STANTON: Mr. Fox, same question to you.

13 MR. STANTON: Yes, I could, but I would only  
14 add, though, in making such a decision, that I would be  
15 liable to all mighty God above this Court. So I would be  
16 extremely careful in making that decision.

17 MR. STANTON: Do you think that -- I know that  
18 you said that you don't know what the laws are for this case  
19 and thus can't give us a frame of reference if the biblical  
20 law that you believe so intensely in would be inviolate of  
21 the laws in this case. Is there any that you know of that  
22 you have heard in a case that you could give us an example?

23 A PROSPECTIVE JUROR: Not from any case that I  
24 have known. I just know that in the world different courts  
25 have tried to mandate different things that do disagree with

1 the Bible, and in those cases I would stand on the biblical  
2 viewpoint and not the law of the land.

3 MR. STANTON: Thank you. No further questions.

4 THE COURT: Mr. Bosler.

5 MR. BOSLER: Miss Slocum, any of the questions  
6 that you heard me ask you'd like to give response to?

7 A PROSPECTIVE JUROR: Just the one where you  
8 said on the TV shows. I don't necessarily watch those, but  
9 I did watch the one that I was on.

10 MR. BOSLER: You were on a TV show?

11 A PROSPECTIVE JUROR: "Unsolved Mysteries." I  
12 was a witness.

13 MR. BOSLER: I guess you were contacted by the  
14 television group or whatever, the company that puts it  
15 together? Anything about that involvement that you think  
16 makes you unfair, makes you lean towards one side or the  
17 other?

18 A PROSPECTIVE JUROR: No.

19 MR. BOSLER: Producers as opposed to someone  
20 else? Police?

21 A PROSPECTIVE JUROR: No.

22 MR. BOSLER: You indicated that in your jury  
23 questionnaire that you would like to be a juror but  
24 you're -- you would not be so concerned because you could,  
25 if you felt I guess some type of difficulty, you could

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1       compromise your view with other jurors. Does that sound  
2       kind of an accurate way to describe what you said?

3               A PROSPECTIVE JUROR: Yeah.

4               MR. BOSLER: And the Court is going to give you  
5       an instruction with regard to that.

6               I don't know if the Court wants to read the  
7       Allen instruction or not.

8               THE COURT: I don't have it with me. I was  
9       prepared for others. I didn't know you wanted this one.

10              MR. BOSLER: I appreciate the fact that most  
11       people don't know what instructions they are going to have.  
12       To that extent, your answer on your questionnaire is  
13       probably pretty understandable.

14              THE COURT: You want the, "It is your duty"?

15              MR. BOSLER: To consult.

16              THE COURT: "It is your duty as jurors to  
17       consult with one another and to deliberate  
18       with a view of reaching an agreement if you  
19       can do so without violence to your  
20       individual judgment. You each must decide  
21       the case for yourself but should do so only  
22       after a consideration of the case with your  
23       fellow jurors, and you should not hesitate  
24       to change an opinion when convinced that it  
25       is erroneous. However, you should not be



1 influenced to vote in any way on any  
2 question submitted to you by the single fact  
3 that a majority of the jurors or any of them  
4 favor such decision. In other words, you  
5 should not surrender your honest convictions  
6 concerning the effect or weight of evidence  
7 for the mere purpose of returning a verdict  
8 or solely because of the opinion of the  
9 other jurors."

10 Would you accept and follow that instruction?

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Would everyone else accept and  
13 follow that instruction?

14 THE PROSPECTIVE JURORS: Yes yes.

15 THE COURT: Thank you. You may proceed.

16 MR. BOSLER: That instruction in mind, I'm sure  
17 it is pretty lengthy, and do you think you understand the  
18 instruction now that you have heard it?

19 A PROSPECTIVE JUROR: Yes.

20 MR. BOSLER: With that in mind, if you were in  
21 a situation where 11 jurors disagreed with you, would you  
22 feel obligated to compromise if you are not convinced that  
23 your position is erroneous?

24 A PROSPECTIVE JUROR: No. I guess I maybe  
25 meant that in a different way, like I would stick with my

1 opinion, but I realize there are other opinions toward the  
2 outcome of the case. I didn't mean changing what I view.

3 MR. BOSLER: I appreciate the clarification.

4 Anybody else have thoughts about that on  
5 whether they think that it is kind of a democratic process  
6 where the majority of the jurors agree, then that should be  
7 the jurors' decision, or can each of you agree that you have  
8 to individually be judges on this case?

9 THE COURT: After considering everyone else's  
10 opinion.

11 MR. BOSLER: After considering everyone's else  
12 opinion. Everybody can do that?

13 THE PROSPECTIVE JURORS: Yes.

14 MR. BOSLER: Mr. Fox, if you could, I notice  
15 that you said in your questionnaire, I think it was a quote,  
16 if there was a conviction, quote, Bible law says the person  
17 must pay for the life.

18 A PROSPECTIVE JUROR: That has been the Bible  
19 law from the Old Testament from the Christian era and  
20 restated in the laws that Christ instituted, that if someone  
21 is convicted by law, the law of the land, which is allowed  
22 by the grace of God, then if it's cold-blooded murder, that  
23 is an appropriate punishment.

24 MR. BOSLER: And I get the impression you take  
25 religious views very seriously.

1 A PROSPECTIVE JUROR: Extremely seriously.

2 MR. BOSLER: In fact, you are a minister.

3 A PROSPECTIVE JUROR: Yes.

4 MR. BOSLER: If you were to find a case where  
5 there was premeditated deliberate murder, is that the type  
6 of case you think always deserves the death penalty,  
7 premeditation, deliberation?

8 A PROSPECTIVE JUROR: That sounds like that  
9 would be someone who would be sane in doing a murder, and in  
10 that case I would lean towards that, yes.

11 MR. BOSLER: Is there a situation where you had  
12 premeditated deliberated murder where you wouldn't vote for  
13 the death penalty?

14 A PROSPECTIVE JUROR: There has to be some,  
15 yes.

16 MR. BOSLER: Is there -- well, you said things  
17 mental, if there is a mental problem, that may affect your  
18 decision. But once you reach the verdict of first degree  
19 murder, is it your opinion that Bible law which controls  
20 everything else says the death penalty should be imposed?

21 A PROSPECTIVE JUROR: Yes, that is my belief.

22 MR. BOSLER: That belief system controls I  
23 guess the way you are going to conduct yourself in your  
24 life; right?

25 A PROSPECTIVE JUROR: Yes, it would.

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1 MR. BOSLER: No further questions, Your Honor.

2 THE COURT: Okay.

3 MR. BOSLER: We'll make a Weatherspoon  
4 challenge.

5 THE COURT: Do you make that challenge?

6 MR. BOSLER: Yes, Your Honor.

7 MR. STANTON: I didn't hear what counsel said.

8 THE COURT: He makes a Weatherspoon challenge.

9 MR. STANTON: Your Honor, I don't believe that  
10 he satisfied. In fact, I think Mr. Fox's views at least in  
11 the answers to two questions turned with precision and that  
12 is that it is an option, and that indeed, it is not an  
13 automatic decision in Mr. Fox's mind. His viewpoints,  
14 strong may they be, are not a basis to exclusion under the  
15 authority cited by counsel.

16 THE COURT: I'm going to overrule your  
17 objection, and I'm and not excusing Mr. Fox on that basis.

18 Mr. Bosler, we have got these people. I think  
19 you have a few more questions you told me you wanted to ask.

20 MR. BOSLER: If I could.

21 Mr. Berg, get back to you. You said that in  
22 some cases in the death penalty, you gave the example of the  
23 O.J. Simpson case.

24 A PROSPECTIVE JUROR: Right. That was just my  
25 view. I mean, I felt -- I mean, that was their view. You

1 asked me honestly, and I gave you an honest answer that I  
2 thought in that particular case, I didn't hear it, but  
3 that's just what I thought.

4 MR. BOSLER: That is the type of case you were  
5 thinking about for the death penalty?

6 A PROSPECTIVE JUROR: I thought at that time,  
7 but they proved me wrong. I mean, I wasn't there. It was  
8 just something that I had thought.

9 MR. BOSLER: You indicated you can keep an open  
10 mind despite the criminal justice system. Is that how you  
11 feel today?

12 A PROSPECTIVE JUROR: Yes, I can. It was one  
13 of those times that I thought that they were wrong.

14 MR. BOSLER: I appreciate your candor,  
15 Mr. Berg.

16 Mr. Barger, you indicated that your wife knows  
17 Mr. Sullivan's wife, or did?

18 A PROSPECTIVE JUROR: I said when she worked --  
19 formerly worked with my wife. She was in charge of the lab  
20 out there, and that how well she knew her, I do not know.

21 MR. BOSLER: So you don't have any contact  
22 anymore?

23 A PROSPECTIVE JUROR: No, I mean -- excuse me.

24 MR. BOSLER: Go ahead.

25 A PROSPECTIVE JUROR: Our daughter has more

1 contact probably through the school with Mrs. Sullivan.

2 MR. BOSLER: Have you had a chance or have you  
3 had occasion to talk to your wife about the case before you  
4 came to court?

5 A PROSPECTIVE JUROR: She sanitizes the  
6 newspaper, as the judge said.

7 MR. BOSLER: Before you came to court?

8 A PROSPECTIVE JUROR: No.

9 MR. BOSLER: Not before you came to court today  
10 but before you came on Monday?

11 A PROSPECTIVE JUROR: We don't -- didn't  
12 discuss it.

13 MR. BOSLER: So you wouldn't feel any pressure  
14 knowing that your wife knew someone involved in the case,  
15 you wouldn't feel any pressure that, I can't face my wife if  
16 I do one thing?

17 A PROSPECTIVE JUROR: No.

18 MR. BOSLER: Mr. McCargar, you indicated that  
19 you had talked to your wife about the case?

20 A PROSPECTIVE JUROR: No, I didn't talk to her.  
21 She talked to me yesterday at my -- when I got home.

22 MR. BOSLER: You kind of listened?

23 A PROSPECTIVE JUROR: I didn't have time to  
24 shut the door before she blurted it out.

25 MR. BOSLER: Did you manage to not hear

1 anything when she was --

2 A PROSPECTIVE JUROR: Kind of. I caught part  
3 of it. The dog took the rest of it away.

4 MR. BOSLER: Have you had discussions with your  
5 wife before you were called to serve on this case?

6 A PROSPECTIVE JUROR: (Shakes head negatively.)

7 MR. BOSLER: You indicated in your  
8 questionnaire that, there's the boxes, I want to be a juror,  
9 I don't want to be a juror, and you have the response, I  
10 don't know. Could you explain?

11 A PROSPECTIVE JUROR: I don't know.

12 MR. BOSLER: You still don't know?

13 A PROSPECTIVE JUROR: No.

14 MR. BOSLER: After considering all the  
15 questions of counsel, do you have any idea whether you are  
16 the type of person who should be sitting in judgment of  
17 another person and essentially deciding life and death  
18 questions?

19 A PROSPECTIVE JUROR: I think I can do that.

20 MR. BOSLER: Something you are comfortable  
21 with?

22 A PROSPECTIVE JUROR: Yeah. So far.

23 MR. BOSLER: So far? You are not going to give  
24 me anything, are you? Thank you, Mr. McCargar.

25 Miss Cadena, you had some interesting things to

1 say on your questionnaire. Have you had a chance to recall  
2 what you had said?

3 A PROSPECTIVE JUROR: Yes. You read part of it  
4 yesterday.

5 MR. BOSLER: Based upon things that you said in  
6 your questionnaire, and I guess you said you formed an  
7 opinion about the case, do you think you are the type of  
8 person who should sit?

9 A PROSPECTIVE JUROR: No.

10 MR. BOSLER: No? You said that you would have  
11 trouble listening to any evidence to the contrary. You have  
12 already formed this opinion of guilt and you would have  
13 trouble listening to any other evidence?

14 A PROSPECTIVE JUROR: I feel I'd have trouble  
15 putting aside what I have already heard and being open about  
16 it.

17 MR. BOSLER: And that's -- you have heard the  
18 judge instruct you and the prosecutor instruct you, and I'm  
19 not going to be the third person.

20 A PROSPECTIVE JUROR: I still sat there and  
21 said I don't know if I can really put everything aside and  
22 be a fair juror.

23 MR. BOSLER: I don't want to put words in your  
24 mouth. Your opinion right now is you don't feel you can be  
25 a fair juror?



1 A PROSPECTIVE JUROR: Right.

2 MR. BOSLER: Ma'am, give me a moment.

3 Miss Frandsen, I guess the same question has to  
4 be asked of you. You said in court that you felt  
5 prejudiced. Is that the case?

6 A PROSPECTIVE JUROR: When I came to court a  
7 Monday ago, not yesterday, my heart was pounding, and my  
8 heart still is pounding. And I have always tried to treat  
9 people fairly my whole life. So I said I would not like to  
10 sit on this jury.

11 I have now changed my mind. I think that I can  
12 be open-minded, and I think that I would like to hear the  
13 details of the case and also make up my mind later, that due  
14 process should exist.

15 MR. BOSLER: And why do you think you have  
16 changed your mind since yesterday?

17 A PROSPECTIVE JUROR: I put a lot of credence  
18 on the judge, Judge Connie Steinheimer. I put a lot of  
19 credence on you and also the other -- I don't know, defense  
20 or the prosecutors. So I have just rethunk, although my  
21 heart is still pounding.

22 MR. BOSLER: Do you think that that condition,  
23 the heart pounding, is going to affect your abilities to sit  
24 and fairly decide the case?

25 A PROSPECTIVE JUROR: No, I'm still here.

1 MR. BOSLER: Do you have any response to make  
2 to the question about when you see photographs that may be  
3 terribly unpleasant, is that going to affect your ability to  
4 look objectively at the evidence?

5 A PROSPECTIVE JUROR: That's a really  
6 interesting question to me because my mother's sister, she  
7 passed away but lived in Czechoslovakia during World War II  
8 with the atrocities that were going on. And so I feel that  
9 that may not be easy, but I do think that I can be fair.

10 MR. BOSLER: Having been called to sit in this  
11 type of case where you may have to decide the life and death  
12 of a person, is that something you can do?

13 A PROSPECTIVE JUROR: Never before.

14 MR. BOSLER: Is this something you think you  
15 could do with the thoughts inside of you?

16 A PROSPECTIVE JUROR: Yes.

17 MR. BOSLER: At this point?

18 A PROSPECTIVE JUROR: I can.

19 MR. BOSLER: Mr. Battaglia, I don't want to go  
20 over old ground. You indicated you already formed an  
21 opinion. You also indicate on your questionnaire that you  
22 were not going to follow the Court's instructions if you had  
23 a different opinion.

24 A PROSPECTIVE JUROR: At the time, opinion I  
25 had formed was based on a year ago sitting on my couch

1 watching TV, and I had nothing to do with this. I think the  
2 gravity of the situation, a man's life hangs in this  
3 proceedings. I have been very introspective the last couple  
4 of days, and I think I could be a very fair and impartial  
5 juror.

6 MR. BOSLER: So you think the discussions of  
7 counsel have had some impact on you?

8 A PROSPECTIVE JUROR: Yes, definitely.

9 MR. BOSLER: Taking that into consideration,  
10 and again, the prosecutor said only you know what's inside  
11 of you, you said that you had formed an opinion, you  
12 wouldn't follow the Court's instructions if they disagreed  
13 with you. You have said those things maybe over the last  
14 couple weeks. The first instruction, the first question was  
15 given to you sometime ago.

16 A PROSPECTIVE JUROR: I don't remember it or I  
17 might have been confused about not following's the Court  
18 instructions. I forget the exact line of questioning and  
19 the answers that I gave. But I believe I can do that.

20 MR. BOSLER: You understand how important this  
21 proceeding is?

22 A PROSPECTIVE JUROR: Oh, definitely.

23 MR. BOSLER: Miss Kizis, you indicated the same  
24 thing, you had formed an opinion, and has that opinion gone  
25 away, or do you still carry it with you?

1           A PROSPECTIVE JUROR: It hasn't gone away. And  
2 as I said yesterday, I would need to hear everything, go  
3 from there.

4           MR. BOSLER: Do you think it's fair for a juror  
5 to walk into a case with a preformed opinion? Is that the  
6 type of juror that should sit on a case?

7           A PROSPECTIVE JUROR: No.

8           MR. BOSLER: That taken into consideration, do  
9 you think having formed an opinion you can be fair?

10          A PROSPECTIVE JUROR: Once everything is  
11 presented, yes. But I can't make that go away.

12          MR. BOSLER: How easy do you think it is going  
13 to be for you to try to separate those two things that you  
14 already have a preformed opinion?

15          A PROSPECTIVE JUROR: I honestly don't know how  
16 easy that would be. I really don't. I have never been  
17 through this before.

18          MR. BOSLER: And knowing that this case --  
19 there is the potential that at a later date you have to  
20 entertain the idea that you are going to vote to put someone  
21 to death, how does that affect your view on whether you are  
22 a fair juror? Do you think the preformed opinion now is  
23 more important, it is magnified based upon the circumstances  
24 in this case?

25          A PROSPECTIVE JUROR: Uh-huh. Yes.

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1 MR. BOSLER: And with that magnification, do  
2 you think that you are the person who should sit in  
3 judgment?

4 A PROSPECTIVE JUROR: Perhaps not. Yeah, no.

5 MR. BOSLER: Yeah, no?

6 A PROSPECTIVE JUROR: No.

7 MR. BOSLER: Is that your honest view?

8 A PROSPECTIVE JUROR: Yes, as honest as I can  
9 be, yeah, because I have just mixed up. I feel mixed up. I  
10 feel emotionally churning inside.

11 MR. BOSLER: And I don't want to put words in  
12 your mouth. In view of all those things, you feel that you  
13 can't be fair at this point, with these circumstances?

14 A PROSPECTIVE JUROR: No, that's not what I'm  
15 saying. I'm saying the way I feel at this very moment in  
16 time, once everything is presented, then I can -- once I see  
17 both sides of the story. I have only seen one side of the  
18 story.

19 MR. BOSLER: And I thank you for your candor.

20 Mr. Golbov, you indicated you had formed an  
21 opinion based upon media.

22 A PROSPECTIVE JUROR: Right.

23 MR. BOSLER: Would it be safe to say that is  
24 not an opinion that would be favorable to the defense?

25 A PROSPECTIVE JUROR: Safe to say.

1 MR. BOSLER: You heard my other questions. Do  
2 you think having formed that opinion you are the type of  
3 person who should sit on a jury like this?

4 A PROSPECTIVE JUROR: Yes, I do.

5 MR. BOSLER: Why is that?

6 A PROSPECTIVE JUROR: The opinion was based on  
7 media a long time ago. It's not necessarily a strong  
8 opinion, not like an opinion that can't be turned around by  
9 facts. So to me, once I know all the facts in the case,  
10 I'll make up my final opinion then.

11 MR. BOSLER: As to issues of life and death, in  
12 a case where you were to find a first degree murder  
13 conviction, is death the only appropriate remedy?

14 A PROSPECTIVE JUROR: No, it's not. It depends  
15 on other factors and the law.

16 MR. BOSLER: And you are willing to listen to  
17 the Court's instructions on that?

18 A PROSPECTIVE JUROR: Yes.

19 MR. BOSLER: Your Honor, if I may have a  
20 moment?

21 THE COURT: Yes.

22 MR. BOSLER: Just last couple questions, Your  
23 Honor.

24 You have been here for hours, and I appreciate  
25 the days you have spent. Thinking of all that's happened

1 yesterday, today, all the questions that have been asked,  
2 either while you were sitting here or sitting out in the  
3 crowd, anybody think that based upon those decisions, things  
4 we have talked about, you can't afford Mr. Vanisi a  
5 presumption of innocence, the burden of proof on the  
6 prosecution and all the other protections we talked about?

7 Is there anybody who thinks based upon all  
8 those things, you still can't afford those things to  
9 Mr. Vanisi?

10 THE COURT: Was that can't?

11 MR. BOSLER: Can't.

12 THE COURT: Can't afford.

13 MR. BOSLER: Anybody think -- and I appreciate  
14 those people that indicated they can't be fair. Does  
15 anybody think based upon those questions they can't be fair  
16 to decide the issues that need to be decided in this case?

17 THE PROSPECTIVE JURORS: No.

18 MR. BOSLER: Thank you very much. Thank you,  
19 Your Honor.

20 THE COURT: Will Mrs. Nutter please raise your  
21 hand? We have a note for you, good news.

22 Mrs. Kizis, we have talked about your  
23 questionnaire, and you have been asked so many questions  
24 yesterday and today. Are you able to put aside your  
25 preconceived ideas in this case and follow the instructions

1 as I instruct you they are -- the law is?

2 A PROSPECTIVE JUROR: As I said yesterday, I  
3 will do my best to do that.

4 THE COURT: Apart from what you might have  
5 heard, the law is going to require you to decide this case  
6 based on the evidence, and then there is all sorts of other  
7 instructions I'm going to give you with regard to the law.

8 Do you have any problem following the  
9 instructions about the law, the general principles of law?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: And that general issue is not a  
12 problem for you?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: My inquiry require any additional  
15 inquiry from either counsel?

16 MR. STANTON: No, Your Honor.

17 MR. BOSLER: No, Your Honor.

18 THE COURT: Pass for cause?

19 MR. STANTON: The State does, Your Honor.

20 MR. BOSLER: Your Honor, we pass for cause  
21 except for the challenges we have already made, Your Honor,  
22 people who are still on the panel.

23 THE COURT: Thank you.

24 Ladies and gentlemen of the jury panel, is  
25 there anyone sitting in the jury panel right now that



1 believes they should not be a juror in this case? Please  
2 raise your hand. Okay. Mr. Stephenson?

3 A PROSPECTIVE JUROR: Yeah. I just -- three  
4 weeks is a long time for me to be out of work or whatever.  
5 So that's the only reason that I have.

6 THE COURT: Well, you have already used up two  
7 days, and I think it will probably be more like about two  
8 weeks, maybe a little bit into the third week. So probably  
9 talking about two weeks from today or so. Will you be able  
10 to pay attention?

11 A PROSPECTIVE JUROR: Yeah.

12 THE COURT: Anyone else? Yes.

13 A PROSPECTIVE JUROR: If I found out with that  
14 ticket that I have that I cannot get a refund?

15 THE COURT: Yes. If you found that out, I  
16 would make some humanitarian accommodation for you. We do  
17 have a heart, and I know about Hawaii. Anyone else?

18 Okay. Then ladies and gentlemen of the jury  
19 panel, I want to thank you for your service. I know I have  
20 been a little stern with you occasionally, and I have kept  
21 you very cooped up. I promise you the reason I did all of  
22 those things was to see that we could select a jury as  
23 quickly as possible. I want you to know we all appreciate  
24 your service.

25 Although you have not been called and normally

1 you would be subject to being recalled, none of you will be  
2 recalled for a minimum of one year. You come back three  
3 days, I think that's plenty. You have done your duty, and  
4 we all appreciate it.

5 I hope that if you have any questions about  
6 what's been going on that you ask the Jury Commissioner  
7 staff or feel free to contact my office any time. Now that  
8 you are not going to be selected as a juror in this case, we  
9 can give you any information that you might want to know  
10 about. Please feel free to come back and visit any time.

11 We're going to take a short recess in just a  
12 few minutes, and then you may go as soon as we take the  
13 recess. Thank you.

14 Ladies and gentlemen of the jury panel, we're  
15 going to take a short recess so the attorneys can think  
16 about all of you and make a decision about those challenges  
17 I told you about in the very beginning. That was a long  
18 time ago, but remember that I said that they were allowed to  
19 make some challenges that they don't have to give me a  
20 reason for. And those challenges are what they will make,  
21 and that's how we're going to reduce your number down to who  
22 is going to actually sit in our jury box for the trial.  
23 There will be 16 of you sitting with us every day the  
24 remainder of the trial.

25 So you must follow the instructions I have

1 given you at all the other breaks. I think this break will  
2 be 15, 20 minutes or so. We are going to select the jury  
3 for sure today. It will be finalized, and once that  
4 finalization is made, then I'm going to speak to you before  
5 you are excused for the day. I still think we're going to  
6 be close to 5:00 o'clock when you will be excused.

7 During this break, I ask that you go with Miss  
8 Davis and Miss Lopshire down to the other department so that  
9 you can stay together. If there is anyone who needs a  
10 smoking break, they will arrange for someone to take you out  
11 for the smoking break.

12 Do not discuss the case among yourselves during  
13 this recess. Do not allow anybody to attempt to influence  
14 you with regard to this case or any manner having to do with  
15 this case.

16 Do not form or express any further opinions  
17 with regard to this matter. And should anyone attempt to  
18 influence you in any way about this case, please report it  
19 to the officers who are in charge of you who in turn will  
20 report it to me.

21 Thank you again, ladies and gentlemen. Court  
22 is in recess for 15 minutes.

23 (Recess taken at 4:17 p.m.)  
24  
25

RENO, NEVADA, TUESDAY, JANUARY 12, 1998, 4:43 P.M.

-oOo-

(Whereupon, the following proceedings were held in open court, in the presence of the jury panel.)

THE COURT: Counsel stipulate to the presence of the jury panel?

MR. STANTON: State will stipulate, Your Honor.

MR. SPECCHIO: So stipulated.

THE COURT: Thank you. Counsel, are you ready to proceed with the exercising of peremptory challenges?

MR. STANTON: State is, Your Honor.

MR. BOSLER: We are, Your Honor.

THE COURT: State may exercise your first peremptory challenge.

MR. GAMMICK: Your Honor, do you want the last name and the number?

THE COURT: If you write legibly, name or number will be fine.

MR. GAMMICK: Your Honor, we have exercised our first peremptory with the last name and number. We'll pass it to defense then.

THE COURT: Defense, exercise your first peremptory challenge.

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MR. SPECCHIO: Thank you, Your Honor.

MR. SPECCHIO: The defense has exercised its first peremptory, Your Honor.

THE COURT: State will exercise their second peremptory.

MR. GAMMICK: Your Honor, the State has exercised its second peremptory.

THE COURT: Defense, exercise your second peremptory, please.

MR. SPECCHIO: Defense has exercised number two, Your Honor.

THE COURT: Thank you, Mr. Specchio. The State will exercise your third peremptory challenge.

MR. GAMMICK: State has exercised its third, Your Honor.

THE COURT: Thank you. Defense exercise your third.

MR. SPECCHIO: Defense has exercised number three, Your Honor.

THE COURT: Thank you. State exercise number four, please.

MR. GAMMICK: Your Honor, the State has exercised its fourth peremptory.

THE COURT: Defense, exercise your fourth peremptory challenge.

1 MR. SPECCHIO: May I have the Court's  
2 indulgence for another couple minutes, Judge?

3 THE COURT: Okay.

4 MR. SPECCHIO: Your Honor, could we approach?

5 THE COURT: Yes.

6 (Whereupon, a bench conference was held among  
7 Court and counsel as follows:)

8 MR. SPECCHIO: Just so that I understand, after  
9 we exercise the eight, then we exercise two on the  
10 alternates?

11 THE COURT: Correct.

12 MR. SPECCHIO: So we really exercise ten with  
13 this panel?

14 THE COURT: Well, except that you may only  
15 exercise your second two as to the eight people that could  
16 be alternates. So what I'm going to do is I was going to  
17 have Marci pick up the sheet, and what we need to do --

18 MR. SPECCHIO: After the eighth?

19 THE COURT: After the eighth. I will count up  
20 one through 12, and then I'll say you may exercise your next  
21 challenges as to anyone I didn't name.

22 MR. STANTON: Just so we can understand  
23 correctly, everybody from Juror 29 and above are alternates  
24 only.

25 THE COURT: No. Actually what I do is I will

1 let you exercise your eight to anybody. And then I'm just  
2 going to start with juror 1, count to 12, and then I'm going  
3 to say you can exercise your peremptories as to anybody  
4 else.

5 You may exercise your alternates as to anybody  
6 left. The alternates will be the next four people.

7 MR. STANTON: The last four people on the list?

8 THE COURT: No, the next four. So we don't --  
9 sometimes I keep a blank in between the 12 and these four  
10 people. I'm pointing to 36, 35, 34 and 33. I don't. The  
11 jury is the first 12 that remain after you exercise your  
12 eight peremptories and then the next four people that remain  
13 after you have exercised your alternates.

14 MR. SPECCHIO: We'd stop that after eight?

15 THE COURT: Then I'll tell you the names.

16 MR. SPECCHIO: We get two each?

17 THE COURT: Two each.

18 (Whereupon, the following proceedings were held  
19 in open court, in the presence of the jury  
panel.)

20 THE COURT: Mr. Specchio, you are exercising  
21 your fourth.

22 MR. SPECCHIO: Yes, Your Honor. We are in the  
23 process of doing that as I speak, Your Honor.

24 We have done that, Your Honor.

25 THE COURT: Thank you. Mr. Gammick,

1 Mr. Stanton, Mr. -- nobody is listening to me -- go ahead  
2 and exercise your fifth challenge.

3 MR. GAMMICK: Your Honor, we have exercised our  
4 fifth peremptory.

5 THE COURT: Defense may exercise your fifth  
6 peremptory challenge.

7 MR. SPECCHIO: We have exercised number five,  
8 Your Honor.

9 THE COURT: Thank you. Mr. Barb, Mr. Gammick,  
10 Mr. Stanton, you can exercise your sixth.

11 MR. GAMMICK: Your Honor, State has exercised  
12 its sixth peremptory.

13 THE COURT: Thank you. Defense may exercise  
14 its sixth.

15 MR. SPECCHIO: Defense has exercised number  
16 six, Your Honor.

17 THE COURT: Thank you. State exercise seven.

18 MR. GAMMICK: Your Honor, the State has  
19 exercised its seventh peremptory.

20 THE COURT: Thank you. Defense exercise your  
21 seventh peremptory challenge.

22 MR. SPECCHIO: Defense has exercised number  
23 seven, Your Honor.

24 THE COURT: The State, eighth challenge?

25 MR. GAMMICK: State has exercised its eighth



1 peremptory challenge, Your Honor.

2 THE COURT: Defense, eighth challenge.

3 MR. SPECCHIO: The Court's indulgence, Your  
4 Honor.

5 THE COURT: Yes.

6 MR. SPECCHIO: Your Honor, I apologize. Just a  
7 couple more minutes here.

8 THE COURT: Okay.

9 MR. SPECCHIO: Defense has exercised its final  
10 peremptory, Your Honor.

11 THE COURT: Would you give that to the clerk,  
12 please?

13 MR. STANTON: May I see it?

14 MR. SPECCHIO: Oh, yes.

15 THE COURT: The clerk is going to return the  
16 sheet to the State for exercising the next two peremptory  
17 challenges. They may be exercised as to jurors seated in  
18 box numbers 29, 30, 31, 32, 33, 34, 35 and 36.

19 MR. GAMMICK: Your Honor, the State has  
20 exercised its first alternate peremptory challenge.

21 THE COURT: Thank you.

22 MR. SPECCHIO: Defense has exercised number  
23 one, Your Honor.

24 THE COURT: State exercise number two.

25 MR. GAMMICK: Your Honor, the State has

1 exercised its final peremptory.

2 THE COURT: Thank you. Defense may exercise  
3 its final peremptory.

4 MR. SPECCHIO: Thank you, Your Honor.

5 Defense has exercised its last, Your Honor.

6 THE COURT: Please give the list to the clerk.

7 Any motions anyone wants me to entertain prior  
8 to solidifying the jury?

9 MR. STANTON: Not from the State.

10 MR. BOSLER: Your Honor, may we have a moment?

11 THE COURT: Yes.

12 MR. SPECCHIO: Your Honor, we have one motion  
13 that has to be made outside the presence of the jury. So  
14 maybe we can just do that before we start in the morning.

15 THE COURT: Counsel approach, please.

16 (Whereupon, a bench conference was held among  
17 Court and counsel as follows:)

18 MR. SPECCHIO: Or now.

19 THE COURT: My concern, if it's a motion that  
20 would affect the jury component, the composition of the  
21 jury, I don't want to excuse people until I know for sure  
22 we're okay.

23 MR. SPECCHIO: Well, we want to make the record  
24 that by virtue of your denying some of the challenges, we're  
25 not able to exclude some people on the jury that have

1 expressed opinions about this case.

2 THE COURT: That's fine. You have no objection  
3 to the challenges that the State has exercised?

4 MR. SPECCHIO: No. No, no. I think we can  
5 just do that -- we're talking five minutes on the record.

6 MR. STANTON: The State has no challenges along  
7 any of the challenges on behalf of defense.

8 THE COURT: Thank you.

9 (Whereupon, the following proceedings were held  
10 in open court, in the presence of the jury  
panel.)

11 THE COURT: Thank you for patiently awaiting  
12 that process. I know some of you are probably thinking, Why  
13 couldn't they have done that while we were in the cooler  
14 room?

15 But we didn't take your photographs, and  
16 although the attorneys have paid very close attention to who  
17 you are and what your names are, it's important for them to  
18 be able to see who you are as they exercise these challenges  
19 because they might forget, and they of course have no idea  
20 of knowing who the other side is going to exercise their  
21 challenges on.

22 So it's kind of a tedious process, but it is  
23 important, and we appreciate your patience.

24 I want to thank all of you for your attention  
25 in the last two days, plus coming in an extra day. You all

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1 came in extra to fill out a questionnaire, and I appreciate  
2 that, as do the parties. We all know that this has been  
3 long, hot days and that you have given us your full  
4 attention. So thank you.

5 The attorneys have exercised their challenges.  
6 They have each exercised ten challenges. So if you  
7 remember, there were 36 of you. I'm going to be excusing 20  
8 of you, which will leave 16 left.

9 As I excuse you, please understand that you  
10 leave with our appreciation. Tell the Jury Commissioner's  
11 office that you have in fact been excused. Your statutory  
12 fees will be in the mail, and if you have any questions  
13 about what went on or if I can answer any questions for you  
14 after you are excused, please do not hesitate to call my  
15 office.

16 I want you to remember that if you were  
17 excused, it's not because any answer that you gave was  
18 wrong. It simply means that someone else according to the  
19 attorneys's opinion was better suited to serve in this case.  
20 Again, thank you.

21 I'm going to be excusing you by last name, and  
22 we'll start in the back row, and we'll sort of go on down  
23 the row. Please go ahead and stand up and leave but just  
24 try to do it a little quietly. We'll do this as quickly as  
25 we can.

1 Mrs. Guiler, you are excused.  
2 Mr. Sotero, you are excused.  
3 Mr. Adamson, you are excused.  
4 Miss Springer, you are excused.  
5 Mr. Hinxman, you are excused.  
6 And Mr. Fox, you are excused.  
7 And Mr. O'Daye, you are excused.  
8 We'll go to the second row.  
9 Mr. Sheets, Mr. Damoth and Mr. Barger, you are  
10 excused. Thank you.  
11 Third row. Miss Slocum, Miss Cadena, Miss  
12 Frandsen, and Mr. Battaglia, you are all excused.  
13 Fourth row, Mr. Furrie, Mr. Estey, Miss Kizis,  
14 Miss Imasaki, Mr. Golbov, you are excused.  
15 Front row, Miss Booth, you are excused.  
16 Counsel, the jury made up the way you believe  
17 the challenges were made?  
18 MR. STANTON: From the State, yes, Your Honor.  
19 THE COURT: Defense?  
20 MR. BOSLER: Yes, Your Honor.  
21 THE COURT: Thank you.  
22 Ladies and gentlemen, you will be our jury to  
23 try this case. I have a few comments I want to make to you  
24 before I allow you to leave for today's -- from today.  
25 First, I would like to briefly explain the role

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1 each person will play in the courtroom during these  
2 proceedings. You will at the conclusion of the evidence  
3 determine the facts in the case, apply to those facts the  
4 law which will be stated to you by the Court and on this  
5 basis reach a verdict consistent with the facts and the law.

6 It is the duty of the attorneys to present  
7 their respective cases in the most favorable light  
8 consistent with the truth and the law. But statements and  
9 arguments of counsel made during the course of this trial  
10 are not to be treated by you as evidence.

11 Keep an open mind. Refrain from forming or  
12 expressing any opinion concerning the case until all the  
13 evidence is in, the attorneys have made their closing  
14 arguments, you have received the Court's instructions as to  
15 the law, and you have retired to the jury room to find your  
16 verdict.

17 During the trial, do not discuss the case among  
18 yourselves or with any other person. Do not allow anyone to  
19 speak of it in your presence. You are not to read, listen  
20 to or observe any newspaper, radio or television account of  
21 the trial while it is in progress.

22 The reason that you may not discuss this case  
23 with anyone else is that you must decide this case based on  
24 the evidence as it is presented here in the courtroom for  
25 yourself. You may not be influenced by someone who didn't

1 even see the evidence.

2 For that reason, if you went home and you  
3 talked about a particular witness or what you observed, the  
4 person you are speaking with, about this with, might react  
5 to what you describe, and then their reactions might  
6 influence the way you look at the evidence, and that would  
7 be improper.

8 When you are deliberating the other jurors will  
9 discuss the evidence with you, and then you may all talk  
10 about it. But it will be -- your decision will be  
11 influenced by individuals who sat through the entire trial.

12 Not only must you conduct yourselves as jurors  
13 above reproach, but you must avoid even the appearance of  
14 any improper conduct. You may not speak to the defendant,  
15 the attorneys, or the witnesses during the course of the  
16 trial, even upon matters which are completely unconnected  
17 with the case.

18 In the event any person should attempt to  
19 discuss the case with you or in any manner attempt to  
20 influence you with respect to it, you are to advise the  
21 bailiff who in turn will advise the Court. You may feel  
22 comfortable advising your family members and people you work  
23 with that you cannot discuss the case with them.

24 Any rulings made by the Court during the course  
25 of this trial will be based upon the controlling law of the

1 State of Nevada. Accordingly, you must not infer any  
2 leaning on my part based upon such rulings or infer any  
3 feeling on my part for or against either side in the case.

4 If any objection to the admission of evidence  
5 is sustained, you must not speculate as to what the answer  
6 might have been or draw any inference from the question  
7 itself.

8 During the course of the trial matters may  
9 arise which must be determined by me as matters of law  
10 outside your presence. Again, you are not to speculate or  
11 be concerned in any way for the reasons for such  
12 occurrences. I assure you that they will be limited in  
13 frequency and duration as much as the law permits.

14 Observe carefully each witness as they testify  
15 and consider carefully all of the evidence as it is  
16 presented, for it is you who must determine the credibility  
17 of the witnesses and wherein the truth lies.

18 If during the examination of witnesses some  
19 questions occur to you, be patient. The answers will  
20 probably be given before the trial is concluded.

21 You may individually take notes during the  
22 course of this trial, and for that purpose you will be  
23 provided with pencils and note pads by the bailiff.

24 In the event of a conflict between the notes of  
25 an individual juror during your deliberations, you are to



1 disregard the notes and proceed with your collective memory.  
2 The court reporter's notes contain the complete and  
3 authentic record of the trial.

4 Ladies and gentlemen of the jury, you are  
5 admonished that no juror may declare to their fellow jurors  
6 any fact relating to this case that they may find of their  
7 own knowledge, and if any juror discovers during the trial  
8 or after the jury has retired that they or any other juror  
9 has personal knowledge of the facts in controversy in this  
10 case, you shall disclose such situation to the Court outside  
11 the presence of the other jurors immediately.

12 We have a jury room, although you all haven't  
13 been able to use it because there's been so many of you.  
14 Now you will be able to use it.

15 It has a separate entrance into the courtroom.  
16 There is an outside door that will allow you into the jury  
17 room. When you come in the morning, please identify  
18 yourself to the individuals who are working the doors out  
19 here, and they will remove the barricade and allow you into  
20 the jury room.

21 Then you will remain in the jury room awaiting  
22 us, and when court starts you will come into the courtroom  
23 from your private entrance into the courtroom.

24 Please feel free to use this jury room at all  
25 of our breaks and even at lunch if you need it or you'd like

1 to stay in during the lunch. The bailiff will see that it  
2 is opened a few minutes before we expect you in the morning,  
3 and at lunch.

4 In addition, it will be kept locked at all  
5 other times. So you may feel comfortable leaving your  
6 personal belongs in the jury room. No one will have access  
7 to them while you are here in the courtroom.

8 If you should need anything for your personal  
9 comfort during the course of this trial, please tell the  
10 bailiff who will tell me, and we'll make every effort to  
11 accommodate your needs.

12 If you have special nutritional issues or  
13 needs, please bring it from home. We do provide snacks on a  
14 daily basis, but I can't guarantee it's what you need or  
15 want.

16 There is a refrigerator in the jury room. So  
17 you can refrigerate items. There is a microwave often so  
18 you can use that to heat things up. There is coffee,  
19 chocolate, tea and bottled water. So that is what we can  
20 provide. If you want anything else, bring it from home.

21 I won't let you walk around the courthouse on  
22 our breaks. So you won't be able to just go down to the  
23 vending machines in the first floor and get something.

24 In addition, as you have already discovered,  
25 there is a smokeless building. Therefore cigarette smoking

1 is not allowed within the building. If any of you are  
2 smokers, please be sure to tell the bailiff, and he will  
3 make accomodation for you to get you to a place where you  
4 can smoke during the day when we take our recesses.

5 We have reached the stage in the proceedings  
6 now where you are to be sworn as jurors in this case, and  
7 alternates. We don't know for sure which of you are going  
8 to be doing which jobs, so I ask that you all remember that  
9 all of you could sit as jurors in this case, and you won't  
10 know until the very end, as I won't know who is actually  
11 going to be the alternates. So remember that your duty  
12 applies to all of you no matter where you end up seated.

13 Please stand, raise your right hand and be  
14 sworn.

15 (Jury sworn.)

16 THE COURT: Thank you. Please be seated.

17 Tomorrow morning the trial will begin at 11:00  
18 a.m. In the morning when you come to the courthouse, you'll  
19 come into the jury room immediately. Don't wander around  
20 the courthouse. Don't visit with anybody. Just come  
21 straight to this floor and go on in the jury room.

22 Be sure to wear the badges. The bailiff has  
23 more if you need more of these little badges, and he will  
24 give them to you. Be sure you wear them on your outside of  
25 your clothing at all times, especially when you are coming

1 and going from the courthouse.

2 Tomorrow's schedule is that you will be here  
3 from 11:00 to 12:00, and I may go a few minutes past 12:00  
4 but I doubt it. I think it will be 11:00 to 12:00. Then  
5 you will be back at 1:30 in the afternoon, and you will go  
6 until approximately 3:00 or 3:30, depending on how the  
7 witnesses and the schedule works out. And then we'll have a  
8 short break, and then you will come back in the courtroom,  
9 and you continue with the trial until we leave tomorrow,  
10 which will be approximately 5:00 o'clock. It could be a few  
11 minutes after five, but it would be basically 5:00 o'clock.

12 Now that's tomorrow's schedule.

13 On a regular basis I'll try to tell you the  
14 best I can what the schedule will be for the next day. I'll  
15 try to keep you apprised of any changes in the schedule as  
16 it occurs.

17 Please be aware that there are things that  
18 happen both in the courthouse on other cases as well as this  
19 case that may require some changes in the schedule. But we  
20 will try our best to stay to the schedule once we tell you.  
21 I understand your time is valuable and that you like to know  
22 where you are going to be when. So we'll all be aware of  
23 those concerns.

24 Tomorrow morning also when you come back, the  
25 first thing you will hear is the Information, which is the

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1 charging document in this case will be read to you. You  
2 will hear the defendant's plea, and then the State will make  
3 their opening statement.

4 At all breaks you are going to be given an  
5 admonition, and I'm going to give it to you this evening as  
6 with all other breaks. Remember, I will see you back here  
7 at 11:00 a.m. I'm going to excuse the jury but not counsel.

8 Ladies and gentlemen of the jury, during this  
9 recess that we are about to take, you are admonished that it  
10 is your duty not to discuss among yourselves or with anyone  
11 else any matter having to do with this case.

12 It is your further duty not to form or express  
13 any opinion regarding the guilt or innocence of the  
14 defendant until the case has been finally submitted to you  
15 for decision.

16 You are not to read, look at or listen to any  
17 news media accounts relating to this case should there be  
18 any. Should any person attempt to discuss the case with you  
19 or in any manner attempt to influence you with respect to  
20 it, you are to advise the bailiff who in turn will advise  
21 the Court.

22 Ladies and gentlemen of the jury, you may go  
23 with the bailiff and the court staff now through the jury  
24 room door. I'll see you tomorrow.

25

1 (Whereupon, the following proceedings were held  
2 in open court, outside the presence of the  
jury.)

3 THE COURT: The audience will be seated,  
4 please.

5 Some of you in the audience may be coming to  
6 this trial on a regular basis. I don't know about that. I  
7 allow counsel to stand when the jury comes and goes, but I  
8 ask that the audience either remain seated or stand and  
9 leave the courtroom. I don't want to have to be telling you  
10 to sit down or stand up. So if you want to stay in the  
11 courtroom, sit. If you want to leave at any other time, you  
12 are welcome to stand up and leave, but please don't stand  
13 around during the course of the trial.

14 Counsel, is there anything that we need to  
15 discuss right now?

16 MR. STANTON: Your Honor, my understanding is  
17 the Court is going to reconvene at 11:00 tomorrow?

18 THE COURT: Yes. Now, counsel, you had  
19 indicated that you want to put something on the record  
20 before the jury came back. Do you want to do that a few  
21 minutes before 11:00? Do you want to try to do it now? It  
22 doesn't matter to me.

23 MR. SPECCHIO: Could we do it in the morning,  
24 Your Honor?

25 THE COURT: Yes. Can you be here by quarter to

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1 11:00.

2 MR. SPECCHIO: I would think so. If not, these  
3 gentlemen can start without me.

4 THE COURT: That's fine.

5 MR. SPECCHIO: They know what has to be done.

6 THE COURT: It's just this motion?

7 MR. SPECCHIO: Yes.

8 THE COURT: Outside the presence of the jury?

9 MR. SPECCHIO: Yes, Your Honor. There is also,  
10 I don't know if you want to address it now, Your Honor, with  
11 regard to the people in the courtroom that have been allowed  
12 over the rule of exclusion to stay in the courtroom. I  
13 think they should be admonished regarding any outbursts or  
14 anything of that nature.

15 THE COURT: Are those people in the courtroom  
16 now?

17 MR. SPECCHIO: I think they are all here,  
18 Judge.

19 THE COURT: Ladies and gentlemen of the  
20 gallery, I gave you one little discussion about standing and  
21 coming and going. I ask that you be aware of the fact that  
22 some of you may be called as witnesses in the penalty  
23 hearing if a penalty hearing is required in this case.  
24 Counsel has stipulated to you being allowed to be in the  
25 courtroom during the trial on this case even though you

1 might ultimately be witnesses in the penalty hearing should  
2 there be such a hearing.

3 I wanted to remind you that the attorneys on  
4 each side, whoever was planning on calling you, have talked  
5 to you about what your responsibilities are if you are to  
6 remain in the courtroom. There may come a time when  
7 evidence is difficult for family members to hear on either  
8 side of this case, or friends.

9 I want to remind you that you may not make any  
10 outward display of emotion during this period of time while  
11 you are in the courtroom, not as a witness but as an  
12 observer, and if there is anything that calls my attention  
13 to you or the bailiff's attention to you, you are subject to  
14 permanent exclusion from the hearing. So please keep that  
15 in mind when you conduct yourselves.

16 I'm sure you all will do that, and I have seen  
17 nothing today that would influence me that there would be  
18 any problems with anyone. But this is just to make sure  
19 that you all understand your obligation.

20 If you have any questions about how you are to  
21 behave or what you are to do, please feel free to talk to  
22 the attorney who has subpoenaed you for this case, and they  
23 will be glad to discuss it more fully with you if they  
24 haven't already done so.

25 Mr. Specchio.



1 MR. SPECCHIO: One more, Your Honor. There  
2 seemed to be some concern with the security. We want our  
3 investigators, one of which is present, Miss Calderon or  
4 Mr. Novak, who are --

5 THE COURT: Rules in this department are if you  
6 have a note that you want to pass to someone in the  
7 audience, you get the bailiff's attention, and they will  
8 pass the note for you. There is no crossing over the bar.  
9 That is improper for anyone to cross over that bar, other  
10 than the court staff and the bailiff.

11 So if you have a note for somebody, feel free  
12 to pass it to the bailiff in this department. And Bailiff  
13 Uptain has been trained on this also. They will be very,  
14 very aware. And you just write your note and say what you  
15 want. If the investigator wants a note to someone on the  
16 defense side, just give it to the bailiff, and he will  
17 immediately pass it to counsel.

18 I have observed that going on already with the  
19 State. The bailiff intercepted a note that the State --  
20 that someone on the State side wanted to pass to one of the  
21 State attorneys earlier yesterday. So that's the rule. It  
22 doesn't which side of the room you are sitting on.

23 MR. SPECCHIO: Well, we'll just bring some  
24 envelopes tomorrow.

25 THE COURT: Or just fold it, fold the note, and

1 nobody will read it. You watch them, nobody reads it,  
2 nobody looks at it. It's just they hand it to whomever you  
3 tell them to hand it to.

4 MR. SPECCHIO: That's fine.

5 THE COURT: That would be the same for the  
6 State. We just don't have investigators walking up in front  
7 of the bar.

8 MR. SPECCHIO: Okay. That's fine, Your Honor.

9 THE COURT: Anything else?

10 MR. GAMMICK: Your Honor, what time will the  
11 courtroom be available tomorrow morning?

12 THE COURT: Whatever time you want. We have  
13 criminal hearings. Actually we have meetings with the press  
14 at 7:00. We have meetings, criminal hearings beginning at  
15 8:00. And those should be resolved by 10:30 or so. So  
16 there should be a break there between 10:30 and 11:00 for  
17 you to come in.

18 MR. GAMMICK: We do have quite a bit of  
19 equipment to set up in the courtroom. We'll try and get in  
20 as soon as you are done with your court matters and try to  
21 have that completed before 11:00 o'clock.

22 THE COURT: I think we may have a break also  
23 between the 8:00 and the 9:00 if you want to try then. Or  
24 the clerk will just call you or whomever and notify you that  
25 the courtroom is clear. I'm sure we will be done by 10:30,

1 maybe even 10:00. You may have an hour.

2 MR. GAMMICK: Thank you, Your Honor.

3 THE COURT: Does the defense wish to be  
4 notified also when the courtroom is clear?

5 MR. BOSLER: Please, Your Honor.

6 THE COURT: The clerk will notify both sides.  
7 Anything further?

8 We'll see you all back at a quarter to 11:00  
9 tomorrow morning.

10 Thank you. Court is in recess.

11 (Court recessed for day at 5:36 p.m.)

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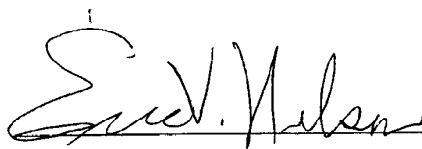
STATE OF NEVADA,     )  
                              )  
COUNTY OF WASHOE.    )

I, ERIC V. NELSON, Certified Shorthand Reporter  
of the Second Judicial District Court of the State of  
Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the  
above-entitled Court and took stenotype notes of the  
proceedings entitled herein, and thereafter transcribed the  
same into typewriting as herein appears;

That the foregoing transcript is a full, true  
and correct transcription of my stenotype notes of said  
proceedings.

DATED: At Reno, Nevada, this 13th day of  
January, 1999.

A handwritten signature in cursive script, reading "Eric V. Nelson". The signature is written in dark ink and is positioned above the printed name and CCR number.

ERIC V. NELSON, CCR No. 57

Exhibit 163

Exhibit 163

## **CONFIDENTIAL REPORT**

April 18, 2011

Benjamin Scroggins, Esq.  
Law Offices of the Federal Public Defender  
411 E. Bonneville Avenue, Ste. 250  
Las Vegas, Nevada 89101

**RE:** Siaosi Vanisi  
**REPORT:** Neuropsychological and Psychological  
Evaluation  
**DATE(S) OF EVALUATION:** 10/18/2010 and 10/19/2010  
**DATE OF BIRTH:** [REDACTED]  
**AGE:** 40  
**MEDICATIONS:** Lithium, Haldol Decanoate, Seroquel,  
Vistaril and Cogentin  
**YEARS OF EDUCATION:** 12  
**EXAMINERS:** Jonathan H. Mack, Psy.D.

Dear Mr. Scroggins:

The following represents my report of neuropsychological evaluation of Siaosi Vanisi conducted on 10/17, 10/18 and 10/19/2010 at Ely State Prison in Ely, Nevada. This evaluation is requested to determine if Mr. Vanisi had any neuropsychological, psychological or neuropsychiatric disorders at the time of the homicide that should have been presented at his trial. This report is based on my clinical interview of Mr. Vanisi, review of available records, some of which are summarized below, and a battery of neuropsychological tests administered by myself on the above captioned dates.

### **TESTS ADMINISTERED:**

Beck Anxiety Inventory  
Beck Depression Inventory-II  
Beck Hopelessness Scale  
Boston Diagnostic Aphasia Screening Examination, Complex Ideational Material Subtest  
Conners Adult ADHD Rating Scale – Self-Report: Long Version  
Controlled Oral Word Association Test/Animal Naming  
Grooved Pegboard  
Halstead-Reitan Neuropsychological Test Battery

AA06500

**RE: Siao Si Vanisi**  
**Date: April 18, 2011**  
**Page 2 of 70**

Aphasia Screening Test  
 The Booklet Category Test-II  
 Grip Strength Test  
 Lateral Dominance Examination with Right/Left Orientation  
 Manual Finger Tapping Test  
 Reitan-Klove Sensory Perceptual Examination with Visual Field Screening  
 Seashore Rhythm Test  
 Speech Sounds Perception Test  
 Tactual Performance Test  
 Trail Making Tests, A and B  
 Multiscale Dissociation Index  
 Ruff Figural Fluency Test  
 Stroop Color and Word Test  
 Test of Memory Ma lingering  
 Visual Cancellation Tests, Verbal and Nonverbal  
 Wechsler Adult Intelligence Scale-IV  
 Wechsler Memory Scale-IV  
 Wide Range Achievement Test – 4  
 Wisconsin Card Sorting Test

**RECORDS REVIEWED:**

DATE	SUMMARY	DOCUMENT																																										
09/04/1985-06/15/1989	<p>The name indicated on the records was George Tafuna. His subjects and grades were as follows:</p> <p>1985-1986:</p> <table><tr><th><u>Subject</u></th><th><u>Grade</u></th></tr><tr><td>English 1</td><td>C</td></tr><tr><td>Social Science 1</td><td>C</td></tr><tr><td>Mathematics 1</td><td>C</td></tr><tr><td>Spanish 1</td><td>D</td></tr><tr><td>Typing 1</td><td>D</td></tr><tr><td>Athletics</td><td>A</td></tr><tr><td>Athletics</td><td>A</td></tr><tr><td>English 2</td><td>B</td></tr><tr><td>Social Science 2</td><td>B</td></tr><tr><td>Mathematics 2</td><td>A</td></tr><tr><td>Spanish 2</td><td>C</td></tr><tr><td>Typing 2</td><td>C</td></tr><tr><td>Physical Ed 2</td><td>F</td></tr><tr><td>Physical Ed 2</td><td>D</td></tr></table> <p>1986-1987:</p> <table><tr><th><u>Subject</u></th><th><u>Grade</u></th></tr><tr><td>English 3</td><td>B</td></tr><tr><td>Algebra 0.5</td><td>C</td></tr><tr><td>Life Science 1</td><td>B</td></tr><tr><td>Compute Bus 1</td><td>C</td></tr><tr><td>Safety Ed</td><td>C</td></tr></table>	<u>Subject</u>	<u>Grade</u>	English 1	C	Social Science 1	C	Mathematics 1	C	Spanish 1	D	Typing 1	D	Athletics	A	Athletics	A	English 2	B	Social Science 2	B	Mathematics 2	A	Spanish 2	C	Typing 2	C	Physical Ed 2	F	Physical Ed 2	D	<u>Subject</u>	<u>Grade</u>	English 3	B	Algebra 0.5	C	Life Science 1	B	Compute Bus 1	C	Safety Ed	C	School Records, San Mateo Union High School District, Capuchino High School
<u>Subject</u>	<u>Grade</u>																																											
English 1	C																																											
Social Science 1	C																																											
Mathematics 1	C																																											
Spanish 1	D																																											
Typing 1	D																																											
Athletics	A																																											
Athletics	A																																											
English 2	B																																											
Social Science 2	B																																											
Mathematics 2	A																																											
Spanish 2	C																																											
Typing 2	C																																											
Physical Ed 2	F																																											
Physical Ed 2	D																																											
<u>Subject</u>	<u>Grade</u>																																											
English 3	B																																											
Algebra 0.5	C																																											
Life Science 1	B																																											
Compute Bus 1	C																																											
Safety Ed	C																																											

	Athletics A Athletics A English 4 B Algebra 1.0 C Life Science 2 B Compute Bus 2 C Res Pln/Desgn 1 B Athletics A Athletics A  1987-1988: <u>Subject</u> <u>Grade</u> English 5 C US History 1 B Algebra 1.5 B Biology 1 C Res Pln/Desgn 2 B Athletics A Athletics B English 6 C Algebra 2.0 A Biology 2 B Res Pln/Desgn 3 C School/Comm SV A Athletics A Athletics A  1988-1989: <u>Subject</u> <u>Grade</u> English 7 D Economics B Geometry 1 F Chemistry 1 D School/Comm SV A Athletics A Athletics A English 8 B Amer Government D Child Growth C Genl Work Exper F  The transcript indicated that Mr. Vanisi graduated on 6/15/89. He had a grade point average of 2.581 and graduated 108 out of 260 students.	
02/07/1989	This report indicated that police responded to a disturbance in the mall. Mr. Vanisi reportedly refused to provide the police with identification and refused to answer questions. It was noted that Mr. Vanisi challenged the officer to a fight and the officer placed him under arrest. It was noted that Mr. Vanisi resisted being handcuffed. After being subdued, it was reported that Mr. Vanisi was brought to San Bruno Police Station and then to the North County Jail where he was booked for "Challenging to Fight."	San Bruno Police Department Crime Report-Challenging Police Officer
01/23/1998	This document indicated that Mr. Vanisi's current charges included "murder, two counts armed robbery."	Washoe County Sheriff's Office Confidential Officer



	<p>It was noted that on 1/14/98, Mr. Vanisi was "arrested by Salt Lake City Police for the murder of U.N.R. Police Sgt. George Sullivan following a two-hour standoff which involved Vanisi barricading himself in a building and exchanging gunfire with SWAT members."</p> <p>It was reported that Mr. Vanisi had been housed in the infirmary at the Salt Lake City Metro Jail on suicide watch but he had not attempted suicide or made any suicidal threats. It was reported that "during his initial medical screening, it was decided that due to the nature of his charges, there existed a potential for suicide." It was noted that Mr. Vanisi was "unwilling" to follow verbal orders though he was not physically uncooperative.</p>	Safety Bulletin
01/24/1998	<p>This document indicated that Mr. Vanisi's current charges included "murder, three counts armed robbery."</p> <p>It was noted that on 1/24/98, Mr. Vanisi was booked into Washoe County Jail. Mr. Vanisi was considered "Extreme Officer Safety" and directions on how to work with him were indicated.</p>	Washoe County Sheriff's Office Confidential Officer Safety Bulletin
01/24/1998	This document was reviewed.	Washoe County Jail Resident Classification Review
01/24/1998	This document indicated Mr. Vanisi's charges, one count of murder and three counts of robbery with a deadly weapon.	Washoe County Sheriff's Office Detention Facility Booking Recap Sheet
01/25/1998	This document was reviewed.	Washoe County Sheriff's Office Inmate Request Form and drawings by Mr. Vanisi
01/26/1998	A memorandum from 1/26/98 indicated that another inmate reported that Mr. Vanisi was his cousin, though he had never met him and did not plan to establish any contact.	WCSO Classification Case Memorandum
01/25/1998- 09/24/1999	<p>The following records were reviewed:</p> <p>Inmate Visitor Reports</p> <p>Continuation Reports</p> <p>Offense Face Sheets</p> <p>Special Monitor Form for Suicide Watch</p> <p>Denied Visits by Mr. Vanisi</p> <p>Custody Bulletin</p> <p>Drawings by Mr. Vanisi</p> <p>Inmate Request Forms</p> <p>Classification Unit Memo</p> <p>Classification Mail Records</p> <p>Evidence Lists</p> <p>CSI Reports</p> <p>WCSO Memo to Classification</p> <p>Classification Unit Memos Re: Handling of Mr. Vanisi</p> <p>Correspondence from Echo Rebideaux</p> <p>Correspondence to "Sistah" from Mr. Vanisi</p> <p>WCSO Statements</p> <p>WCSO Memorandum to All Detention Personal</p> <p>Incident Reports</p> <p>Inmate Management Unit Narrative</p> <p>Permanent Segregation Logs</p> <p>Inmate Notification of Disciplinary Sanctions and Disposition</p>	WCSO Records

	<p>Reports Detention Response Team After-Action Report Mental Health Consultation WCSO Statement Inmate Management Unit Confidential Custody Bulletin Correspondence to Deanna from Mr. Vanisi</p> <p>Significant relevant information included the following:</p> <p>On 2/17/98, a WCSO Statement indicated that Mr. Vanisi complained to another inmate about not being free. The statement noted that Mr. Vanisi stated he was a “warrior and us Indians have to stick together to fight the cops.” Mr. Vanisi discussed his desire to kill a cop and the feeling he got when he did so.</p> <p>A Continuation Report dated 2/19/98 indicated that upon cell search, several rips were found in Mr. Vanisi’s pillow, underwear, and sheets. It was noted that a piece of sheet was tied on to elastic from underwear, “as if he was making a noose.” It was also noted that Mr. Vanisi made reference to killing himself to other inmates while on tier time.</p> <p>A Custody Bulletin dated 2/20/98 indicated suicidal and homicidal concerns for Mr. Vanisi.</p> <p>A Sheriff Offense Face Sheet and Continuation Report dated 2/7/98 indicated that Mr. Vanisi was charged with passing items into another cell.</p> <p>A WCSO Memo to Classification dated 3/23/98 documented problems that were encountered with Mr. Vanisi since his incarceration began in the WCSO facility. These included refusal to lock down, using a broom as a martial arts weapon and practicing martial arts maneuvers in his cell, using bedding to create what appeared to be a noose, noncompliance with directions, missing screws from Mr. Vanisi’s desk were noted during a cell search, and another lock down refusal. It was noted that Mr. Vanisi had made homicidal statements and indicated he was not afraid of the guards in the facility.</p> <p>Mr. Vanisi composed a letter to “Sistah” on 6/30/98. This letter was somewhat difficult to understand as Mr. Vanisi’s language was wordy. For example, he indicated that “everything is a Cadillac margarita. I feel like a Mexican bull fighter giving audience to all the [illegible] who want to ‘keel mee.’ Yo soy querrero.” Mr. Vanisi stated, “Every now and then, I can get on a feel good wave and surf the pipeline. And this time I’m hanging ten, sistah.” Mr. Vanisi alternated between various seemingly unrelated topics including his cousin, G-d, King Tupou laho [spelling unclear], Easter Island, his desire to know more about Polynesian history, and a snack he saved from lunch. Mr. Vanisi had difficulty sticking to one topic. For example, at the end of a paragraph, Mr. Vanisi stated “If you had to choose a ‘safety tool’ what would you raise over your head?” The next paragraph begins, “Speaking of raising over your head. The statute of these Polynesian is awesome and beautiful to the utmost...”</p>	
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	<p>He does this again stating, "All they had was their own muscles," in reference to Polynesians moving statues without machinery. The following paragraph begins, "Speaking of muscles, I do have to draw attention to my spinach eating muscles..."</p> <p>A Continuation Report dated 7/2/98 indicated that a few inmates reported that Mr. Vanisi had made suicidal statements. Mr. Vanisi was brought to the infirmary for suicide watch.</p> <p>On 9/18/98, an e-mail was composed by Tracey Bloom indicating that Mr. Vanisi's demeanor had been changing over the past few weeks. It was noted that on 9/18/08, Mr. Vanisi had ran up and down the stairs, angering other inmates. It was also reported that he was punching the wall. It was noted that Mr. Vanisi refused to listen to the deputies requests to stop the behavior. Ms. Bloom stated she put belly chains on Mr. Vanisi and put him in the yard. It was reported that when he was asked how he was doing, he responded inappropriately. When he came back in, it was noted he stated "I don't know what to do, maybe you guys should shoot me in the head next time you take me out." Mr. Vanisi denied feeling suicidal. A continuation report reiterated this information and also indicated that Mr. Vanisi stated he wanted to find out about getting medicated while in custody.</p> <p>On 10/5/98, an e-mail was composed by Steven Kelly indicating that a judge ordered a Psych evaluation for Mr. Vanisi. Mr. Vanisi's behavior was noted to be quiet, and not himself during the trip.</p> <p>An Inmate Management Unit Narrative dated 12/22/98 summarized incidents from Mr. Vanisi's time in the Washoe County facility. It indicated that Mr. Vanisi had been in the facility since 1/24/98, though he was sent to NSP for safe keeping on 7/22/98 and returned on 9/4/98. It was reported that Mr. Vanisi had no prior criminal history and he stayed in contact with his ex-wife, children, sister, and some friends.</p> <p>It was reported that Mr. Vanisi had a few mental health assessments since his incarceration. The first, on 2/6/98, indicated he had some depression that would come and go and some "fleeting thoughts about suicide." It was reported that Mr. Vanisi answered questions with a "philosophical air" and makes referrals to the Bible and Judas hanging himself." It was noted that Mr. Vanisi asked the mental health nurse for information about Bipolar Disorder. The second assessment discussed indicated that Mr. Vanisi reported feeling extreme highs and lows. It was noted that Mr. Vanisi asked the mental health nurse for information on manic depression and/or brain chemistry. It was reported that Mr. Vanisi was referred to the doctor following both assessments but the Inmate Management Unit did not receive copies of the evaluations. This document summarized the results of the evaluations completed by Dr. Lewis and Dr. Rich cited below.</p> <p>This document indicated that Mr. Vanisi only had one major disciplinary infraction during his incarceration. During this incident, Mr. Vanisi was "extracted from his cell by DRT for refusing to lock</p>	
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	<p>down.” During the process, it was noted Mr. Vanisi “charged the Deputies with full force” and he put up a fight while they were trying to subdue him.</p> <p>Suicidal/homicidal comments/gestures made by Mr. Vanisi to others were summarized and are discussed elsewhere in this record review.</p> <p>An e-mail dated 12/23/98 composed by Frank Eubanks indicated a noticed change in Mr. Vanisi’s behavior from “sluggish and not very mobile” to “running laps in the day room, shadow boxing and...kicking in the air at waist high level.” It was also noted he became “very animated and at one time it appeared that he was starting his tongan dance again.”</p> <p>An Incident Report dated 4/8/99 indicated that Mr. Vanisi was observed during tier time engaging in “bazaar exercise.” It was noted that he was rolling around on the ground, standing on his head, running into the wall, pointing in the air and chanting. It was noted Mr. Vanisi agreed to stop running into the wall when asked.</p> <p>An Incident Report dated 4/9/99 indicated that Mr. Vanisi refused to lock down, but finally complied after several orders.</p> <p>An Inmate Notification of Disciplinary Sanctions and Disposition Report dated 4/13/99 indicated that Mr. Vanisi was accused of the following rule violations: Refusal to follow verbal order, disrespect to staff, and interfering with staff duties. Mr. Vanisi admitted to violating these rules.</p> <p>On 4/14/99, Mr. Vanisi wrote a 38 page grievance. In it, he responded to the rule violations he was accused of on 4/13/99 and the sanction he was given. Mr. Vanisi indicated problems he had with some deputies and discussed some positive qualities of other deputies.</p> <p>On 5/1/99, Mr. Vanisi filed a 6 page grievance complaining about other inmates. This note was somewhat difficult to understand because of the language and what seemed to be idioms that Mr. Vanisi used to express himself.</p> <p>On 5/3/99, Mr. Vanisi filed a 3 page grievance indicating his feelings toward the deputies. He drew pictures with captions illustrating this. Mr. Vanisi wrote using idioms making it difficult to understand his thoughts. For example, he wrote “Deep down I think the Deps’ are aliens. They speak, Park Brothers, or Milton Bradley, word games. And I just hate scrabble word, games. Because the deps’ cheat, lie, and hate me.” He also wrote the following: “I’m a wilting flower, dying for the sunlight. I’m a crying, baby, because Dep’ Fretz took my pacifier. I have two black eyes and a fat, swollen nose because I’m swan diving off my mattress. Mattress diving should be in the Olympics. Grieving should be in the Olympics...”</p> <p>On 5/3/99, an e-mail was composed by Bryon Williamson. He noted a visit by a private investigator. Prior to the visit, Mr. Williamson noted Mr. Vanisi’s behavior which included him having white cream all over his face and a “thermal shirt wrapped around his waist</p>	
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("Tonga style"). Mr. Williamson noted "He was pretending to play the mental game." Mr. Williamson also noted, "Just to let everyone know, his demeanor is getting worse with the mental game, by trying to slow ball us and play games."

An Incident Report dated 5/4/99 indicated that Mr. Vanisi had been noisy all day banging on his door, toilet, and bunk. When asked what the problem was, it was noted he "babbled and made no sense through most of the conversation jumping from topic to topic." Because Mr. Vanisi was so upset, it was noted he was brought to suicide watch in the infirmary. Later in the day, it was noted Mr. Vanisi continued kicking on the door and banging on the bunk. It was noted that Mr. Vanisi had written letters on Inmate Request Forms to several deputies. The letters were opened and it was reported they contained "mostly babblings that make no sense." These letters, dated 5/4/99 were reviewed and did contain babbling.

An Inmate Notification of Disciplinary Sanctions and Disposition Report dated 5/5/99 indicated that Mr. Vanisi was accused of the following rule violations: threats to staff and disrespect to staff. Mr. Vanisi was found guilty based on documents that evidence pictures that displayed threats toward the deputies. It was noted that Mr. Vanisi "refused to speak with aliens" and that he stated "You are an alien."

A Detention Reponse Team After-Action Report indicated that on 5/5/99, Mr. Vanisi had been beating on the walls, toilet and cell door. It was noted he was yelling and screaming. It was reported that he was not compliant with verbal requests to stop his behavior. The decision was made to move Mr. Vanisi as other inmates began copying his behavior. It was noted that Mr. Vanisi was not compliant with being moved and so pepper spray was used. It was reported that the deputies struggled to gain control of Mr. Vanisi. It was noted that Mr. Vanisi was brought to intake and placed in the max Restraint Chair. It was reported that Mr. Vanisi had difficultly calming down. Mr. Vanisi was given Haldol, Cogentin, and Ativan.

A mental health consultation dated 5/6/99 reported that Mr. Vanisi had detached affect. It was noted that he was not a danger to himself but he was a danger to staff or other inmates. His behavior was noted to be disruptive to others.

An incident report dated 5/8/99 indicated that Mr. Vanisi would not lock down at the end of tier time. It was reported that Mr. Vanisi was not wearing any clothes at this time. It was also reported that Mr. Vanisi used a potato chip bag as a funnel while another inmate poured water from his toilet bowl into Mr. Vanisi's cup. Mr. Vanisi mixed soap into the cup and poured the soapy water all over his body, on the floor, at the bottom and top of the stairs, and all the way up the stairs. It was noted that Mr. Vanisi tied a blanket across the top of the stairs to block others from getting to the top of the tier. It was reported that Mr. Vanisi brought his mattress and bedding to the top tier and sat down at the top of the stairs. It was noted that Mr. Vanisi got toilet paper from another inmate and wrapped his wrists and hands like a boxer would. Mr. Vanisi was given orders to lock down 20-30 times

	<p>and finally did so after a Lieutenant responded and spoke to Mr. Vanisi for 30 minutes. This report also indicated that Mr. Vanisi was scheduled to be transported to Nevada State Prison on this day. Mr. Vanisi was again noted to be noncompliant.</p> <p>A memorandum from Deputy J. Harmon dated 5/24/99 indicated that Mr. Vanisi tried to escape Nevada State Prison on 5/24/99.</p> <p>An incident report dated 7/17/99 indicated that contraband was found in Mr. Vanisi's cell and confiscated.</p> <p>On 7/28/99 it was noted that Mr. Vanisi had made weapons with supplied writing utensils. A recommendation was made for Mr. Vanisi to be supplied only with basic crayons, one at a time.</p> <p>On 8/3/99, it was noted that during the week of 7/26/99-8/1/99, Mr. Vanisi was active primarily only during the evening hours. It was also noted that Mr. Vanisi was given crayon instead of pencil on 7/28/99 as he had made a weapon out of his pencil on 7/17/99.</p> <p>A memorandum dated 8/9/99 indicated that during the week of 8/2/99-8/8/99, Mr. Vanisi did not engage in any disruptive behavior. It was noted that he slept during the day and was active at night.</p>	
10/10/1998	<p>Dr. Lewis indicated that Mr. Vanisi was referred by Honorable Connie J. Steinheimer to determine if he was mentally competent to understand the charges against him and assist his counsel in his defense. It was noted that Mr. Vanisi was interviewed on 10/10/98. Dr. Lewis concluded that Mr. Vanisi was "of sufficient mentality to understand the nature of the charges against him and can aid and assist his counsel in his defense." Dr. Lewis' findings indicated that Mr. Vanisi did not have difficulty interacting with him and he appeared to be a very intelligent man from the results of the mental status exam. Dr. Lewis noted that Mr. Vanisi had an above average understanding of the English language and he was able to think abstractly. It was reported that Mr. Vanisi claimed to have speaking knowledge of six languages.</p> <p>Dr. Lewis reported that Mr. Vanisi was born without any birth complications, developed normally and completed high school. Chemical dependency problems were denied and there was no history of major head injuries or brain damage. Dr. Lewis stated that Mr. Vanisi denied hallucinations and indicated he always had significant mood swings but never made a suicide attempt. Some suicidal ideation was noted. It was reported that Mr. Vanisi had started Depakote 10/1/98. Dr. Lewis stated that Mr. Vanisi said the medication impacted his emotions and allowed him to think more clearly. Dr. Lewis stated, "He thinks he has been suffering from a bipolar disorder and as he looks back on his life can see significant shifts in his affect from depression to feeling extremely high." Dr. Lewis indicated that Bipolar Disorder should be ruled out, but indicated that on the day of examination, he was able to "clearly understand the nature of the charges against him and more than assist his counsel in his defense."</p>	Letter to Court Regarding Court Ordered Exam, Richard W. Lewis, Ph.D.
10/27/1998	Dr. Rich reported that Mr. Vanisi had a thorough psychiatric evaluation at the Washoe County Jail on 10/25/98. Dr. Rich stated	Letter to Court Regarding Pschiatric

	<p>his belief that Mr. Vanisi was able to understand the nature of the criminal charge against him and he was of sufficient mentality to be able to aid and assist counsel in his defense. Mr. Vanisi stated details of his offense and indicated he was sleeping about 6 hours per night with inconsistent sleep patterns. He noted his appetite was good, but he lost 60 pounds.</p> <p>Dr. Rich noted that Mr. Vanisi indicated that his mother and father were alive. His mother was described as "outgoing but reserved at times" and he indicated his father was not around much and he divorced his mother. It was noted that Mr. Vanisi only met his father once. It was noted that Mr. Vanisi had 2 sisters and 4 brothers. Mr. Vanisi was not aware of psychiatric illness in the family and he indicated that he did not have any previous psychiatric treatment.</p> <p>Dr. Rich indicated that Mr. Vanisi felt like he had a fairly normal childhood. He denied mental, physical, and sexual abuse.</p> <p>It was noted that Mr. Vanisi had a high school education. Vocationally, he worked as an actor in a commercial and he did electrical work and "grip work" on a film.</p> <p>It was reported that Mr. Vanisi was married in 1994 and he had two sons.</p> <p>It was noted that Mr. Vanisi had plastic surgery on his elbow and he had a history of non-insulin dependent diabetes. Mr. Vanisi stated he had been taking Depakote and it helped considerably in controlling his mood swings.</p> <p>Mr. Vanisi indicated he drank beer every month or so. He stated alcohol depressed him. It was noted that he abused marijuana on a daily basis since 1997 and he had tried speed 5 times.</p> <p>Mr. Vanisi indicated he had never been arrested except for minor traffic violations.</p> <p>On mental status examination, it was noted Mr. Vanisi seemed somewhat anxious. Thought content and processes were described as relatively intact. Affect was described as volatile, and it was noted that Mr. Vanisi stated he was manic at times and depressed at times. At the time of the evaluation, his affect was described as normal. Hallucinations and delusions were denied. Grandiose delusions were acknowledged when he was manic, and felt like he was invincible. It was reported that "at times he feels like he is Peter Pan, and that he is magical." Paranoid thoughts were denied. Long-term memory was described as fair and short-term memory as good. Immediate memory was described as fair and intellectual functioning was described as good. Judgment was described as fair. Diagnostic impressions included Bipolar Affective Disorder, Polysubstance Abuse, and mixed personality traits.</p>	Evaluation, Philip A. Rich, M.D.
07/25/1998-09/06/2010	<p>Medical Kites/Service Reports written by Mr. Vanisi were reviewed. Significant relevant information included the following:</p> <p>On 7/25/98, Mr. Vanisi requested medical and mental health</p>	NDOP Medical Kites/Service Reports

	<p>attention. He indicated he was going “koo koo” and he wanted counseling. Mr. Vanisi stated “Singing and making raucous helps me feel good. The inmates might get mad at me. I don’t want to be stupid. Please help me before everybody in my H Unit plot to kill me.” It was noted that Mr. Vanisi was seen by a psychiatrist and psych nurse on 7/27/98.</p> <p>On 5/9/99, Mr. Vanisi requested to be moved to a unit with a window. He stated he had claustrophobia.</p> <p>On 5/10/99, Mr. Vanisi requested approval of two non-woolen blankets due to an allergy to wool and his hyperhydrosis. He also indicated he needed glasses.</p> <p>On 5/11/99, Mr. Vanisi indicated he was going to kill himself and stated he had no TV. He also made a violent threat to another individual. A psych appointment was scheduled for 5/12/99.</p> <p>On 6/10/99, Mr. Vanisi requested a prescription for Lithium. It was noted that Dr. Centric would consider it.</p> <p>On 7/6/99, Mr. Vanisi indicated he was experiencing depression and that in a few days he would be manic.</p> <p>On 10/7/99, Mr. Vanisi indicated he was feeling euphoric. He also stated he was on Lithium and worried about his blood level.</p> <p>On 12/20/99, Mr. Vanisi indicated he was depressed and he requested medication.</p> <p>On 3/27/00, Mr. Vanisi indicated he was “having episodes of mental illness.” He questioned Dr. Sohr why his prescription was discontinued. A response from Dr. Sohr indicated that the prescription was not continued because Mr. Vanisi was not compliant with taking it. Dr. Sohr also noted that when he tried to visit Mr. Vanisi in his cell, he would not get up.</p> <p>On 6/4/00, Mr. Vanisi indicated he was “still swinging high and low.” He requested help.</p> <p>On 8/21/2000, Mr. Vanisi indicated he was having mood swings. He requested permission to take medication when he felt it was necessary.</p> <p>On 5/18/04, Mr. Vanisi wrote “Panic Attack. Difficult time paying attention. Edgy. Anxieties. Please help me. I don’t like my thought process. Irritable.” A response to this kite indicated the following: “Can not help since you refuse help. You need the previously recommended medicine.”</p> <p>On 5/25/04, Mr. Vanisi indicated he was having difficulty sleeping. He wrote, “Abounding with energy.”</p> <p>On 6/11/04, Mr. Vanisi wrote “Abounding with energy. Anxieties. Please help. Give me a shot or something.” A response to this kite</p>	
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	<p>indicated the following: "You need to take Depakote or oral Lithium to subdue your manic state. We have given shots because you refuse the appropriate oral medication repeatedly..."</p> <p>On 6/14/04, Mr. Vanisi reported he was having bad panic attacks and anxiety. He requested a PRN.</p> <p>On 6/29/08, Mr. Vanisi reported difficulty sleeping and requested medication to aid his sleep. It was noted that a temporary dosage was ordered.</p> <p>On 7/19/08, Mr. Vanisi reported difficulty sleeping and requested medication as a sleep aid. It was noted that medication was ordered.</p> <p>On 9/2/08, Mr. Vanisi reported difficulty sleeping and requested medication as a sleep aid. It was noted that medication was ordered.</p> <p>On 10/19/08, Mr. Vanisi requested Vistaril until Seroquel was available.</p> <p>On 11/14/08, Mr. Vanisi indicated "Something is the matter with me; it only happens when I start to fall asleep: My body starts to quiver. I think I might need a cogetin dosage increase or something."</p> <p>Other requests pertained to:</p> <ul style="list-style-type: none"> <li>Hyperhydrosis</li> <li>Lunch diet</li> <li>Eye and ear exam</li> <li>Acquiring reading glasses</li> <li>Reported abuse by correction officer</li> <li>Cell extraction</li> <li>Infected laceration</li> <li>Prescription refill requests</li> <li>Changing medication time to evening</li> <li>Medical appointment request</li> <li>Request to be weighed</li> <li>Not receiving medication</li> <li>Not being seen for appointment</li> <li>Bi-annual physical request</li> <li>Toothache/Dental Service</li> <li>Charges for dental service</li> <li>Mattress exchange</li> <li>Report requested from Dr. Marvin</li> <li>Allergies</li> <li>Skin problem</li> <li>Medication requests</li> <li>Request for reversal of medical charges</li> <li>Request to attend panel review</li> <li>Request for optometry appointment for new glasses</li> <li>Request to have glasses fixed</li> <li>Request to be taken off of diet tray</li> <li>Request to remain on diet tray</li> <li>Burning sensation during urination</li> <li>Request for matches</li> </ul>	
12/07/1998-	Relevant information from these correspondences included the	Correspondence from

01/17/1999	<p>following: Mr. Vanisi expressed distress he was experiencing. Several times he mentioned experiencing "mental" issues. He expressed himself with wordy sentences such as the following, "Every seconds tick like a time bomb for me at this moment. I need to stop and disentangle my nuclear bomb, before I blow up and hurt myself." Mr. Vanisi expressed some suicidal thoughts with statements such as "I'm going to blow my brains into confetti. I'm going to be a chain smoker when I get to the joint. G-d, I'm having a bad day. Clint Eastwood's, dirty hary gun would make my day." Mr. Vanisi complained several times about not getting medication despite writing several kites requesting it. Throughout the letter Mr. Vanisi expressed feelings of depression at times, and feelings of euphoria at others.</p>	Mr. Vanisi to his wife
05/24/1999-09/11/2008	<p>These records were reviewed. Significant relevant information included the following:</p> <p>On 5/24/99, an unusual occurrence report indicated that Mr. Vanisi descried the incident as "I was rejuvenating." The witness summary indicated the following: "Shots fired. I/m brought to the infirmary under restraint, lying on food cart. I/m covered in dirt. Coherent, alert + oriented. Able to respond to questions asked by the nurse appropriately." Some lacerations, abrasions, and bruising were noted.</p> <p>On 4/27/01, it was noted that Mr. Vanisi continued to refuse early am medication on a regular basis. Mr. Vanisi refused to sign a release of reliability for refusal of medical treatment.</p> <p>On 4/9/04, a report was written indicating force was used to get Mr. Vanisi back to his cell from the yard. It was noted that Mr. Vanisi was grossly agitated and non-compliant. As he was escorted to his cell, it was reported he was "yelling nonsense" and his thought process was "not connected."</p> <p>On 5/5/04, a report was written with much of it being illegible. However, it was noted that Haldol was administered to Mr. Vanisi.</p> <p>On 1/23/08, a report indicated that force was used for a cell move. After being escorted to the infirmary following the incident, it was noted Mr. Vanisi appeared to have feces on his body. A plan was made for an evaluation by mental health.</p> <p>On 2/28/08, a report was written indicating planned use of force was used to give Mr. Vanisi injections and to do a TB skin test since he was noncompliant with all aspects of care. The assessment indicated Mr. Vanisi had "altered thought processes."</p>	NDOP Medical Reports of Incident, Injury or Unusual Occurrence
01/17/2002-08/31/2010	<p>These records were reviewed. Significant relevant information included the following:</p> <p>On 1/17/02, Mr. Vanisi refused Depokene and Lithium Carbonate stating "I don't want it anymore."</p> <p>On 2/10/03, Mr. Vanisi refused morning medication, Tegretol.</p> <p>On 1/31/03, Mr. Vanisi refused morning medication, Tegretol.</p>	NDOP Release of Liability for Refusal of Medical Treatment and Denial of Rights From Involuntary Use of Psychotropic Medication, Review Panels on forced medication

	<p>On 4/19/04, Mr. Vanisi's reported current mental status was indicated as "Defiles cell, hanging toilet paper curtains, writing on walls and windows with fecal material, catsup, mustard, singing, crowing, yelling, gesticulating, capturing food slot, threatened to kill mental health staff member." Current diagnoses included Bipolar Disorder, Manic; Antisocial Personality Disorder; and History of Polysubstance Dependence. Medication to be involuntarily administered/continued included antipsychotics, anticholinergics, and a mood stabilizer. It was noted that Mr. Vanisi had been receiving psychotropic medication at NDOP since 7/1998. It was noted that Mr. Vanisi denied mental illness and was often non-compliant.</p> <p>A case narrative documented several incidents Mr. Vanisi was involved in. They included the following:</p> <table><tr><th><u>Date</u></th><th><u>Documentation</u></th></tr><tr><td>7/98</td><td>Reported that a hangman's noose was found on cell floor,  dx paranoid p.d.</td></tr><tr><td>3/99</td><td>Reports that I/M found snorting crushed medication</td></tr><tr><td>5/99</td><td>Found with toothpaste on face, wrote kite re: harm to warden and harm to self</td></tr><tr><td>6/99</td><td>Documentation of manic phase 6wks, followed by normal period 4-8 weeks, followed by depressive state unknown timeframe</td></tr><tr><td>12/99</td><td>Inmate claims bipolar disorder and ADHD, documented hypomanic sx</td></tr><tr><td>3/00</td><td>I/M reports "I don't think I'm bipolar anymore, I think I am schizoaffective"</td></tr><tr><td>4/00</td><td>Documented as a very dangerous inmate, documented non-compliance with medication disorganized, fecal material on face, openly masturbating, dx bipolar with psychotic features</td></tr><tr><td>3/01</td><td>Functions adequately on psychotropic medications</td></tr><tr><td>2/03</td><td>Documented euphoria, I/M seeking dx of bipolar disorder but refusing treatment</td></tr><tr><td>4/04</td><td>Bizarre behavior, talk to self, crowing, singing responses to questions, not sleeping, strange speech, removed clothing, urinated on clothing and laid down on clothing, defiling cell, hyperactive, threatened to kill mental health professional</td></tr></table> <p>On 2/2/06, Mr. Vanisi's reported mental status indicated the following: "Previous symptoms of defiling cell, hanging toilet paper, writing on walls with fecal material, hypomanic behaviors. Currently stable." Diagnoses included Bipolar Disorder, Manic and Antisocial</p>	<u>Date</u>	<u>Documentation</u>	7/98	Reported that a hangman's noose was found on cell floor,  dx paranoid p.d.	3/99	Reports that I/M found snorting crushed medication	5/99	Found with toothpaste on face, wrote kite re: harm to warden and harm to self	6/99	Documentation of manic phase 6wks, followed by normal period 4-8 weeks, followed by depressive state unknown timeframe	12/99	Inmate claims bipolar disorder and ADHD, documented hypomanic sx	3/00	I/M reports "I don't think I'm bipolar anymore, I think I am schizoaffective"	4/00	Documented as a very dangerous inmate, documented non-compliance with medication disorganized, fecal material on face, openly masturbating, dx bipolar with psychotic features	3/01	Functions adequately on psychotropic medications	2/03	Documented euphoria, I/M seeking dx of bipolar disorder but refusing treatment	4/04	Bizarre behavior, talk to self, crowing, singing responses to questions, not sleeping, strange speech, removed clothing, urinated on clothing and laid down on clothing, defiling cell, hyperactive, threatened to kill mental health professional	
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	<p>Personality Disorder. Medication to be administered involuntarily included Haldol dec 50 mg IM q 4 wks.</p> <p>On 8/1/06, Mr. Vanisi's reported mental status indicated the following: "Previous symptoms of defiling cell, hanging toilet paper curtains, writing on walls with fecal material, hypomanic behaviors, much improved since that time. Currently refusing to get out of bed for interviews. Declining all oral medications and wants decrease in dec shot." Diagnoses included Bipolar Disorder, Manic and Antisocial Personality Disorder. Medications to be administered involuntarily included Haldol 37.5 mg IM q 4 wks.</p> <p>On 2/26/08, Mr. Vanisi's reported mental status repeated his mental status history. It also indicated that "Currently he has been banging his head against plexi-glass and walls, yelling incoherently, and acting in manner that is rather grandiose. He was brought to the infirmary on 2/22/08. On this occasion he had captured handcuffs in his cell and later on in the shower. He was repeatedly banging his head on the wall and verbally abusing staff, speaking rapidly about the 'fat bitch'." Diagnoses included Bipolar Disorder, Manic and Antisocial Personality Disorder. Medications to be administered involuntarily included Haldol dec 37.5 mg – 50 mg (historically) and Geodon 20 mg IM x1 for severe agitation/mania (given 2/22/08).</p> <p>On 1/8/09, Mr. Vanisi's mental status from 2/26/08 was repeated and it was noted that Mr. Vanisi was discharged from the infirmary in October and had been stable on the unit. Diagnoses included Bipolar Disorder, Manic and Antisocial Personality Disorder. Medications to be involuntarily administered included Seroquel 200mg po qhs, Cogentin 2 mg po bid, and Lithium 300 mg po qam and 600 mg po qhs.</p> <p>On 7/2/09, Mr. Vanisi's previous mental status history was repeated and it was noted that a recent concern was shortness of breath. The same doses of medication as those stated in the 1/8/09 report were continued and Vistaril 50 mg po qhs and Haldol dec 150 mg were added.</p> <p>A chrono for force medication panel review report dated 2/20/10 indicated that Mr. Vanisi had a diagnosis of Bipolar Disorder, Manic type with a long history of mental illness. It was noted that he was on force medication since 1998. It was reported that, "Untreated, Inmate is a Danger to Himself and Others and is aggressive and unmanageable. Even with treatment, Inmate decompensates and exhibits bazaar behaviors, such as, smearing feces, banging his head and being verbally and physically threatening toward others." It was also noted that no other treatments except medication was appropriate for Mr. Vanisi's condition. It was noted "Historically, Inmate has been uncooperative with Voluntary treatment as never had any insight into his illness and his on-going need for treatment." Current medications included Haldol Decanoate 150 mg IM every 4 weeks, Cogentin 2 mg p.o. BID, Seroquel 300 mg p.o. at HS, Lithium Carbonate 300 mg AM and 600 mg at HS, and Vistaril 50 mg p.o. at HS.</p> <p>On 3/4/10, Mr. Vanisi's previous mental status was repeated and it</p>	
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	<p>was noted that a major concern was that without force medication he would stop taking oral medication as he had in the past and decompensate rapidly.</p> <p>On 8/31/10, the following was listed under Mr. Vanisi's mental status: "Inmate recently presented as alert, oriented, rational/organized, and calm. He has a documented history of disorganized/bizarre behavior and has been a management problem."</p> <p>Other reports pertained to:</p> <ul style="list-style-type: none"> <li>Eyeglasses</li> <li>Infirmity appointment refusal</li> <li>Psychiatry/Psychology appointment refusal</li> <li>Refusal of Medical Treatment during sick call</li> <li>Consent for tooth extraction</li> <li>Refusal of PM medications</li> <li>Dental work</li> <li>Consent for psychotropic medication</li> <li>Refusal of lab draw</li> <li>Refusal of 2000 calorie ADA diet</li> <li>Refusal of genital urinary evaluation</li> <li>Medication Record</li> <li>Refusal to attend Force Medication Panel Review</li> <li>Restricted Diet Order Form</li> </ul>	
07/23/1998-09/09/2010	<p>Lab records were reviewed. It is noted that many of these records were illegible. Significant relevant information in those that could be read included the following:</p> <p>On 5/25/99, it was noted that Mr. Vanisi had had Hepatitis B which resolved. It was noted that the absence of antibodies to Hepatitis A indicated susceptibility to it.</p> <p>Results of a chest x-ray dated 6/11/99 were normal.</p>	NDOP Lab Records
12/26/1999-02/21/2008	<p>On 12/26/99, it was reported that Mr. Vanisi had poor hygiene and he was dressed inappropriately (used underwear for a shirt). It was noted that he was talking to himself, singing constantly, and his speech did not make sense. A behavioral change and odd/unusual behavior was noted (walking around with blindfold). Mr. Vanisi's attitude was described as passive.</p> <p>On 3/8/00, it was noted that Mr. Vanisi was not sleeping and had poor hygiene. It was reported that his speech was loud, he was talking to himself and over-talkative, and he did not make any sense and had a preoccupation with death. His behavior was described as odd or unusual and it was indicated that he did not clean his cell. Mr. Vanisi's attitude was described as passive.</p> <p>On 2/2/04, it was reported that Mr. Vanisi was sleeping much more or less than usual, he was not making sense when talking or writing notes, he was continually talking to himself, and he was acting suspicious. It was noted that he was nervous or edgy, suddenly appeared happy without any apparent reason, and suddenly changed his mood.</p> <p>On 4/4/04, it was reported that Mr. Vanisi was sleeping much more or</p>	Ely State Prison ("ESP") Behavioral Observations and Referral

	<p>less than usual, not responding to instructions in a normal manner, was not making sense when he talked at times, and he was continually talking to himself. He was noted to be nervous or edgy.</p> <p>On 4/8/04, it was reported that Mr. Vanisi was hoarding food from meals and was continually talking to himself. He was noted to be very angry, very depressed, and nervous or edgy. It was noted that Mr. Vanisi refused to speak with staff and he made "angry, vicious insults and threats to kill" the staff person and "the rest of the psychs."</p> <p>On 2/21/08, it was reported that Mr. Vanisi's speech was loud and he was talking to himself. It was noted that He said "Ha Ha" to the officers for no reason. Self-injurious behavior was noted included banging his head on glass in the yard. It was noted that he came in from the yard with one shoe on and one off and that he did not want to get dressed in the shower to go to the yard.</p>	
07/22/1998-10/2010	<p>An intrasystem transfer screening dated 7/22/98 denied any mental health problems.</p> <p>A mental health treatment plan dated 5/11/04 included the following diagnoses: Bipolar Disorder and R/O Personality Disorder. It was noted that Mr. Vanisi had denial of his mental illness. Goals/Objectives included: "1. Medication Management; 2. Forced Medication Panel; 3. F/U with MH staff for monitoring; 4. I will not get up earlier than 5pm; 5. Have Nurse Orders holler at me once a week-preferably Sundays." Interventions included medication, forced medication panel, routine follow-up with mental health staff, and daily visitation with nurses.</p> <p>A mental health treatment plan dated 7/5/05 indicated the following goals/objectives: Mood stabilization, decreased frequency of mood swings; Mental health monitoring for stabilization of symptoms. Interventions included psychiatric medication and supportive interventions.</p> <p>Medical progress notes dated 9/11/08-2/17/09 were reviewed.</p> <p>Physicians' Orders were reviewed.</p> <p>A Specialty Clinic Enrollment Form dated 12/14/09 indicated Mr. Vanisi had diabetes mellitus.</p> <p>A mental health treatment plan dated 12/17/99 listed Bipolar Disorder as the problem. Goals/Objectives included stabilization of mood swings. Interventions included psychotropic medication.</p> <p>A mental health treatment plan dated 3/6/00 listed Bipolar and hygiene as the problems. Goals/Objectives included stabilization of mood swings and clean self and room. Interventions included psychotropic medication monitoring self.</p> <p>A mental health treatment plan dated 10/25/00 listed the following problems: Bipolar Disorder NOS with grandiosity, pressured speech, and disruptive behaviors. Goals/Objectives included decreasing</p>	NDOP Continuing Medication Records

	<p>episodes of grandiosity, severity of manic symptoms, and frequency and severity of acting out. Interventions included psychiatric medication and reality oriented counseling.</p> <p>A mental health treatment plan dated 12/5/02 listed Bipolar Disorder as a problem. Goals/Objectives included stabilizing mood, 6-8 hours of sleep per night consistently, and no manic or depressive episodes. Interventions included psychotropic medication and mental health support.</p> <p>A mental health treatment plan dated 3/12/08 listed Bipolar Disorder with mania as the problem. Goals/objectives included reduction of symptoms and stability of behaviors. Interventions included forced medication panel, medications, and routine follow-up from mental health.</p> <p>A mental health treatment plan dated 10/16/06 listed mood swings, psychotic symptoms as the problem. Goals/objectives included reduction of frequency, severity, and duration of psychotic symptoms and mood swings. Interventions included psychotropic medications and supportive mental health monitoring.</p> <p>A mental health treatment plan dated 3/17/09 listed mood swings and psychotic symptoms as the problems. Goals/objectives included reduction of the frequency, duration, and severity of mood symptoms and to reduce the frequency, duration, and severity of psychotic symptoms. Interventions included psychotropic medication and supportive mental health monitoring.</p> <p>A mental health treatment plan dated 12/15/09 listed psychotic symptoms as the problem. Goals/objectives included reduction of intensity, frequency, and duration of psychotic symptoms. Interventions included psychotropic medication and mental health monitoring.</p> <p>An intrasystem transfer screening dated 8/19/10 indicated that Mr. Vanisi had mental health problems that were being treated with Lithium, Seroquel, Viseral, and Cogentin.</p> <p>Continuing Medication Records were reviewed. PRN and One-Time Medication Records were reviewed. KOP Medication Logs were reviewed.</p> <p>Other records pertained to:  Restricted Diet Order  Chronic Disease Clinic Follow-Up  Non-Formulary Drug Request  Blood Glucose Monitoring  Transfer Reports</p>	
07/23/1998-09/20/2010	<p>Progress notes were reviewed. Many of the notes were illegible. Significant relevant information from records that were legible included the following:</p> <p>On 7/23/98, it was reported that Mr. Vanisi did not have any suicidal concerns at the time but he did have thoughts about death for several</p>	NDOP Progress Notes and Orders, Classifications and Treatment Plan Mental Health

	<p>years. It was noted that in 2/98, a hangman's noose was found in his cell at Washo County Jail. Mr. Vanisi indicated that he was angry and depressed at that time. It was reported that Mr. Vanisi was suspicious of psychotropic medication and that he wanted to feel "'normal'." A possible mood disorder was noted and a diagnosis of Paranoid Personality (301.0) was indicated.</p> <p>On 8/10/98, a note indicated that Mr. Vanisi indicated that he had "episodes of 'speeding' and episodes of 'suffering'." His current mood was described as neutral. Anxiety was denied and speech was described as pressured.</p> <p>On 5/12/99, it was reported that Mr. Vanisi wrote a kite threatening suicide. It was noted that when asked about this, he denied that he wrote the kite. The writer of the note indicated that Mr. Vanisi had no intention of hurting himself or others.</p> <p>On 6/6/99, W. Mace Knapp, Ph.D., reported that Mr. Vanisi had made numerous complaints about his treatment at NSP and numerous "far-fetched" excuses for his misbehavior. It was noted that Mr. Vanisi was agreeable to a behavioral contract. Dr. Knapp's assessment indicated that Mr. Vanisi appeared to be ending a manic phase of his bipolar cycles. Dr. Knapp noted his impression that Mr. Vanisi stays in a manic stage for about 6 weeks, normal range mood for 4-8 weeks, and then a depressive state for an unknown length of time. An agreement was made between Mr. Vanisi and Dr. Knapp that if Mr. Vanisi did not seriously misbehave, he would be issued a state TV and radio. It was noted that taking Lithium was a requirement to get yard time returned.</p> <p>On 6/6/99, Dr. Knapp also indicated his belief that Mr. Vanisi was attempting to manipulate the prison staff into believing he was psychotic.</p> <p>On 6/11/99, Dr. Knapp noted that Mr. Vanisi was complying with the behavioral contract and had not been a behavioral problem that week. It was reported that Mr. Vanisi sent a kite to Dr. Centric for a Lithium evaluation as per Dr. Knapp's recommendation. Mr. Vanisi was described as calm and rational, in a "normal" phase of his mood cycle. Dr. Knapp indicated that he would continue to reinforce Mr. Vanisi's positive behavior with any incentive the prison permitted.</p> <p>On 6/13/99, Dr. Knapp recommended that Mr. Vanisi be seen immediately for a medication evaluation as Mr. Vanisi was finally willing to take Lithium and he had been a danger to himself and others.</p> <p>On 7/6/99, Dr. Knapp noted that Mr. Vanisi reported he had still not been seen by Dr. Centric and that there was a problem regarding TV removal by Sgt. Stanley. Dr. Knapp noted that Mr. Vanisi was in a remission stage between his mood swings, he was very cooperative and reasonable, and he had kept his side of the behavioral contract. Dr. Knapp continued to recommend to Dr. Centric a trial period of Lithium-type medication administration.</p>	
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	<p>On 7/7/99, it was noted that Mr. Vanisi had mood fluctuations and was not taking medications at the time.</p> <p>On 12/1/99, it was noted that Mr. Vanisi had a diagnosis of Bipolar Disorder without psychotic features and that he was taking Lithium and Elavil.</p> <p>On 12/17/99, Mr. Vanisi was described by a mental health worker as “disheveled, paranoid/anxious about each thing said and goes ‘topsy-turvy’.” Mr. Vanisi’s behavior was described as disruptive.</p> <p>On 12/19/99, it was noted that Mr. Vanisi indicated that he had Bipolar Disorder and ADHD. Mr. Vanisi complained of difficulty concentrating and grandiosity was noted by the writer.</p> <p>On 1/14/00, a mental health worker noted that Mr. Vanisi was smearing feces on his face, not sleeping, and demonstrating bizarre behaviors. Poor hygiene was noted and his cell was noted to be disorganized. It was noted that Mr. Vanisi was admitted to the Mental Health Unit for observation.</p> <p>On 3/10/00, a mental health worker noted that Mr. Vanisi stated that he did not believe he had Bipolar Disorder, but rather Schizoaffective. Mr. Vanisi’s cell was noted to be disorderly and poor hygiene was indicated.</p> <p>On 4/14/00, a note indicated that Mr. Vanisi was a “very dangerous inmate.” Diagnoses included the following: Polysubstance Dependence, R/O Malingering, and R/O Mood Disorder.</p> <p>On 4/14/00, a note indicated that Mr. Vanisi had poor hygiene, was talking loudly to himself, was smearing feces on his face, was not sleeping, and was threatening other inmates. It was reported that Mr. Vanisi had a diagnosis of Bipolar Disorder when he arrived from ESP. It was noted that a psychological evaluation dated 10/12/99 provided a history of polydrug abuse, and Bipolar Disorder without psychotic features. It was reported that Mr. Vanisi arrived at Ely in late 1999 on Elavil and Lithium and Risperidone had been discontinued on 11/8/99. It was noted that Mr. Vanisi requested Bupropion and Nortriptyline was offered. Blood levels indicated that Mr. Vanisi was noncompliant with medication and so it was discontinued. It was reported that Mr. Vanisi had become increasingly disruptive over the past few days. Upon evaluation on this day, Mr. Vanisi was noted to have feces on his face and he was openly masturbating.</p> <p>On 4/15/00, Mr. Vanisi was admitted to mental health for “bizarre behavior in the unit.”</p> <p>On 4/15/00, Mr. Vanisi was admitted for a psychiatric evaluation following a report of bizarre behavior. Mr. Vanisi was given a single intramuscular cocktail of Haldol, Ativan, and Cogentin.</p> <p>It was noted that Mr. Vanisi had been incarcerated for the past 2-3 years in state and county systems. At the time of his arrival he had a</p>	
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	<p>diagnosis of “Bipolar Disorder with exaggerated symptoms.” It was noted he was previously on Risperidone, Lithium, and Elavil. Risperidone was discontinued in November and he arrived at Ely State Prison taking Lithium and Elavil. Upon arrival, it was noted Mr. Vanisi claimed to have ADHD and requested Bupropion for depression. Nortriptyline was selected as an antidepressant which also indicated for ADHD. It was noted that Lithium levels indicated he was compliant with the Lithium but the Nortriptyline level was not detectable; thus it was discontinued.</p> <p>Mr. Vanisi denied auditory or visual hallucinations and denied talking to himself stating all conversations were directed at correctional officers or other inmates. Mr. Vanisi denied thought insertion, thought broadcasting, or paranoid ideation. He also denied recent sadness, sleeping difficulties, anhedonia, eating problems, lack of energy, suicidal ideation, or difficulty thinking or concentrating. It was reported that “although exhibiting grandiosity, he denied flight of ideas, irritability, difficulty being interrupted, or increased energy.” Mr. Vanisi denied symptoms of anxiety, intrusive thoughts, or compulsions.</p> <p>Mr. Vanisi denied psychiatric or psychological intervention prior to his incarceration. He denied psychiatric hospitalization or suicide attempts in the past. Mr. Vanisi received a diagnosis of Bipolar Disorder while incarcerated. He denied significant medical or surgical illnesses, a history of venereal disease, history of head injury or any episodes of seizures or loss of consciousness.</p> <p>Noted social history indicated that Mr. Vanisi was born to an intact family, the middle of seven children. He denied history of physical or sexual abuse. Mr. Vanisi was born in Tonga and moved to the United States when he was 6. His native language was Tongan and he had some difficulty learning to read and write. Both parents spoke some English. Mr. Vanisi denied history of alcohol abuse and admitted that he used amphetamines 5 times and smoked marijuana regularly for 1 year. Mr. Vanisi did not recall the age of his first sexual encounter, indicated he was heterosexual, and that he had about 30 sexual partners. Mr. Vanisi had worked as a laborer and did some professional acting.</p> <p>Mental status examination indicated Mr. Vanisi was alert and clear with no abnormal movements. His speech was described as “fluent, somewhat pressured but interruptible, tended to be circumstantial but ultimately goal directed when pushed.” His vocabulary was described as good but sometimes misused multiple syllable words where simpler language would suffice. It was noted that there was no evidence of a thought disorder and he denied paranoia, auditory hallucinations, suicidal ideation or homicidal ideation. He had a good range of affect and it was described as “serious but euthymic.” Mr. Vanisi was oriented to year, month, date, day of the week, and location and season.</p> <p>It was noted that Mr. Vanisi did not have any history of disturbed family or social relationships, no history of childhood abuse, no report of psychological evaluation prior to incarceration, and a first</p>	
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	<p>psychiatric evaluation in the county jail. It was reported that he was given a diagnosis of Bipolar Disorder while incarcerated and was suspected of exaggerated symptomatology. Mr. Vanisi received Lithium since arrival at Ely State Prison and Nortriptyline was started shortly after his arrival but serum level was zero. It was reported that Mr. Vanisi was trying to get the doctor to restart the nortriptyline and in the past few days he presented as a decompensating patient. It was noted that Mr. Vanisi appeared fairly normal after admission to the mental health unit and a single dose of Haldol. Diagnoses included Bipolar Disorder NOS, Polysubstance Dependence, and narcissistic features. It was indicated that Mr. Vanisi had been on Lithium for several months but the current treatment plan indicated it would be withheld from Mr. Vanisi in order to evaluate him over several days.</p> <p>On 4/16/00, Mr. Vanisi was reported to be rambling and engaging in inappropriate behavior and verbalizations.</p> <p>On 4/17/00, it was noted that Mr. Vanisi was talking to himself but the writer was unable to understand what he was saying.</p> <p>On 5/16/00, the writer reported Mr. Vanisi was not trustworthy, he was manipulative, and he had "loose/unconnected thoughts."</p> <p>On 6/7/00, Mr. Vanisi was noted to be sitting on the floor singing to himself. It was noted that he appeared to be hypomanic.</p> <p>On 6/17/00, a mental health worker noted Mr. Vanisi had pressured, circumstantial speech as well as grandiosity.</p> <p>On 8/24/00, it was reported that Mr. Vanisi kited to Dr. Sohr that he wanted to decrease his medications and that he wanted information on Bipolar Disorder and how Lithium worked. Mr. Vanisi was described as "sober, clear, congruent."</p> <p>On 1/11/01, a mental health worker indicated that Mr. Vanisi was cooperative and in a good mood. It was noted that Mr. Vanisi was functioning adequately on psychiatric medication.</p> <p>On 3/15/01, it was noted that Mr. Vanisi indicated that he was having a bad day but he denied suicidal ideation. It was reported that Mr. Vanisi appeared to be functioning adequately on psychiatric medication.</p> <p>On 7/12/01, Mr. Vanisi was noted to be upbeat, playing checkers by himself. It was reported that Mr. Vanisi was wearing his underwear on his head but his mood was stable. It was noted that Mr. Vanisi was functioning adequately on psychiatric medication.</p> <p>On 8/1/02, it was noted that Mr. Vanisi had a euthymic mood and affect.</p> <p>On 8/22/02, Mr. Vanisi was seen for a psych. evaluation. It was noted that Mr. Vanisi did not present as manic or depressed but he had a history of Bipolar Disorder.</p>	
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	<p>On 2/7/03, Mr. Vanisi reported that he was very depressed and experiencing anhedonia. It was noted that Mr. Vanisi's mood was incongruent with his subjective statements. The assessment indicated a diagnosis of Antisocial Personality Disorder.</p> <p>On 2/21/03, a medical doctor noted that Mr. Vanisi seemed to be trying to convince him/her that he was "gravely ill." The doctor's assessment included a diagnosis of Antisocial Personality Disorder.</p> <p>On 2/27/03, Mr. Vanisi claimed to be depressed. The assessment indicated Antisocial Personality Disorder and malingering.</p> <p>On 3/21/03, Mr. Vanisi reported to Dr. Williamson that he was doing okay without medication.</p> <p>On 4/10/03, Mr. Vanisi denied manic symptoms and mood swings.</p> <p>On 2/4/04, it was noted that Mr. Vanisi was talking and acting bizarrely (i.e. talking loudly and rapidly; attempting to run back to his cell after leaving the inner yard). Speech was noted to be loud and pressured. It was reported that Mr. Vanisi became agitated with questions and he was evasive. The writer, S. Hopkins, noted that Mr. Vanisi was factitious in his presentation.</p> <p>On 3/3/04, a mental health worker indicated that Mr. Vanisi was "reportedly engaging in non-stop bizarre behavior – talking to himself, making threats to 'kill you' to persons not present, 'decorating' his cell and dressing or costumeing." The writer assessed Mr. Vanisi's presentation as factitious symptoms.</p> <p>On 3/4/04, it was noted that Mr. Vanisi had not slept much the last 2 or 3 days.</p> <p>On 4/8/04, it was reported that Mr. Vanisi refused to come back to his cell from the yard. It was noted that he had removed his clothing, except for a head wrap, urinated on them, and then laid down on them. It was reported that Mr. Vanisi refused to speak with the mental health worker and ranted insults and treats about psychiatrists and threatened to kill the mental health worker.</p> <p>On 4/29/04, it was noted that Mr. Vanisi had Bipolar Disorder and was currently hypomanic. It was noted that he lacked insight into his mental illness and his judgment was poor.</p> <p>On 4/30/04, it was noted that Haldol would be used to help Mr. Vanisi's aggression and manic symptoms.</p> <p>On 5/18/04 during a routine mental health review, Mr. Vanisi indicated he was unable to concentrate and that he was agitated, hyper, and pacing. He also reported panic attacks. The writer indicated that no psychotic symptoms were present, Mr. Vanisi was on forced medication, and he was still having severe anxiety symptoms.</p> <p>On 6/16/04 during a routine mental health review, Mr. Vanisi</p>	
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	<p>indicated that the Cogentin helped to “take the edge off.” He reported continued difficulty focusing and staying still.</p> <p>On 9/20/04 during a routine mental health review, Mr. Vanisi indicated difficulty concentrating since he went on medication, he missed the highs and lows, but liked being calm too.</p> <p>On 11/15/05, 12/30/05, 5/21/06, 6/25/06, 7/30/06, 8/27/06, and 1/25/07 it was noted by a mental health worker that Mr. Vanisi was stable on medication.</p> <p>On 1/20/08, Mr. Vanisi refused to come to the cell door, indicating he as sleepy. Mr. Vanisi’s speech was noted to be in a “sing-song fashion.”</p> <p>On 1/22/08, a mental health worker indicated that Mr. Vanisi had pressured speech and grandiose verbiage.</p> <p>On 3/8/08, a nurse indicated that Mr. Vanisi had ineffective individual coping and poor impulse control.</p> <p>On 3/12/08, Mr. Vanisi told a nurse that he was “full of nervous energy and needs to get it out.”</p> <p>On 3/24/08, observations made by the writer of the note included pressure of speech, peacock calls, pacing, and singing. It was noted that Mr. Vanisi continued to be hypomanic.</p> <p>On 7/16/08, it was noted that Mr. Vanisi was experiencing a manic episode. It was reported that he was on forced medication.</p> <p>On 8/24/08, it was noted that Mr. Vanisi was brought to the infirmary because his behaviors became “stranger” and he was smearing feces around his cell and he was combative on the way to the infirmary. It was noted that Mr. Vanisi had not been on any psychotropic medications in about 1 year. There was no evidence of thought disorder or suicidal ideation.</p> <p>On 9/9/08, Mr. Vanisi was noted to be “manic and wearing a loin cloth.” It was noted that Seroquel would be added to his medication.</p> <p>On 9/11/08, it was noted that Mr. Vanisi was painting on himself and he engaged in hypomanic behavior.</p> <p>On 9/22/08, it was reported that Seroquel was started.</p> <p>On 9/29/08, it was reported that Mr. Vanisi was stable and calm.</p> <p>On 1/23/09 a mental health worker noted that Mr. Vanisi indicated that he had some difficulty with awakening at night and catching his breath. Mr. Vanisi expressed his belief that he had sleep apnea.</p> <p>On 2/27/09, a mental health worker noted that Mr. Vanisi reported sleep problems and breathing difficulty.</p> <p>On 3/27/09, Mr. Vanisi reported to a mental health worker continued</p>	
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	<p>breathing problems at night. Mr. Vanisi denied suicidal ideation, homicidal ideation, psychosis, or depression.</p> <p>On 4/17/09, Mr. Vanisi indicated to a mental health worker that he had trouble breathing and he believed it occurred when he took his medication.</p> <p>Other notes pertained to:</p> <ul style="list-style-type: none"> <li>Discontinuation of medication</li> <li>Medication Refusal</li> <li>Renewing medication</li> <li>Medication changes</li> <li>Medical issues</li> <li>Dental problems</li> <li>Medication expiration</li> <li>Infected laceration</li> <li>TB evaluation</li> <li>Unfounded complaint of Clorox being thrown on Mr. Vanisi's face</li> <li>Mental Health Monitoring</li> <li>Conflict with other inmates</li> </ul>	
07/26/1998-01/23/2009	<p>Segregation Psychological Evaluations were reviewed. Significant relevant information included the following: On 7/26/98, it was noted that Mr. Vanisi was wearing a "weird costume" while laying on the floor and that he was extremely hyperactive. Pressured speech was noted and it was reported that Mr. Vanisi could not stay on track. A full mental status evaluation was recommended. On 6/6/99, Dr. Knapp reported that Mr. Vanisi had serious mental illness but he was not psychotic. Mr. Vanisi's appearance was described as bizarre and his mood and affect as manic. His thought process was described as speeded, pressured, and jumping around. His thought content was described as paranoid, but in a normal range for a prisoner. On 12/2/02, it was noted that Mr. Vanisi appeared to be in a mildly depressed phase. On 5/19/04, Mr. Vanisi reported panic attacks and anxiety.</p> <p>The Abnormal Involuntary Movement Scale (AIMS) was administered to Mr. Vanisi for dyskinesia monitoring. He had a total score of 0 on all dates it was administered.</p> <p>A mental status examination dated 7/26/98 indicated that Mr. Vanisi cycled from relaxed to unable to sit still. It was noted that his facial expressions suggested anger/hostility, but this cycled quickly. His body movements were noted to be extremely accelerated and his clinician-patient relationship was described as domineering. It was noted that he "took over the hour interview." Comments regarding Mr. Vanisi's behavior indicated that when he was asked to get off the floor and come to the gate, "he went into hyperactive mode and walked quick circles while pounding his fists together." Mr. Vanisi's affect and mood were described as inappropriate to thought content, increased lability or affect, euphoric, angry, and anxious. It was noted that Mr. Vanisi denied any sadness, but it was noted that he had a history of severe depression. His moods were described as extreme and changing quickly. They were all noted to be manic type. It was noted that Mr. Vanisi had an impaired ability to manage daily living activities and an impaired ability to make reasonable life decisions.</p>	Nevada Department of Prison ("NDOP") – Mental Status Examination Records and NDOP Psychological Evaluations

	<p>His streams of thought were noted to have associational disturbance and increased thought flow. It was noted that Mr. Vanisi wanted medication to calm himself.</p> <p>A mental status examination dated 8/2/98 indicated that Mr. Vanisi's facial expression suggested anxiety, fear, and apprehension, depression and sadness, and anger and hostility. His general body movements were described as normal with slight bursts of speed. Mr. Vanisi's speech was described as loud. Pressured speech was noted. Mr. Vanisi's intellectual functioning was described as excellent and his orientation as perfect. It was noted that Mr. Vanisi had an impaired ability to manage daily living activities and an impaired ability to make reasonable life decisions. Mr. Vanisi's memory was described as excellent and suicidal and homicidal ideation were denied. It was reported that Mr. Vanisi's thought flow increased slightly or occasionally. It was noted that Mr. Vanisi agreed to take some mild psychotropic medication.</p> <p>A mental status examination dated 8/19/98 indicated that Mr. Vanisi's facial expressions, general body movements, and amplitude and quality of speech were normal. He was noted to be very cooperative. Mr. Vanisi's feelings were also described as normal. Difficulty acknowledging the presence of psychological problems was again noted. Some of the print of this document was cut off in copying, but it was indicated that Mr. Vanisi reported "enjoying both his 'speedy' (manic) stages of about '2' weeks and his 'suffering' (depressive) states of '2-4' weeks..."</p> <p>A mental status examination dated 8/30/98 indicated that Mr. Vanisi's behavior was in a normal state and he had slight depression. It was noted that he had difficulty in acknowledging the presence of psychological problems. Slight/occasional delusions were noted. Psychological Evaluation Summaries were reviewed. Significant relevant information included the following: A psychological evaluation summary dated 12/1/99 indicated a history of mental illness and average intelligence. It was noted that Mr. Vanisi was taking Lithium and Elavil. His diagnosis included Bipolar Disorder without psychotic features. On 7/30/02 and 3/8/05, it was noted that Mr. Vanisi had a mental illness but was stable on medication.</p> <p>A mental status examination dated 6/6/99 indicated that Mr. Vanisi was wearing a "cape type clothing made from sheet" and that he could not stand still. It was noted that his facial expressions suggested anxiety, fear, and apprehension, anger/hostility, and bizarreness/inappropriateness. His body movements were noted to include accelerated, increased speed, to be atypical/peculiar/inappropriate, and to be restless and fidgety. His speech amplitude was described as loud and his clinician-patient relationship was described as suspicious and domineering. Mr. Vanisi's affect and mood were described as slightly euphoric/elated, slightly angry/hostile, and as being markedly inappropriate to thought content. Mr. Vanisi's perception was described as normal. It was noted that Mr. Vanisi had slightly impaired abstract thinking and markedly impaired attention span. His orientation was described as excellent. It was noted that Mr. Vanisi had difficulty acknowledging</p>	
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	<p>the presence of psychological problems. With regards to this, it was noted that Mr. Vanisi “does not believe that he has a serious mental illness, but is playing mentally ill in order to excuse his bizarre misbehavior.” It was also noted that Mr. Vanisi blamed others or circumstances for problems. It was reported that Mr. Vanisi had an impaired ability to manage daily living activities and an impaired ability to make reasonable decisions. Mr. Vanisi’s stream of thought was noted to have associational disturbance and increased thought flow. Comments regarding Mr. Vanisi’s thinking indicated that he could not stay on a conversational subject and that he made disjointed and irrational conclusions. Provisional diagnoses noted included Bipolar Disorder, Manic, severe without psychosis and Antisocial Personality Disorder.</p> <p>A mental status examination dated 12/1/99 indicated that Mr. Vanisi had slightly excessive speech and he was mildly dysphoric.</p> <p>On 12/19/00, a mental status examination form indicated Mr. Vanisi had accelerated, increased speed of general body movements and difficulty in acknowledging the presence of psychological problems.</p>	
05/08/1999-04/17/2007	<p>These records were reviewed. Significant relevant information included the following: In a Transfer Record dated 5/8/99, it was reported that Mr. Vanisi was prescribed Elavil and Risperdal. In a Transfer Record dated 10/6/99, it was noted that Mr. Vanisi was prescribed Lithium, Elavil, and Risperdal. In a Transfer Record dated 1/10/02, it was noted that Mr. Vanisi had Bipolar Disorder with disruptive behavior and he was prescribed Depakene 1500 mg qHS, Lithium 1200 mg PO qHS, and Celexa 20 mg PO qHS. In a Transfer Record dated 7/30/02, it was reported that Mr. Vanisi was prescribed Paxil. In another Transfer Record dated 7/30/02, it was noted that Mr. Vanisi had a history of Bipolar Disorder, grandiosity, disruptive behavior, narcissistic features, pressured speech, and Hepatitis B. In a Transfer Record dated 3/8/05, prescribed medications included Depakote 500 mg bid, Cogentin 1 mg po bid, and Haldol dec 50 mg IM q month. In a Transfer Record dated 5/31/05, it was noted that Mr. Vanisi was prescribed Cogentin 1 mg po bid, Depakote 500 mg po bid, and Haldol Dec 37.5 mg IM q month for 3 months. In a Transfer Report dated 3/29/07, it was reported that Mr. Vanisi was positive for Hepatitis C, and he had Bipolar Disorder and Antisocial Personality Disorder.</p>	Transfer Screening Reports
Undated	Photographs were reviewed.	Client Photographs
Undated	Records were reviewed.	Poems and drawings by Mr. Vanisi
Undated	Personal letter reviewed.	Correspondence from Mr. Vanisi to Tibone Malone
Undated	Personal letter reviewed.	Correspondence to Mr. Vanisi from wife DeAnn
05/11/1999-05/24/1999	These records were reviewed. Some were illegible and unable to be reviewed.	NDOP Disciplinary Forms
05/20/1999-05/23/2009	A memorandum dated 5/20/99 indicated that since Mr. Vanisi arrived at NSP from Washoe County, his behavior on the second shift was initially loud and it was noted that he demanded he “be allowed to do summersaults on the tier and crawl on his belly.” It was noted that	Nevada State Prison (NSP) Records



	<p>Mr. Vanisi wore his underwear on his head. No problems were noted. During the third shift, Mr. Vanisi's behavior was initially "loud, obnoxious, pounding on walls and bunk with his cup." It was noted that Mr. Vanisi practiced martial arts with a mop handle. No problems were noted. It was reported that staff viewed Mr. Vanisi's behavior as "'attention getting'."</p> <p>Other reviewed records included the following:  Inmate Request Form</p>	
10/04/1999	<p>Psychiatrist Dr. Thienhaus indicated that he was asked to see Mr. Vanisi on 9/30/98 for a routine consultation. He indicated that his impression was "possibly bipolar disorder or cyclothymia." He recommended a trial of Depakote. Dr. Thienhaus indicated that he became most confident in his diagnosis the week prior to this testimony, about a year after the initial consult. Dr. Thienhaus noted Mr. Vanisi presented with "a quite significant degree of pressured speech..." Dr. Thienhaus indicated that he wrote "'continue lithium' – 'slight increase of lithium recommended,' because the pressured speech and perseveration was so prominent that I felt more confident that this was the right diagnosis." Dr. Thienhaus also reported that a colleague of his saw Mr. Vanisi independently of him and had the same impression.</p> <p>Dr. Thienhaus explained what Bipolar Disorder is. He also described the difference between being psychotic and neurotic. He discussed the effects of methamphetamine on individuals both with and without mental illness. Dr. Thienhaus explained what malingering is.</p> <p>Dr. Thienhaus indicated there was one instance that caused him to suspect Mr. Vanisi may have been malingering. He indicated that on 5/5/99, Mr. Vanisi presented with "florid psychosis." Dr. Thienhaus prescribed antipsychotic medication and 24 hours later, all psychotic symptoms were gone.</p> <p>Dr. Thienhaus indicated that he prescribed Depakote for Mr. Vanisi but this was discontinued after about 6 weeks due to reported side effects. Mr. Vanisi left the jail and upon returning 5 or 6 months later, Dr. Thienhaus reported he prescribed Risperdal and Mr. Vanisi had a rapid response. He also noted that he prescribed a sleeping medication. It was noted that Mr. Vanisi was on Lithium, which was started by Dr. Lynn, when he returned to the jail. Dr. Thienhaus indicated that he continued the Lithium. Dr. Thienhaus noted that he had continually checked Mr. Vanisi's lithium level to ensure he did not drop below the therapeutic range.</p> <p>Dr. Thienhaus reported that "the evidence suggests that he's [Mr. Vanisi] more likely suffering from a bipolar disorder than that he's malingering, but it's impossible for me with my limited database to come up with a conclusive diagnosis."</p> <p>During cross examination, Dr. Thienhaus indicated that "during manic episodes, some bipolar patients become violent." Dr. Thienhaus indicated that during an extreme manic stage, an individual can be very impulsive.</p>	Reporter's Transcript of Testimony of Ole Thienhaus

	<p>Dr. Thienhaus acknowledged that Mr. Vanisi's presentation of pressured speech and perseveration could have been influenced by his conviction.</p> <p>Dr. Thienhaus described Mr. Vanisi as an intelligent man.</p> <p>During the cross examination, Dr. Thienhaus was asked to review Dr. Thomas Bittker's evaluation. Dr. Thienhaus indicated that he agreed with Dr. Bittker that Mr. Vanisi did not show signs of psychosis, though he did mention that he had questions of this on that one occasion. Dr. Thienhaus indicated that he did not see any indications of malingering as Dr. Bittker had noted.</p> <p>Dr. Thienhaus was also asked to review Dr. Frank Evarts' evaluation. It was noted that Dr. Evarts also indicated Mr. Vanisi was malingering.</p> <p>Dr. Thienhaus was asked to review Dr. Rich's and Dr. Richard Lewis' evaluations which were previously reviewed in the current record review.</p>	
01/14/2005	<p>Dr. Bittker indicated that Mr. Vanisi was evaluated to determine his competence to maintain and participate in the capital post-conviction habeas proceedings. Dr. Bittker noted that his chart review indicated the following diagnoses: Bipolar Disorder, Polysubstance Dependence, and Antisocial Personality Disorder. At the time of the evaluation, Mr. Vanisi was being treated with Depakote 500 mg bid, Haldol decanoate 50 mg IM every two weeks, and Cogentin 1 mg bid.</p> <p>Dr. Bittker interviewed the co-counsels. He reported that they indicated that "at Mr. Vanisi's hearing on 11/22/04, he was markedly guarded, displayed blunted affect and appeared to be heavily sedated. In addition, they reported their concerns about Mr. Vanisi's bizarre behavior while incarcerated...They stated that Mr. Vanisi was not forthcoming in dialogue with them and consistently maintained a high degree of suspicion of them."</p> <p>Dr. Bittker interviewed Mr. Vanisi. It was noted that Mr. Vanisi had not received his biweekly dosage of Haldol at the time of the interview. He was to receive it right after the interview.</p> <p>Dr. Bittker reported that Mr. Vanisi was "extremely guarded" initially and his affect was blunted. It was noted that Mr. Vanisi discussed his history. He indicated that he moved from Tonga to San Francisco when he was approximately six years old and his parents divorced during his childhood. Mr. Vanisi indicated he was an average student, earning D's and C's in high school. Mr. Vanisi played football and aspired to continue his football career, but was not good enough to do so. Mr. Vanisi indicated he worked in a variety of jobs and stated his favorite job was working as a lighting technician.</p> <p>Reported medical history indicated that Mr. Vanisi never suffered from a seizure disorder. Mr. Vanisi acknowledged taking his current medications and had significant ambivalence about taking them. Dr. Bittker reported that Mr. Vanisi indicated he had "frequent natural highs" and "periods of lows marked by hypersomnia and depressed</p>	<p>Thomas A. Bittker, M.D., Letter to court regarding court ordered exam/Forensic Pyschiatric Assessment</p>

	<p>mood.” It was noted that Mr. Vanisi admitted to feeling chronically suicidal and he denied auditory or visual hallucinations. It was reported that Mr. Vanisi admitted to feeling “frequently depersonalized, having nihilistic delusions (nothing really matters), and being specifically uncaring about whether or not he lived or died.”</p> <p>Dr. Bittker reported that Mr. Vanisi began using alcohol at age 18 and he drank to intoxication once a week on average since that time until his arrest. It was noted that Mr. Vanisi used marijuana at least on a weekly basis and he denied use of other street drugs.</p> <p>Mr. Vanisi denied any prior psychiatric history before his arrest.</p> <p>Dr. Bittker indicated that Mr. Vanisi admitted to a long history of fluctuating moods but did not realize the significance of this until he reached adulthood. It was noted that he had struggled with suicidal ideation for years. Dr. Bittker indicated that Mr. Vanisi denied experiencing perceptual distortions, but he was bothered by thoughts inside his head.</p> <p>Marked ambivalence was noted in Mr. Vanisi regarding his attitude toward himself, toward life, and toward the upcoming proceedings.</p> <p>It was reported that Mr. Vanisi had no felony convictions prior to his arrest. Developmentally, Mr. Vanisi denied history of childhood abuse and denied any significant major losses aside from his second marriage.</p> <p>Dr. Bittker noted that Mr. Vanisi was guarded about his “motivation, his thinking and his behavior in the days prior to the instant offense.” It was reported that Mr. Vanisi acknowledged he had some resentment towards police after an altercation with a police officer in a bar during the week prior.</p> <p>Regarding competency, Dr. Bittker reported that Mr. Vanisi was aware of the charges he was convicted of, aware that he was confronting the death penalty, and he was ambivalent about accepting the death penalty. It was noted that Mr. Vanisi believed he was competent to stand trial. Dr. Bittker reported that Mr. Vanisi indicated that he was forthcoming with his defense counsels, but this was disputed by the defense counsels. It was reported that Mr. Vanisi only had a vague awareness of his behavior expectations in the courtroom and “could not specifically respond as to what he would say or do if somebody told a lie about him in court.” Dr. Bittker continued, “Furthermore, his nihilistic delusions penetrated his awareness of the distinction between the truth and a lie.” It was noted that Mr. Vanisi “had limited insight as to what apparently, through other observers, appeared to be the bizarre motivation associated with the instant offenses for which he has been convicted.”</p> <p>Regarding the mental status examination, Dr. Bittker reported that Mr. Vanisi was initially guarded and distrusting. He later became “more transparent” and the “fluidity of his speech grew, as did his emotional lability.” It was noted that during the second part of the</p>	
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	<p>interview, Mr. Vanisi's speech was "pressured, excited, and displayed flight of ideas." Dr. Bittker reported that Mr. Vanisi "made frequent references to his intuitive abilities, his special philosophy about life and the after life, and how he felt both disconnected with G-d and that G-d pervaded every element of his life."</p> <p>Dr. Bittker reported that Mr. Vanisi was oriented to time, place, person and circumstance. It was noted that he could recall the details of his previous meal. Mr. Vanisi declined to do arithmetic exercises, but was able to spell world backwards and had full awareness of current events. Mr. Vanisi was able to identify a simple similarity between objects and proverb interpretation was noted to be excellent. It was noted that Mr. Vanisi could not distinguish misery from poverty. Recent and remote memory were noted to be intact. Social judgment were noted to be compromised. Dr. Bittker stated that Mr. Vanisi had enough insight to understand his need for medication, but it was also noted that he felt the medication was "depriving him of his identity."</p> <p>Dr. Bittker reported that Mr. Vanisi's presentation was consistent with a diagnosis of Bipolar Disorder, mixed type, with psychosis. He wrote, "The psychotic manifestations are reflected in his bizarre behavior, his nihilistic delusions, his narcissistic entitlement, and his marked ambivalence about issues such as life, death, and the nature of reality."</p> <p>Dr. Bittker noted, "Although he has a reasonable level of sophistication about the trial process, his guardedness, manic entitlement and paranoia inhibit his ability to cooperate with counsel."</p> <p>Dr. Bittker's diagnoses included the following: Bipolar Disorder, Mixed, with Psychosis, Alcohol Abuse by History, Cannabis Abuse by History.</p> <p>Regarding competency, Dr. Bittker suggested "Mr. Vanisi does not currently have the requisite emotional stability to permit him to cooperate with counsel or to understand fully the distinction between truth and lying."</p> <p>Dr. Bittker indicated that Mr. Vanisi's medications were not "ideally suited to assist him in reestablishing competency." He recommended a modification in Mr. Vanisi's medication regimen including the following: increase the Depakote to mid to high therapeutic levels and administer in the evening, and discontinue haloperidol and substitute a new antipsychotic agent such as Geodon or aripiprazole.</p>	
02/15/2005	<p>Dr. Amézaga reported that he examined Mr. Vanisi on 2/3/05. The purpose of the examination was to determine his competency to proceed with trial. Dr. Amézaga noted that the examination was originally scheduled for 1/20/05, but Mr. Vanisi refused to participate. During the assessment on 2/3/05, Dr. Amézaga indicated that Mr. Vanisi was cooperative and compliant with the interview process.</p> <p>Dr. Amézaga discussed the components of the Dusky standard</p>	A.M. Amézaga, Jr., Ph.D., Letter to court regarding court ordered exam

	<p>including a factual understanding of the courtroom proceedings, a rational understanding of the courtroom proceedings, and a rational ability to consult with counsel about his defense.</p> <p>Dr. Amézaga's report conclusions indicated that Mr. Vanisi had factual understanding of courtroom proceedings, his rational ability to assist his attorney with his defense was at most mildly impaired, and his rational understanding of the courtroom proceedings were not impaired.</p> <p>During the clinical interview and mental status examination, Dr. Amézaga indicated Mr. Vanisi was "guarded but cooperative..." It was noted that most of his answers to questions were one or two word responses.</p> <p>Mr. Vanisi described his mood as good and his affect was described as "quiet, subdued, reserved with no demonstrations of emotional intensity or variability."</p> <p>Mr. Vanisi's responses to questions were described as clear, coherent and rational. Dr. Amézaga reported that Mr. Vanisi often indicated that he could not or would not answer more difficult or emotionally laden questions.</p> <p>It was reported that Mr. Vanisi denied experiencing any psychotic symptoms. Dr. Amézaga indicated that Mr. Vanisi did not exhibit any flight of ideas, loose associations, thought blocking or derailment that would suggest a psychotic process. It was noted that Mr. Vanisi exhibited a possible delusion of memory as he claimed he could not be guilty of the charges because he "never lived in Reno or Nevada before." Mr. Vanisi denied current suicidality or homicidality.</p> <p>Cognitive functioning was noted to be relatively intact without significant impairment. Dr. Amézaga indicated that Mr. Vanisi was at times unable or unwilling to maintain concentration for a significant period of time. It was reported that Mr. Vanisi's short-term memory may be mildly impaired and his recall required a verbal cue to assist his recollection. It was noted that Mr. Vanisi indicated that his psychiatric medicine contributes to his memory difficulties.</p> <p>Dr. Amézaga analyzed Mr. Vanisi's scores on the Evaluation of Competency to Stand Trial-Revised (ECST-R). He reported that Mr. Vanisi's Atypical Presentation (ATP) scores "revealed no evidence of feigning incompetency." It was noted that an ATP-R score of less than 5 may suggest excessive defensiveness in response to his assessment material. Mr. Vanisi's ATP scores were as follows:</p> <p>ATP-R = 3 ATP-P = 0 ATP-N = 0 ATP-B = 0</p> <p>Dr. Amézaga reported that Mr. Vanisi may have been "attempting to minimize whatever stressors or legitimate complaints he may actually be experiencing, possibly in an attempt to present himself as an</p>	
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	<p>individual who does not require the regime of potent psychiatric medications that he is now, involuntarily, receiving.”</p> <p>It was reported that Mr. Vanisi had a “basic factual understanding of the charges against him.” Dr. Amézaga indicated that Mr. Vanisi obtained a T-score of 38 on the Factual Understanding of Courtroom Proceedings (FAC) scale. This was considered mildly impaired to normal. Dr. Amézaga concluded that Mr. Vanisi demonstrated no significant impairment in his level of factual understanding.</p> <p>Dr. Amézaga noted that Mr. Vanisi had no significant deficits in his level of rational understanding. It was reported that Mr. Vanisi obtained a T-score of 44 on the Rational Understanding of Courtroom Proceedings (RAC) scale which was in the mildly impaired to normal range.</p> <p>It was noted that Mr. Vanisi obtained a T-score of 50 on the Consult with Counsel (CWC) scale which was in the mildly impaired to normal range. Dr. Amézaga concluded that Mr. Vanisi demonstrated at most mild impairment in his capacity to consult with his legal counsel.</p> <p>On the Validity Indicator Profile (VIP) non-verbal subtest, it was noted that Mr. Vanisi’s performance was likely not an accurate representation of his maximal capacity. Mr. Vanisi’s overall subtest validity was invalid and his subtest response style was suppressed. Dr. Amézaga noted that “based on the presence of a pattern of prolonged incorrect responding...the best, most likely conclusion is that the defendant intended to respond incorrectly to a majority of the quite difficult to most difficult test items...His response pattern suggests that he deliberately suppressed correct answer choices and instead chose incorrect answers. Alternatively, his sustained very poor performance could be a result of incorrect, but yet improbable, guessing.”</p> <p>Dr. Amézaga noted that “If the presence of the suppressed pattern of responding exists as a result of intentional incorrect responding, his ability to deliberately choose the wrong answers to the items would suggest that he has the same cognitive capacity as someone who chooses the correct answers to the items...Individuals who are capable of choosing the correct answers to the same extent as was demonstrated by the defendant typically possess at least average to high average reasoning ability.”</p> <p>Dr. Amézaga indicated that the results of the VIP assessment raise a number of issues associated with competency, including Mr. Vanisi’s willingness or capability to engage in truthful testimony and the legitimacy of his demonstrated psychiatric symptoms and complaints. Dr. Amézaga concluded that Mr. Vanisi’s “reliability to testify in a truthful manner or in a manner in which there is little chance that he might display a disruptive form of acting out behavior as part of his testimony is in serious doubt.”</p> <p>Dr. Amézaga concluded that Mr. Vanisi had sufficient ability to meet competency to proceed criteria at the time of the assessment.</p>	
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	<p>However, he also noted a limitation for Mr. Vanisi is his "inclination to provide abbreviated, one to two word replies to questions that are asked of him." Dr. Amézaga indicated that this tendency may suggest mild impairment in Mr. Vanisi's ability to assist his counsel. It was also noted that Mr. Vanisi was capable of proving more elaborate responses when he perceived it as necessary.</p>	
08/16/2010	<p>Various family members were interviewed by Attorney Ben Scroggins, Investigator Herb Duzant, and Paralegal Denise Paris on 6/17/10. Family history was reviewed. It was indicated that Mr. Vanisi came to the United States when he was 7 years old. It was noted that Mr. Vanisi's father's name was Afa Vanisi. He had 4 or 5 siblings and he died within the last year. It was noted that Mr. Vanisi had been given to Umu Tafuna, his maternal aunt, at birth. It was noted that Louisa Tafuna, Mr. Vanisi's birth mother, had a new husband and did not want to bring too many kids to the new marriage.</p> <p>It was reported that Mr. Vanisi was born in Vaiola Hospital. Umu indicated that it was a normal birth and checkups were with an uncle who was a doctor with an office in his home. It was noted that Mr. Vanisi suffered a dog bite when he was 3 which left a scar on his left cheek. Stitches were required.</p> <p>It was noted that Mr. Vanisi would sit in his uncle's class in Tonga. His uncle was a teacher. It was reported that the Mormon church ran the U.S. School in Tonga and that Mr. Vanisi attended the government school in his early years. It was noted that Mr. Vanisi attended El Camino College in L.A., Capuchino High School, L.R. Wood Middle School and Engle Elementary. It was noted that Mr. Vanisi had a lot of friends in school.</p> <p>Strange behavior was noted by Mr. Vanisi's cousin, Mike Finau. He indicated that he drove Mr. Vanisi to the airport for a trip to China. He noted that Mr. Vanisi did not have luggage, just beer. He reported that Mr. Vanisi threw beer cans in the restaurant and scared the staff. It was noted that Mr. Vanisi met his wife in 1996 and married her in July 1997. Mr. Finau indicated it never seemed right to him. It was also reported that Mr. Vanisi showed up at his sister's wedding dressed up like Crocodile Dundee. It was noted that he volunteered to videotape the wedding and his sister was confused by his demeanor and "everyone thought he was out of his mind."</p> <p>It was noted that Mr. Vanisi was once arrested for helping someone in a fight one time in San Bruno.</p> <p>Mr. Finau indicated that Mr. Vanisi did not speak any English when he first came to the United States. It was noted that he felt like he did not belong. Mr. Finau reported that Mr. Vanisi felt like he was harassed by police. He noted that he picked Mr. Vanisi up from jail one time and he was black and blue. It was reported that Mr. Vanisi would "make a conscious effort to resist arrest and antagonize police into battering him."</p> <p>Mr. Finau reported that while Mr. Vanisi was on his Mormon mission in the 1990s in Arizona, he got his first cousin pregnant. Mr. Finau indicated he believed this was on purpose to get out of the mission.</p>	Witness Interview Report by Denise Paris

	<p>Mr. Finau indicated that he never knew of Mr. Vanisi abusing substances but there was a time when he was getting prescriptions for FenFen. It was noted that Mr. Vanisi was getting a lot of auditions at the time and losing a lot of weight.</p> <p>Mr. Finau reported that Mr. Vanisi was drinking and smoking marijuana daily just prior to the crime. Noted strange behavior included the following: Mr. Vanisi had a lifesize picture of a cop in his room which he would throw a hatchet at; Mr. Vanisi had many disguises consisting of wigs and tights; Mr. Vanisi was dressing like a superhero and walking around in public; Mr. Vanisi was “obsessed with hats”; and Mr. Vanisi had different identities that went with the disguises including Geocomo the Italian mobster, Rocky, and Sonny the safari Crocodile Dundee identity which Mr. Vanisi referred to in the third person. Mr. Finau also reported that he once observed Mr. Vanisi consulting with his doctor, a Dr. Pepper can. Mr. Finau indicated that Mr. Vanisi once “beat up everyone in a bar in L.A. and was arrested.” He also noted that police once had to break a car window and cut the seatbelt to forcibly remove Mr. Vanisi as he would not cooperate with them. Mr. Finau reported that Mr. Vanisi tried to start his own gang in Englewood one time.</p>																			
08/24/2010	<p>This transcript indicated that Mr. Vanisi took classes during Fall 1990 and Spring 1991. His courses and grades were as follows:</p> <p>Fall 1990:</p> <table><tr><td><u>Course</u></td><td><u>Grade</u></td></tr><tr><td>Pers/Commnty Health Prob</td><td>C</td></tr><tr><td>Men Intcol Football Team</td><td>W</td></tr><tr><td>Basic Weight Training: beg</td><td>W</td></tr><tr><td>General Psychology</td><td>C</td></tr></table> <p>Spring 1991:</p> <table><tr><td><u>Course</u></td><td><u>Grade</u></td></tr><tr><td>Beginning Voice Class I</td><td>D</td></tr><tr><td>Effective Speaking</td><td>F</td></tr><tr><td>Introduction to Acting</td><td>W</td></tr></table>	<u>Course</u>	<u>Grade</u>	Pers/Commnty Health Prob	C	Men Intcol Football Team	W	Basic Weight Training: beg	W	General Psychology	C	<u>Course</u>	<u>Grade</u>	Beginning Voice Class I	D	Effective Speaking	F	Introduction to Acting	W	El Camino College Unofficial Transcript
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Effective Speaking	F																			
Introduction to Acting	W																			
10/04/2010	This article was reviewed.	Fen-phen Wikipedia article																		
10/08/2010	<p>This memo reviewed the process of the initial client meeting. In the memo, it was noted that Mr. Vanisi had explained that he had been harassed by police his entire life and that is what caused him to over-react when he perceived the officer had assaulted him. It was also noted that Mr. Vanisi indicated “he did not want to leave death row because he wanted to keep his option of suicide open....Vanisi wants to have the option to cancel all of his appeals and be executed.” Mr. Vanisi also stated he “‘like being able to push the button and end everything’ if the pressures of incarcerated life becomes unpleasant.” It was noted that Mr. Vanisi was taking Haldol for Schizophrenia, Lithium for Bipolar Disorder, and Seroquel as an anti-psychotic.</p>	Memo regarding client meeting from Ben Scroggins																		
10/14/2010	<p>This document summarized the offense as well as mental health treatment after the offense and trial. Relevant information is summarized below.</p> <p>It was noted that on 11/4/95, Mr. Vanisi got into a fight with two patrons at a bar. It was reported he was asked to leave, but returned</p>	Offense Chronology from the Law Offices of the Federal Public Defender																		



20 minutes later and continued to try to start fights. The police arrived when Mr. Vanisi was leaving as the passenger in a car and they attempted to arrest him. The ordered him out of the car, but he refused repeatedly even after the police utilized force. It was noted that Mr. Vanisi's seatbelt had to be cut and he was pulled from the car. It was reported that Mr. Vanisi was not combative but did resist while being handcuffed.

On 8/23/97, it was noted that Mr. Vanisi was punched in the eye while ejecting a drunk individual from a bar while he was working as a doorman.

It was reported that on 1/9/98, Mr. Vanisi allegedly told "Tiki" that he wanted "to kill a cop with his hatchet to get the cop's radio, badge and gun and everything."

In January 1998, Tiki claimed that Mr. Vanisi was "always" high on marijuana.

It was reported that in January 1998, Mr. Vanisi went to a dance wearing a short wig, a necktie for a belt, and he was carrying a hatchet. It was noted that Mr. Vanisi often talked about killing police, but never explained why. A few individuals indicated they heard him discuss this during the week before the murder. It was reported by Losa Louis that Mr. Vanisi "talked as if he was a little crazy."

On 1/11/98, it was noted that Mr. Vanisi wore a brown shoulder length wig which he described as "'part of his disguise.'"

On 1/12/98, it was noted that Mr. Vanisi was "'very talkative and rambling'" while cooking dinner around 5:00. At 9:30pm it was noted that Mr. Vanisi left the house wearing a wig, red beanie, and a brown scarf for a belt.

1/13/98 was noted as the date of the offense which included homicide of a police officer, two armed robberies, and auto theft. It was reported that the homicide occurred at 12:57am. It was noted that Tiki reported to the police that Mr. Vanisi "claimed the officer told him to take his hands out of his pockets then attacked" him, at which point Mr. Vanisi responded with the hatchet. Between 1:15 and 4:00am, it was noted that Mr. Vanisi returned home and was allegedly talking to himself and staring at the hatchet. It was noted that he slept in the car. At 5:30pm, it was noted that Mr. Vanisi watched the news and Renee Peaua asked him if he was the perpetrator and he replied yes. It was reported that at 10:15pm, Dan Myers started his car and returned inside. Five minutes later, someone had stolen it. At 10:52pm, it was noted that someone entered the Jackson food market at Texaco, put a gun on the counter and demanded money. At 11:41pm, it was noted that someone pointed a handgun at a clerk at a 7-11 and demanded money.

It was noted that on 1/13/98, the Reno PD found a hatchet in the entryway of the apartment at 1098 North Rock Boulevard, Apartment A.

	<p>On 1/14/98, the SWAT team took Mr. Vanisi into custody following resistance.</p> <p>On 1/15/98, it was noted that Maria Losa Louis called the Reno PD after she found a white plastic bag with an antennae from a hand-held radio protruding. It was noted that this was Officer Sullivan's radio.</p> <p>It was noted that Dr. Mary Knapp wrote on 10/11/99 that she diagnosed Mr. Vanisi with a major mood disorder.</p> <p>Mr. Vanisi was observed at ESP on 4/14/00, talking to himself and threatening others while wearing underwear on his head and smearing feces on his face.</p> <p>Kites dated 5/18/04, 6/11/04, and 5/25/04 were summarized and indicated Mr. Vanisi was experiencing anxiety with panic attacks, increased energy, difficulty paying attention, and difficulty sleeping.</p> <p>Notes from an involuntary med review dated 2/2/06 indicated previous symptoms of defiling cell, hanging toilet paper curtain, writing on the walls with fecal matter, and a diagnosis of Bipolar Disorder, Manic as well as ASPD.</p> <p>Notes from an involuntary med review dated 2/26/08 indicated a history of manic behavior back to 1998. It was noted that he was banging his head on plexi-glass and walls, yelling incoherently and acting in a grandiose manner. There was a note indicating Haldol between 37.5 – 50 mg.</p> <p>It was noted that on 6/29/08 and 9/2/08, Mr. Vanisi wrote kites indicating he was unable to sleep.</p> <p>A Chrono for force medication panel review dated 2/20/10 indicated “‘untreated D [Mr. Vanisi] is danger to himself and others and is aggressive, unmanageable. Even with treatment, inmate decompensates and exhibits bizarre behaviors such as smearing feces, banging his head and being verbally and physically threatening to others.’” Medications noted included Haldol deconoate 150 mg IM every 4 weeks, lithium carbonate 300 mg AM and 600 mg PM.</p>	
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**ADDITIONAL RECORD SUMMARIZATION:**

**Social History Summary from the Office of the Federal Public Defender:**

The notes indicated that Mr. Siaoosi Vanisi was the fifth of the seven children. The notes indicate that many of his blood relative including his siblings (Tevita Vanisi, Sela Vanisi) and biological father (Maka'Afe) had a history of severe mood swings. Drinking problems were also noted in Steven, Mr. Vanisi's brother, and father.

It was noted that Mr. Vanisi's paternal grandfather, Kuli Vanisi, was a police inspector and was against his mother Luisa and father Maka'Afe's relationship. It was noted that his grandfather eventually convinced his son Maka'Afe to leave Luisa when she was

pregnant with Mr. Vanisi. It was noted that at that time Luisa became very depressed and remained depressed during the entire pregnancy with Mr. Vanisi. It was also noted that Luisa gave Mr. Vanisi to Ms. Toeuma, her sister after birth and for the first three years of Mr. Vanisi's life he believed her to be his mother. It was noted that Ms. Toeuma had to leave for the US when Mr. Vanisi was 3 years old and this was a traumatic experience for him. It was noted that he took many months to get adjusted to this separation. It was also noted that when Toeuma left Luisa did tell Mr. Vanisi that she was his real mother which was met with resistance from Mr. Vanisi. It was stated that Mr. Vanisi did not know anything about his father until later in life. The document stated that when Mr. Vanisi was around 6 year old he also came to the US with Luisa who then gave him back to Toeuma. It was noted that Mr. Vanisi again took a long time to get readjusted to this change. It was noted that he was then raised by Toeuma. He did live with his other uncle and other relatives.

It was noted that Mr. Vanisi was born at home. When he was about 6 years old he came to the United States and since then until his late teens was living with his aunt/mother in California. It was noted that Mr. Vanisi was a well-behaved child who was smart and intelligent. At around 6-7 years of age he was fluent in Tongan but did pick-up English fairly quickly after coming to the US. He always lived in a big extended family with uncles and cousins. It was noted that Mr. Vanisi was sexually abused (molested) by his elder brother Steven when he was a child. It was also noted that Mr. Vanisi was disciplined by his Aunt/mother and his Uncle. The main form of discipline was spanking, yelling, and taking away privileges. It was noted that talking was the only main problem Mr. Vanisi had in school. It was also noted that Mr. Vanisi mainly had white friends while growing up. It was noted that when Mr. Vanisi was in junior high school he started inquiring about his father. His aunt told him that his father died in the war; however, when Mr. Vanisi was in High school his father, who was visiting the US, came and met him. It was noted that when Mr. Vanisi was around 10 years old he got a cut to his head from a fence, while trying to crawl under it. It was noted that When Mr. Vanisi was around 10 years-old he found out that Luisa was his biological mother. It was noted that he was depressed for a few weeks after this revelation. It was stated that when Mr. Vanisi was about 12 years old he expressed his wish to live with his biological mother Luisa, who rejected the idea and asked him to go back and live with his aunt Toeuma. It was noted that Mr. Vanisi did express feelings of not belonging in the family.

It was noted that Mr. Vanisi was harshly treated by his uncle Maile, who was the head of the family. It was noted that Mr. Vanisi never had a job during his school years and was provided for by Toeuma. At age 12 Mr. Vanisi received an ear surgery for broken eardrum. It was noted that Mr. Vanisi joined the Boys Scouts and was a regular and devoted member. He was also involved with church activity. It was noted that the family was very religious and was involved with the church. Mr. Vanisi was viewed by many of his cousins as being caring and generous. It was also noted that Mr. Vanisi was considered intelligent; however, his speech was always noted to be pressured and rapid with flight of ideas. It was noted that at age 15 or 16 Mr. Vanisi was pushed through a glass partition by a youth at church, which resulted in him getting some stitches (area not mentioned). It was noted that Mr. Vanisi lost his brother, his uncle and a grandfather like

figure in a close span of time. It was noted that each of these losses were greatly felt by Mr. Vanisi.

It was noted that from age 18 onwards Mr. Vanisi started talking about things that did not make much sense. It was noted that it seemed that he was hallucinating. He talked about unrealistic and grandiose goals with no real plans. He demonstrated erratic behaviors, such as on one occasion he kept driving the family in circles and did not know where to go until he was stopped by his uncle, at which point he became very upset and disrespectful and left the car and went away. It was noted that Mr. Vanisi was one of the few to graduate in his family and everyone had great expectations from him. It was also noted that he decided to go on a LDS Mission (Church activity) and was chosen for it. However, when he was sent for the training he became very homesick and confessed to fornicating which disqualified him for the mission and he was sent back home. This was seen as a very embarrassing and shameful situation also because the girl in question was his first cousin, a practice tabooed in Tonga culture. It was noted that this incident lead to Mr. Vanisi losing all favors in his family. It was noted that Mr. Vanisi's conversations following this incident became worse. He would jump from one topic to another and would talk for lengthy periods without giving anyone a chance to speak. It was also observed that Mr. Vanisi was cursing when talking, something which had not been previously present in his speech.

It was noted that after this Mr. Vanisi decided to go to college in Los Angeles. Toeuma was the single source of financial support when Mr. Vanisi was in LA. Mr. Vanisi was then sent to participate in his Mormon Mission; however, he impregnated another girl and had to stop his mission and return home. He then decided to go to LA to become an actor. It was noted that Mr. Vanisi started introducing himself with different names. He had various identification cards and licenses. He auditioned for a movie but was not selected. It was noted that he could never hold a job and pay his bills. He would also deny his heritage and introduce himself as a person of another heritage. Mr. Vanisi met his Ex-wife DeAnn who found him charming and intelligent and soon became pregnant with his child. Mr. Vanisi was excommunicated from his church.

It was noted that shortly prior to the incident others noticed strange behaviors in Mr. Vanisi. It was noted that one evening in 1995 when Mr. Vanisi's roommate returned home he saw Mr. Vanisi recording himself crying and sobbing. He was saying things like, "Stop", "No Daddy,". The roommates indicated that despite them being there Mr. Vanisi did not stop and continued recording. It was noted that once Mr. Vanisi went on a trip with his friend and that throughout the journey he was pleasant with them; however as soon as they reached their destination Mr. Vanisi's mood changed dramatically and he started speaking in a nasty way and he refused to share food. It was stated that, "Mr. Vanisi seemed almost like he had been possessed by a evil spirit."

It was noted that around 1996 Mr. Vanisi stopped working and his wife who worked two jobs became the sole provider of the family. It was noted that Siaoosi's mental health began to deteriorate around 1996-1997. He became distant and cold. He became isolated and his hygiene and his ability to take care of daily tasks deteriorated. He began to wear

dirty cloths, stopped shaving and was poorly groomed. His speech became like gibberish and he rambled a lot about biblical topics. His speech was noted to be incoherent and inconsistent. There are reports by people around him that his personality changed from a warm friendly person to distant and cold. It was noted that at that time Mr. Vanisi started mentioning an imaginary friend/god called 'Lester,'. Mr. Vanisi believed Lester was more powerful than Jesus or the Devil. It was noted that Mr. Vanisi had racing thoughts, he was hyperactive and overly excited. On one occasion when he was watching his brother's children he pulled mattresses from all the bedrooms and the living room and started jumping and sliding off them with the kids. Mr. Vanisi was not able to comprehend safety concerns when later asked about the behavior by his sister in-law.

It was noted that Mr. Vanisi's marriage was stressed by financial problems, which were influenced by his inability to maintain employment and his deteriorating mental health. It was noted that in 1996 DeAnn left Mr. Vanisi. It was also noted that between 1995-1996 Mr. Vanisi had around 5-6 identities and that each identity had its own personality and outlook. He started living these identities. "Sonny brown" was an identity in which Mr. Vanisi wore a wig. He also had an identity like Crocodile Dundee in which he wore a hat and had an Australian accent. He also had a superhero identity. It was noted that Mr. Vanisi was a cross-dresser and often dressed like a woman.

Terry Williams, Mr. Vanisi's friend, stated he would find Mr. Vanisi crying in the dark or standing in the dark like a statue for long periods of time. He also reported that Mr. Vanisi would not sleep and would wonder on the streets day and night. He also indicated that Mr. Vanisi often said that he was an alien and talked to other planets and galaxies. He had many books on astronomy. It was noted that Mr. Vanisi often indicated that he had other alien friends whom no one else could see but himself. He talked about his starship and also at one point stated collecting empty plastic bottles, which he stated were needed for the smooth landing of his space ship. It was also stated that Mr. Vanisi collected other odd items like broken microphones, extension cords etc. It was stated that Siao Si would talk to himself for hours. It was noted that Mr. Vanisi started drawing various pictures and symbols, some of them bizarre and sexual on his bedroom walls. His wife reported that Mr. Vanisi would make bizarre videos of his children. He would make erratic travel plans. Mr. Vanisi friends reported a few incidents in which Mr. Vanisi became hostile and defiant when confronted by police or authority figure. He also lied about his education and work frequently. He would talk about knowing famous people and being famous. It was noted that at his Sister Sea's wedding Mr. Vanisi's behavior was seen as bizarre. He sat on the speakers and started a baseball commentary in the middle of a conversation. DeAnn who accompanied him reported that Mr. Vanisi did not sleep for 5 straight days. It was also noted that Mr. Vanisi started taking Fen-Phen around 1994. It was noted that DeAnn leaving him was a big stressor, which further negatively influenced Mr. Vanisi's mental health.

Mr. Vanisi complained to his friends about his failures and also about being constantly pulled over by policemen for tickets. It was noted that Mr. Vanisi became very depressed and had a negative view of himself and the world. After DeAnn left Mr. Vanisi in 1996 he had a car accident. It was noted that a year before the incident Mr. Vanisi deteriorated

mentally. His speech was rapid. He would speak in Tongan and would talk about Tonga. It was reported that Mr. Vanisi used various names for the personalities he had, and he spoke and dressed differently when he was in each of the different personalities. Some of the main personalities that Mr. Vanisi had were "Gia Como," "Sonny Brown," "Perrin Vanacey," and "Rockey." It was noted that his behaviors, mood and personality changed with each and he never mixed them up.

It was noted that at a Halloween party in 1997-98 Mr. Vanisi brought a machete and later started to chop down a tree in the courtyard. When asked he said, "I am chopping the tree of life." Around 1996-97 he bought a hatchet. It was noted that Mr. Vanisi indicated to his friends that he would like to take the hatchet on a plane. It was also noted that he used to practice throwing the hatchet from a distance in his bedroom.

It was noted that around the latter part of 1997, Mr. Vanisi complained of losing his sense of time. He reported to his friend Michael that there were patches of times in which he could not account for or remember what he did. Michael indicated that he remembered three such instances before Mr. Vanisi moved to Reno, Nevada. An instance was noted in which Mr. Vanisi became upset and started throwing empty cans of beer across a restaurant.

It was noted that after Fen-Phen was recalled in late 1997 Mr. Vanisi started abusing other drugs and alcohol. It was noted that he used crystal Meth, marijuana and other drugs,. This was noted to be contrary to Mr. Vanisi's long-term stand and outlook on drugs. Mr. Vanisi had always been against drug use and abuse. It was also noted that since his juvenile years Siaosi thought of the police as practicing discrimination against himself and South Pacific Islanders. It was noted that during the 1990's when Mr. Vanisi was living in Los Angeles the police beat him on several occasions. It was noted that he resisted arrest; however, he had never assaulted a police officer before this incident.

It was noted that Mr. Vanisi witnessed the death of his friend "Cynthia" who died of a heart attack. After DeAnn left Mr. Vanisi Cynthia employed Mr. Vanisi as a helper to drive her around and eventually also paid her for sex. She was older and when she had her heart attack Mr. Vanisi was with her. He saw her collapse. It is noted that Mr. Vanisi became extremely paranoid after Cynthia's death and thought that the police were going to arrest him, although no foul play was noted on Cynthia's death.

It was noted that Mr. Vanisi moved to Reno, Nevada in late 1997. His cousin with whom he stayed in Reno reported that Mr. Vanisi did not sleep at night. He would watch TV throughout the night. It was also noted that Mr. Vanisi drank every day and his behaviors became even more odd after drinking. He would speak to himself and the content of his speech was noted to be disorganized and senseless at times. He was also noted to it in the dark and talk to himself. He was also observed having long conversation his cousin/friend's family dog "Doobie."

It was noted that just before the incident Mr. Vanisi addressed Doobie as "The Almighty." He took him for long walks and cooked special meals for him. He reportedly told his cousin that he worshiped Doobie. Some other strange incidents were also noted.

In one incident Mr. Vanisi tore off his clothes in a bar and started dancing. It was noted that Mr. Vanisi started wearing Tongan attire like Mat and Lava Lava, special Tong clothing for specific occasions; however, Mr. Vanisi started wearing them outside in the cold. He also would do Tongan dancing at inappropriate places. On one occasion during a Tongan youth community dance Mr. Vanisi started dancing with his hatchet and making sounds like Native Americans. At that night he was not observed to be under the influence of any drug.

I

**Declarations:**

Declaration of Tavake Peaua dated 01/21/2011:

Tavake was Mr. Vanisi's maternal cousin. He declared that in High School Mr. Vanisi was weird. He wore flashy colors. He had an odd hairstyle. He said things that made no sense and told elaborate stories about things that were not real. He also indicated that Mr. Vanisi used to change subjects and talked about irrelevant things. It was also noted that during the 1990's Mr. Vanisi's behavior was noted to have become strange. He changed his name and denied his Tongan heritage. He called himself African-American and Chinese. He had many identities and personalities. Tavake noted that on one occasion he went to a supermarket with Mr. Vanisi. Initially Mr. Vanisi was fine; however after sometime he started acting as if he were crippled and blind. He drove the cart around in a circle for 10 minutes inside the supermarket. He then reportedly snapped back to normal after they left the supermarket. Tavake also endorsed a change in Mr. Vanisi's personal hygiene and basic grooming behavior. It went from good to bad. It was noted that Mr. Vanisi complained of harassment by the police. He also felt discriminated by the police. It was noted that Mr. Vanisi's house was in a mess and he had hoarded many odd and trash- like objects in his place. He reportedly wrote and drew on the walls of his room. Tavake noted that Mr. Vanisi indicated to him that Fen-Phen made him edgy and kept him up at night. It was noted that between 1995 and 1997 Mr. Vanisi reported seeing people that were not visible to anyone else and hearing voices and sounds that other could not hear. He also spoke of biblical topics. It was noted that after the death of his elderly friend Cynthia Mr. Vanisi became very paranoid. He thought that he was being watched. Tavake noted that he was shocked about the incident and indicated that although Mr. Vanisi was crazy he was never violent. Tavake also questioned if officer Sullivan did say or do something that provoked Mr. Vanisi and resulted in the assault. Tavake also stated that he himself had a few incidents with Officer Sullivan and felt he was being unfairly treated by him. Tavake did indicate Mr. Vanisi's severe paranoia of police officers at the time of the incident.

Declaration of Limu Havea dated 1.24.2011:

Limu was noted to be Mr. Vanisi's paternal aunt who lives in Tonga. She mainly provided Mr. Vanisi's fathers history and reported that she named Mr. Vanisi.

Declaration of Totoa Pohahau date 1/23/2011:

Totoa was noted as the cousin-in-law of Mr. Vanisi. He lived with Mr. Vanisi for two years from 1987. He went to High School with Mr. Vanisi. He reports that right from the beginning he found Mr. Vanisi's behaviors to be strange. He would shift from one topic to another. One moment he was fine and another yelling and shouting. He also mumbled to himself and this was often accompanied by smiling and laughing. He was also reported to have a squinting and blinking problem. It was noted that Mr. Vanisi blinked and squinted his eye almost non-stop. Totoa noted that Mr. Vanisi always had lots of energy and was hyperactive. He exhibited strange behaviors like after football practice when everyone was going to the locker he would run and hit his head on the rubber tackle bag. When the coach would give instructions, Mr. Vanisi would start giving his own instructions. It was also stated that Mr. Vanisi's mood and behavior swings were extreme. One minute Mr. Vanisi would be talking and laughing with Tatao and the very next he would stop talking, get up and walk away and be by himself. He would also stare in the distance. He would abruptly do the "Sipitau," a Tongan warrior dance, at any and all places, like when walking to school, in the school hallway, at football practice etc. Tatao indicated that Mr. Vanisi reported to him that he has no control over his sudden erratic behaviors; however, to Mr. Vanisi these behaviors were normal. Totoa indicated that Mr. Vanisi's behaviors were so well known in school that people started calling him, "Crazy Pe" and "Crazy George." It was also noted that Mr. Vanisi mainly had white friends. Totoa reported that Mr. Vanisi had trouble sleeping at night. He indicated that he was Mr. Vanisi's roommate and many times when he would get up in the middle of the night to go to the bathroom he would find Mr. Vanisi sitting on the edge of his bed staring at the wall. Totoa also noted that Mr. Vanisi did use some drugs. He indicated that Mr. Vanisi used cocaine and cocaine made him calm and under its influence he acted normal. Mr. Vanisi was noted to be very religious. Totoa indicated that he always felt that Mr. Vanisi had a mental illness, but this was ignored by the family due to cultural factors.

Some additional prison records were reviewed that were sent more recently, after the initial record review was completed.

#### **INTERVIEW OF CLIENT:**

##### **Medical/Psychiatric History:**

Mr. Vanisi indicated that he is being treated for bipolar and psychotic disorders. He indicated that he receives Haldol Decanoate one time a month, the last injection being September 17, 2010, Lithium Carbonate 2 x a day, Vistaril two 50 mg tablets q.h.s., Seroquel 100 mg q.h.s. and Cogentin 2 x per day. He said he was on Paxil in 2002, which made him more excitable. He said that in Ely State Prison he sees a male psychiatrist occasionally, about once every three months. Mr. Vanisi said he was diagnosed with diabetes in 2008. He takes Metformin 2 x a day and Glyburide 2 x per day for this. Although he denied a history of asthma, he said he takes Singulair at night as well as Claritin. Mr. Vanisi said he had a history of ear infections and ear surgery when he was seven years old. He thinks it was his right ear.



Mr. Vanisi said he received glasses in 2004. Mr. Vanisi said that in 1988 or 1989 he lost his balance, crashed into a window and required plastic surgery for his elbow. He said a classmate jumped on his shoulder. He said he did not go out of the window. He said he went to the hospital in the eleventh grade. He said his mood is calm with no ups and downs. He said, "I feel sedate."

Mr. Vanisi said that he had a laceration on his forehead from when he was involved in a bar fight and his head was slammed in the concrete. He said he forced the people to go away.

**Current Symptoms:**

In regards to physical symptoms, Mr. Vanisi denied headaches, dizziness, tinnitus, vertigo, anosmia or dysphasia. He denied visual problems other than that he needs glasses because "I can't see so far. It's blurry." Mr. Vanisi said he has reduced hearing in the right ear.

Mr. Vanisi denied chronic pain. He denied auditory, visual or olfactory hallucinations. He said, "I've been wanting to hear things and see things, but it never happened." He said that he sleeps well and goes to bed three hours after his medications. He said he wakes up at about 9:00 every day. He said he sleeps from about 7:00 to 8:00 p.m. until 9:00 the next morning. He said that off the Haldol he gets up at 6:00 a.m. He said his appetite is good. He said he weighs 235 pounds at 5 feet 10 inches tall. He said his energy level is high. Abdominal discomfort was denied.

Mr. Vanisi described his short-term memory as "pretty good." He said "my concentration is somewhat suspect depending on what I am reading. If I read legal stuff I don't pay attention at all." He denied word finding difficulty. He said his ability to understand what people say to him is "not that great ... comes and goes." He said his concentration is better on his current medication regimen. Mr. Vanisi said that he feels he has hyperactivity and attention problems and a hard time following instructions.

Mr. Vanisi denied delusions currently, but said that when he is not on the medication, he "gets like that. That's why I had the hatchet with me. That I was going to get beat up or harassed again." Mr. Vanisi said that there was an incident in high school in which a mall police officer started to escort him out and when he refused, the officer tried to subdue him, and then forced him out of the mall. Mr. Vanisi denied that people were out to get him. He denied violent behavior. He said one police officer took his head and pounded it on cement in 1997. He said he cannot remember what month, then he said it was in 1996. He said, "They wanted me to get out of the car, but I refused to get out of the car, so they pepper sprayed me and cut the seatbelt and dragged me out of the car and smashed it."

Mr. Vanisi said the last time he had suicidal ideation was in 1997. He said he denied ever wanting to kill himself in prison. He said he has nightmares, but does not know of what. Flashbacks and panic attacks were denied. He said when he is not on medication,

he gets racing thoughts. Mr. Vanisi said that he enjoys them. He said, "I enjoy them." He said, "I enjoy crazy. It's hard for me to read. Hard for me to sit still."

Mr. Vanisi said, "I've been told I was crazy since the first grade. Just funny crazy. I wasn't homicidal crazy, no."

### **Substance Use:**

Mr. Vanisi said he took Fen Phen for weight loss in 1998. He was unclear about exactly for how long and when he took it. He said he only took it for six months and believed that he was not taking it for a year before the homicide; however, this appears to be contradicted by the records. He said at the time of the interview he weighed 235 pounds, but prior to taking Fen Phen he weighed 280 pounds. He said he liked the feeling the Fen Phen gave him. He said he was using marijuana for four days before the crime was committed.

Mr. Vanisi said that he lived on crystal meth amphetamine, "because it gave me energy. When I experimented with crystal meth and when I am not on medication and I can compare the difference when I am not on medication, it's like I'm high on medication. I go 14 days without sleeping and eating."

Mr. Vanisi said that he drank beer when younger for a while. He said he would drink 16 beers at a time. He said he smoked marijuana two times a day every day. He said he did some methamphetamines. He said he was sober at the time of the homicide.

### **Educational/Vocational History:**

Mr. Vanisi said he graduated twelfth grade and was held back in second grade because he had an ear infection.

Mr. Vanisi said he did writing in Los Angeles at Renaldo Beach, non union, for about a year, all over Los Angeles.

Mr. Vanisi said, "I was an actor too. I filmed a Miller Lite commercial and I was getting money from that." He said he filmed that in 1997. He said, "I was (an) Hawaiian cheerleader. I twirled a baton with my toes."

Transcript from El Camino College shows college courses in fall of 1990 and spring 1991 with Cs in Health and General Psychology and withdrawal from other classes.

### **Social/Criminal History:**

Mr. Vanisi said he came to the United States in 1976 at six years old. He grew up in Tonga up till that point. Mr. Vanisi described crawling under the barbwire fence through the dog holes before age six on Tonga because he just wanted to go on adventures. He

said, "I was just escaping the house." He said he was hyperactive in Tonga and went off the medications in Tonga. He said, "When I'm off the medications, I get energetic. I'd run in the snow for two hours just in my boxers and in my sandals." He said, "I get a thrill doing stuff and moving. I'd be doing stuff all the time."

Mr. Vanisi said that as a child that he did "too much talking. I'd be talking in high school and talking to friends where when teachers are teaching I'd be disruptive. They'd say I'd be disruptive in class." He said he was always wound up. He denied paranoia but said he was always confident and sure of himself.

Mr. Vanisi said that when he was younger, "I had a hard time paying attention and to this day I had attention problems, like when I am reading a book. I sometimes when I read a book I get distracted or would not know what I'm reading and would have to read it again."

Mr. Vanisi said he has two sisters and five half sisters. His sister Caroline is 45. They have the same mother. She is a married housewife with three children whom he said are older now. Stella is 42. They have the same father. There is Steven (Sitivenie Tafuna). He said he and Steven have the same mother and a different father. He said his brother David (Nelsoni Paulu Tevita Sui Vanisi) died when Mr. Vanisi was still in high school. He said he died of a drug overdose, sniffing glue. He said he has another brother in Tonga on his mother's side, Moale.

Mr. Vanisi said his mother Luisa died in 2001 of diabetes. He said his father died in March 2010. He said his parents were divorced. He said he did not know his father when he was growing up. He said his father died of a heart attack and diabetes.

Mr. Vanisi described the crime in question as occurring in January 1998 in Reno when he was walking his dog on the University of Nevada's Reno campus. He said the dog veered off to the police car. He said the police officer got out of his car. He said he walked away from the police officers but the police officer came to him and said something to him that he could not understand and "he grabs me and hits me to man handle me and subdue me and he pulls out his billy club and he jabs at my crotch, starts beating me on the leg and at that time I was upset and mad, he enraged me. I grabbed my hatchet (cause I walk everywhere with it for protection) and I hit him on the head until he falls down and kept hitting him with the hatchet and he fell down."

Mr. Vanisi said he had a history of police officer abuse and said that "the main reason I carried a hatchet was to prevent the police officers from beating up on me." He said, "If the police officer had never got out of his car, none of this would have happened. All I did was try to prevent the police officer from man handling me." He said, "I don't understand why he got out of the car (and beat up on me). The dog went towards his car." Mr. Vanisi said that on the street he was "just weird. I was just an oddball. Talk crazy stuff and upset.

Mr. Vanisi said that he was depressed in 1997. "I was just depressed." He said, "I couldn't describe it. It just made me look at the world with a negative view. I didn't like certain things." He said his depression lasted around two weeks. He said it would be on and off in 1997 and 1998. He said that he was "much up and down." He said he feels he has not been depressed since 1998, and has not been depressed in prison.

Mr. Vanisi denied criminal history prior to the homicide of the police officer, but said he got in trouble in school for misbehavior. He said he was often late for class and talking too much. He denied any history of drug charges. He said he was aged 28 at the time of the homicide.

Mr. Vanisi said at the time of the homicide he was married to his wife who had just left him in 1998. They were married for two years. They lived together a total of two years before that. He said they lived together a total of four years. Mr. Vanisi said he has two sons Forest age 16 and Meleni age 14. He said the last time he saw them was 1998. He said at the time of the homicide he had been separated about one year. He said he was depressed about that and wanted to go back. He said looking back he thinks he was delusional and perseverative at the time of the homicide. He said that at the time of the homicide he had told his cousin that he was going to kill a cop. He had told "my cousin that I was going to kill a cop because it was in my head. I knew I was gonna kill a cop." Mr. Vanisi reiterated "I'd tell everybody I was gonna kill a cop but I didn't know how it was going to turn out. It was constantly in my thinking." Mr. Vanisi said that it was "like a premonition." He said the police officer was his "adversary, my enemy, my nemesis. I see it that way." When asked about carrying the hatchet he said, "It was constantly in my head. I'm the good guy. You're the bad guy and I fought back." Mr. Vanisi said, "When I'm not on medication I tend to be far out."

Mr. Vanisi said he reads and watches 17 channels of cable t.v.

Excerpts indicated that his cousin Renee Peaua heard him talking about killing a cop. He said two to three days before the murder he "talked as if he was a little crazy." His uncle Metuisela Tauveli said that he overheard the defendant saying that he wanted to kill a cop in the days before the offense. The homicide was on 1/13/98 of University of Reno police officer George E. Sullivan. He reported to the police that Mr. Vanisi claimed the officer told him to take his hands out of his pockets and then attacked him.

It was noted in Ely State Prison records that on 4/14/2000 he was talking to himself and threatening others while wearing underwear on his head and smearing feces on his face. On 5/18/04 he indicated that he was having a "panic attack, difficulty paying attention, edgy, anxious, please help me. I don't like my thought processes." On 2/2/06 there was an involuntary medication review noting previous symptoms of defiling cell, hanging toilet paper curtains, writing on walls with fecal matter. Diagnoses were of bipolar disorder, manic and antisocial personality disorder.

Prison medical records of 2/26/08, involuntary medication review, noted that defendant has a history of manic behavior back to 1998 with history of defiling cells, toilet paper

curtains, fecal matter writing on walls, etc. On 6/29/08 and 9/2/08 the defendant reported that he could not sleep. Forced medication panel review note of 2/20/10 indicated, “untreated defendant is danger to himself and others and is aggressive, unmanageable. Even with treatment, inmate decompensates and exhibits bizarre behavior such as smearing feces, banging his head and being verbally and physically threatening to others.” It was noted that he was on Haldol Decanoate 150 mg IM every month, Seroquel 100 mg at bedtime, Vistaril 100 mg at bedtime, Lithium carbonate 300 mg a.m. and 600 mg p.m. and cogentin two times a day. He said that he was on Paxil in 2002.

**BEHAVIORAL OBSERVATIONS, MENTAL STATUS AND MEASURES OF NEUROPSYCHOLOGICAL EFFORT:**

**Beck Inventories**

<b>Test Type</b>	<b>Raw Score</b>
Beck Depression Inventory-II	7
Beck Anxiety Inventory	0
Beck Hopelessness Scale	1

**Test of Memory Malinger**

<b>Trial</b>	<b>Score</b>	<b>Cutoff</b>
<b>Trial 1</b>	43	
<b>Trial 2</b>	50	<45

Mr. Vanisi had long black hair to his shoulders. He wore black glasses which he said he wears all the time. He had a beard and mustache. Speech was very rapid and frequently tangential. He said he has dentures for his top teeth. Speech was overall rapid, fast, clear and tangential. Speech was pressured. When taking a Design Memory test he said, “these are designed to make you psychotic.” Mr. Vanisi was quite perseverative. He said his comprehension used to be good but now has had to read things over and over again. He said his reading comprehension has “always been suspect since I’ve been in junior high school.”

The Beck Inventories are face valid measures of depression, anxiety and hopelessness. Mr. Vanisi’s scores were in the range of minimal depression and within normal limits for anxiety and hopelessness.

The Test of Memory Malinger is a measure of effort on neurocognitive tasks. Mr. Vanisi had a perfect score on Trial II at 50/50, which is indicative of a good and effortful performance on the neuropsychological test battery, which was confirmed by behavioral observations of effort during the testing.

**NEUROPSYCHOLOGICAL TEST FINDINGS:**

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( ) = standard deviation units from the mean in a (+) positive or (-) negative direction  
 SS = standard score (mean of 100, standard deviation of 15)  
 ss = scaled score (mean of 10, standard deviation of 3)  
 wnl = within normal limits  
 T = T-score (mean of 50, standard deviation of 10)  
 " = Seconds  
 PR = Percentile Rank  
 NDS = Neuropsychological Deficit Scale  
 HRB = Heaton 2004 Normative Data

# **INTELLECTUAL FUNCTIONS:**

## **Wechsler Adult Intelligence Scale-IV**

<b>Index</b>	<b>Composite Score</b>	<b>Percentile Rank</b>
<b>Verbal Comprehension</b>	107	68
<b>Perceptual Reasoning</b>	73	4
<b>Working Memory</b>	80	9
<b>Processing Speed</b>	81	10
<b>Full Scale</b>	83	13
<b>General Ability</b>	89	23

## **Wechsler Adult Intelligence Scale-IV, Verbal Comprehension**

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>	<b>Strength or Weakness</b>

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<b>Verbal Subtests</b>				
<b>Similarities</b>	24	9	37	
<b>Vocabulary</b>	51	14	91	S
<b>Information</b>	15	11	63	S

Wechsler Adult Intelligence Scale-IV, Perceptual Reasoning

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>	<b>Strength or Weakness</b>
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<b>Perceptual Subtests</b>				
<b>Block Design</b>	24	6	9	
<b>Matrix Reasoning</b>	6	4	2	W
<b>Visual Puzzles</b>	9	6	9	

Wechsler Adult Intelligence Scale-IV, Working Memory\_

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>	<b>Strength or Weakness</b>
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<b>Working Memory Subtests</b>				
<b>Digit Span</b>	22	7	16	
<b>Arithmetic</b>	9	6	9	

Wechsler Adult Intelligence Scale-IV, Processing Speed\_

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>	<b>Strength or Weakness</b>
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<b>Processing Speed Subtests</b>				
<b>Symbol Search</b>	23	7	16	
<b>Coding</b>	47	6	9	

Wechsler Adult Intelligence Scale-IV, Discrepancy Comparisons

<b>Discrepancy Comparisons</b>	<b>Score 1</b>	<b>Score 2</b>	<b>1<sup>st</sup> - 2<sup>nd</sup></b>	<b>Sig.</b>
Verbal Comprehension-Perceptual Reasoning	107	73	34	.05
Verbal Comprehension-Working Memory	107	80	27	.05
Verbal Comprehension-Processing Speed	107	81	26	.05
Perceptual Reasoning-Working Memory	73	80	-7	Ns
Perceptual Reasoning-Processing Speed	73	81	-8	Ns
Working Memory-Processing Speed	80	81	-1	Ns
Full Scale-General Ability	83	89	-6	Ns

The Wechsler Adult Intelligence Scale-IV is a reliable and valid measure of intellectual functions. Mr. Vanisi's Verbal Comprehension Index of 107 was in the upper end average range at the 68th percentile rank. This was a marked strength, 34 points better, than his perceptual reasoning index in the mildly to moderately impaired/borderline range at the 4th percentile rank. Working Memory was in the mildly impaired/low average range at the 9th percentile rank. Processing speed was in the mildly impaired/low average range at the 10th percentile rank. Mr. Vanisi had strengths in Vocabulary and Information at the 91st and 63rd percentile ranks. He had a weakness in Matrix Reasoning at the 2nd percentile rank, moderate range of impairment. Arithmetic and Coding were in the mildly impaired range.

**ATTENTION AND CONCENTRATION:**

Wechsler Memory Scale-IV Visual Working Memory

<b>Visual Working Memory</b>	<b>Index Score/Scaled Score</b>	<b>Percentile Rank</b>
<b>Working Memory Index</b>	77	6
<b>Spatial Addition</b>	4	2
<b>Symbol Span</b>	8	25

Visual Cancellation Test

	Verbal	Non-Verbal
<b>Left Errors:</b>	0	2
<b>Right Errors:</b>	2	2
<b>Total Errors:</b>	2	4
<b>Total Time:</b>	79"	88"
<b>Starting Place:</b>	Left	Left
<b>Approach:</b>	Systematic	Systematic

Speech Sounds Perception Test

# Errors	T-Score	Percentile Rank	NDS
8	39	14	1

Seashore Rhythm Test

# Correct	T-Score	Percentile Rank	NDS
25	40	16	1

Conners' Adult ADHD Rating Scales-Long Version Self-Report – **On Medication**

Scale	Raw Score	T-Score	Percentile Rank
<b>A. Inattention/Memory Problems</b>	10	47	39
<b>B. Hyperactivity/Restlessness</b>	11	49	47
<b>C. Impulsivity/Emotional Lability</b>	9	47	39
<b>D. Problems with Self-Concept</b>	6	50	50
<b>E. DSM-IV Inattentive Symptoms</b>	9	53	61-63
<b>F. DSM-IV Hyperactive-Impulsive Symptoms</b>	8	50	50
<b>G. DSM-IV ADHD Symptoms Total</b>	17	52	58

<b>H. ADHD Index</b>	11	51	53-55
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Conners' Adult ADHD Rating Scales-Long Version Self-Report – **Off Medication**

Scale	Raw Score	T-Score	Percentile Rank
<b>A. Inattention/Memory Problems</b>	18	60	84
<b>B. Hyperactivity/Restlessness</b>	25	68	96
<b>C. Impulsivity/Emotional Lability</b>	14	56	73
<b>D. Problems with Self-Concept</b>	5	47	39
<b>E. DSM-IV Inattentive Symptoms</b>	18	80	99.7
<b>F. DSM-IV Hyperactive-Impulsive Symptoms</b>	16	69	97
<b>G. DSM-IV ADHD Symptoms Total</b>	34	78	99.4-99.5
<b>H. ADHD Index</b>	19	64	92

Mr. Vanisi's Visual Working Memory on the Wechsler Memory Scale-IV (WAIS-IV) was in the mildly impaired range at the 6th percentile rank, and essentially similar to Auditory Working Memory on the WAIS-IV at the 9th percentile rank.

Verbal and Non-Verbal Cancellation Test, measures of ability to scan the visual fields, were both impaired with two right-sided errors on the Verbal task and two left and two right-sided errors each on the Non-Verbal task. Both measures were completed rapidly.

The Speech Sounds Perception Test and Seashore Rhythm Test are measures of auditory, verbal and auditory-non-verbal attention and processing, respectively. Mr. Vanisi's auditory-verbal attention and processing was mildly impaired at the 14th percentile rank and his auditory non-verbal attention and processing was low average/borderline impaired at the 16th percentile rank. Mr. Vanisi was administered the Conner's Adult ADHD Rating Scales-Long Version Self-Report. Mr. Vanisi rated his symptoms both on and off medication. His symptoms rating while on medication was fully within the average range. His recall of his symptoms while off medication was consistent with attention deficit-hyperactivity disorder with marked impairment of Inattentive Symptoms, ADHD Symptoms Total, as well as impairment in DSM-IV Hyperactive Impulsive Symptoms and hyperactivity/Restlessness. He was just below the cutoff on the ADHD index.

**MEMORY FUNCTIONS:**

Wechsler Memory Scale-IV

Index/Subtest	Index Score	Percentile Rank
<b>Auditory Memory</b>	70	2
	78	7

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<b>Visual Memory</b>		
<b>Visual Working Memory</b>	77	6
<b>Immediate Memory</b>	69	2
<b>Delayed Memory</b>	72	3

Wechsler Memory Scale-IV Auditory Memory Subtests

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>	<b>Significant Difference from Mean</b>

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<b>Auditory Memory Subtests</b>				
<b>Logical Memory I</b>	13	4	2	Ns
<b>Logical Memory II</b>	9	4	2	Ns
<b>Verbal Paired Associates I</b>	18	6	9	Ns
<b>Verbal Paired Associates II</b>	6	6	9	Ns

\*These subtests were significantly different from the mean of the Immediate Memory Index

\*\*These subtests were significantly different from the mean of the Delayed Memory Index

#### Wechsler Memory Scale-IV Visual Memory Subtests

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>	<b>Significant Difference from Mean</b>

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<b>Visual Memory Subtests</b>				
<b>Designs I</b>	44	4	2	Ns
<b>Designs II</b>	46	7	16	Ns
<b>Visual Reproduction I</b>	31	7	16	Ns
<b>Visual Reproduction II</b>	18	7	16	Ns

\*These subtests were significantly different from the mean of the Immediate Memory Index

\*\*These subtests were significantly different from the mean of the Delayed Memory Index

Wechsler Memory Scale-IV Visual Working Memory Subtests

	<b>Raw</b>	<b>ss</b>	<b>Percentile Rank</b>
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<b>Visual Working Memory Subtests</b>			
<b>Spatial Addition</b>	4	4	2
<b>Symbol Span</b>	19	8	25

Wechsler Memory Scale-IV: Index Level Contrast Scaled Scores

<b>Indexes</b>	<b>1st Score</b>	<b>2nd Score</b>	<b>Contrast Scaled Score</b>
<b>Auditory Memory vs. Visual Memory</b>	70	78	8
<b>Visual Working Memory vs. Visual Memory</b>	77	78	8
<b>Immediate Memory vs. Delayed Memory</b>	69	72	11

Ability-Memory Differences: Discrepancy Analysis

<b>Primary Indexes</b>	<b>WAIS-IV GAI</b>	<b>WMS-IV Predicted</b>	<b>WMS-IV Actual</b>	<b>Difference</b>	<b>Sig.</b>
<b>Auditory Memory</b>	89	94	70	24	.05
<b>Visual Memory</b>	89	94	78	16	.05
<b>Visual Working Memory</b>	89	93	77	16	.05
<b>Immediate Memory</b>	89	93	69	24	.05
<b>Delayed Memory</b>	89	94	72	22	.05

Ability-Memory Differences: Contrast Scaled Scores

<b>Primary Indexes</b>	<b>WAIS-IV Composite</b>	<b>WMS-III Index</b>	<b>Contrast Scaled Score</b>
<b>General Ability vs. Auditory Memory</b>	89	70	4
<b>General Ability vs. Visual Memory</b>	89	78	7
<b>General Ability vs. Visual Working Memory</b>	89	77	6
<b>General Ability vs. Immediate Memory</b>	89	69	4
<b>General Ability vs. Delayed Memory</b>	89	72	5
<b>Verbal Comprehension vs.</b>	107	70	2



<b>Auditory Memory</b>			
<b>Perceptual Reasoning vs. Visual Memory</b>	73	78	9
<b>Perceptual Reasoning vs. Visual Working Memory</b>	73	77	10
<b>Working Memory vs. Auditory Memory</b>	80	70	5
<b>Working Memory vs. Visual Working Memory</b>	80	77	7

**Tactual Performance Test**

<b>Variable</b>	<b>Raw Score</b>	<b>T-Score</b>	<b>Percentile Rank</b>	<b>NDS</b>
<b>Memory</b>	3	24	0.9	3
<b>Localization</b>	0	29	2	3

The Wechsler Memory Scale-IV is a reliable and valid measure of auditory and visual short-term memory. Mr. Vanisi's Immediate Memory was moderately impaired at the 2nd percentile rank. His Delayed Memory was mildly to moderately impaired at the 3rd percentile rank. Mr. Vanisi's Auditory Memory was essentially moderately impaired at the 2nd percentile rank. Mr. Vanisi's Visual Memory was mildly impaired at the 7th percentile rank. Mr. Vanisi's Visual Working Memory was mildly impaired at the 6th percentile rank. Mr. Vanisi's memory functions were worse to the level of clinical significance in comparison to his Intellectual Functioning. Incidental Recall for the items of the Tactual Performance Test was moderately to severely impaired for memory of the shapes and moderately impaired for the spatial location of the shapes.

**LANGUAGE AND ACADEMIC FUNCTIONS:**

**Controlled Oral Word Association Test**

<b>Total Score</b>	<b>T-Score</b>	<b>Percentile Rank</b>
50	59	83

**Animal Naming**

<b>Total Score</b>	<b>T-Score</b>	<b>Percentile Rank</b>
15	38	12-13

**BDAE Complex Ideational Material Subtest**

<b>Raw Score</b>	<b>T-Score</b>	<b>Percentile Rank</b>
10/12	36	8

Aphasia Screening Test

Pathognomonic Signs
None

Wide Range Achievement Test-4

Subtest	Standard Score	Percentile Rank	Grade Equivalent
Word Reading	106	66	> 12.9
Sentence Comprehension	77	6	7.4
Spelling	111	77	> 12.9
Math Computation	76	5	4.8
Reading Composite	90	25	

Mr. Vanisi's phonemic fluency on the Controlled Oral Word Association Test was in the above average range at the 83rd percentile rank. He semantic fluency for category Animal Naming was mildly impaired at the 12th to 13th percentile rank. His auditory semantic comprehension on the Complex Ideational Material Subtest of the Boston Diagnostic Aphasia Exam was mildly impaired. There were no signs of dysphagia on the aphasia screening test.

The Wide Range Achievement Test-4 is a screening measure of academic functioning. Mr. Vanisi's Word Reading was upper average at the 66th percentile rank. His Sentence Comprehension was mildly impaired at the 6th percentile rank. Mr. Vanisi's Spelling was high average at the 77th percentile rank. His Math Computation was mildly impaired at the 5th percentile rank. In terms of grade equivalents, he was at the high school graduate level for Word Reading, at the 7.4 grade level for Sentence Comprehension, at the high school graduate level for spelling and at the 4.8 grade level for Math Computation.

**MOTOR & PERCEPTUAL-MOTOR FUNCTIONS:**

Lateral Dominance Exam

	Right	Left	Mixed
Hands	X		
Feet	X		

Right-Left Orientation

Raw Score	T-Score	Percentile Rank
20/20	53	61-63

Grip Strength

Hand	Kilograms	T-Score	Percentile Rank
Right Dominant	41.5	35	7
Left Non-Dominant	41	41	18-19

Manual Finger Tapping Test

Hand	Raw Score	T-Score	Percentile Rank	NDS
Right Dominant	47.4	38	12-13	2
Left Non-Dominant	25	12	< .02	3

Grooved Pegboard

Hand	Raw Score	T-Score	Percentile Rank
Right Dominant	88"	33	4-5
Left Non-Dominant	96"	33	4-5

Trail Making Test A

Time	Errors	T-Score	Percentile Rank	NDS
32"	0	44	27	1

Tactual Performance Test

Hand	Time (minutes)	# Blocks Placed	T-Score	Percentile Rank
Dominant	11.6	10	34	6-7
Non-Dominant	15.2	8	30	2-3
Both	10.6	4	19	0.2
Total	37.4	22	23	0.8

Mr. Vanisi was right-side dominant to hands and feet. Right-left orientation was intact. Grip Strength was mildly impaired with the right hand at the 7th percentile rank and below average at the 18th-19th percentile rank with the left hand. Fine motor coordination, as assessed by speed of finger tapping, was mildly impaired on the right and severely impaired on the left. Manual dexterity, as assessed by the Grooved Pegboard Test, was mildly to moderately impaired, bilaterally.

Simple sequencing on Trail Making Test A was mildly impaired at the 27th percentile rank.

The Tactual Performance Test is a measure of tactile-kinesthetic reasoning and problem solving. Mr. Vanisi's score was mildly impaired with the right, Dominant hand, essentially moderately impaired with the Non-Dominant hand, severely impaired for both hands and moderately to zero impaired for Total Score.

**SENSORY-PERCEPTUAL FUNCTIONS:**

Sensory Imperception			Sensory Suppressions		
Modality	Right	Left	Modality	Right	Left
Tactile	0	0	Tactile	4	0
Auditory	4	0	Auditory		
Visual	0	0	Visual	1	0
Total	4	0	Total	5	0

**Finger Agnosia**

Hand	Errors
Right	2/20
Left	2/20

**Fingertip Number Writing**

Hand	Errors
Right	10/20
Left	6/20

**Tactile Form Recognition Test**

Hand	Errors	Time	T-Score	Percentile Rank
Right	0	22"	33	4-5
Left	0	18"	33	4-5

**Sensory-Perceptual Total Score**

Hand	Errors	T-Score	Percentile Rank
Right	19.5	17	.07-.08
Left	8	29	2
Total	27.5	26	1

Mr. Vanisi's Visual Fields were essentially full to confrontation screening, although he had some minimal difficulty in the inferior temporal quadrant of the left eye, which would not be of central etiology. Some possible nystagmus was noted on horizontal tracking. Convergence appeared to be intact. Mr. Vanisi tested on screening measures as having some loss of hearing in the right ear. Mr. Vanisi had four sensory suppressions errors on the right in the Tactile modality and one sensory and perception error in the Visual modality, to bilateral simultaneous stimulation. Thus, he had five sensory suppressions on the right and none on the left. Mr. Vanisi had mild finger agnosia and definite dysgraphesthesia bilaterally, right worse than left. There was no tactile form dystereognosis. Tactile processing speed was mildly to moderately slow. Mr. Vanisi's sensory perceptual examination total scores were in the severe range of impairment on the right and in the moderate range of impairment on the left.

**EXECUTIVE FUNCTIONS, SEQUENCING AND MENTAL FLEXIBILITY:**

Trail Making Test B

Time	Errors	T-Score	Percentile Rank	NDS
107"	1	34	5-6	2

The Booklet Category Test-II

# Errors	T-Score	Percentile Rank	NDS
108	26	1	3

Wisconsin Card Sorting Test

	Raw Score	T-Score	Percentile Rank
Number of Categories Completed	2		2-5
Trials to Complete First Category	27		2-5
Failure to Maintain Set	4		2-5
Learning to Learn	-16.3%		2-5
Total Number of Errors	51	35	6
Perseverative Responses	36	33	4
Perseverative Errors	30	33	5
Percent Perseverative Errors	23.4%	33-34	4-5
Nonperseverative Errors	21	37	10
Percent Conceptual Level	41.4%	33	4-5

<b>Responses</b>			
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#### Ruff Figural Fluency Test

Subtest	Raw Score	Corrected Score	T-Score	Percentile Rank
<b>Total Unique Designs</b>	69	81	43.2	25
<b>Perseverations</b>	32		32	4
<b>Error Ratio</b>	0.4637	0.4337	54	67

#### Stroop Color and Word Test

Subtest	Raw Score	Age/Education Predicted Score	T-Score	Percentile Rank
<b>Word</b>	102	100	51	53
<b>Color</b>	72	75	48	45
<b>Color-Word</b>	36	39	47	39
<b>Interference</b>	-7		43	25

Complex sequencing to Trail Making Test B was mildly to moderately impaired at the 56th percentile ranks with one error. Mr. Vanisi's Concept Formation to the Booklet Category Test was moderately impaired at the 1st percentile rank.

The Wisconsin Card Sorting Test is a measure of mental flexibility and the ability to Shift Mental Set. Mr. Vanisi only completed 2/6 categories which is in the mild to moderate range of impairment. He was in the mildly to moderately impaired range in terms of Trials to Complete the First Category. He made 36 Perseverative Responses which is in the mildly to moderately impaired range at the 4th percentile rank. His number of Perseverative Errors was at the 5th percentile rank. His Total Number of Errors was mildly impaired at the 6th percentile rank. His Nonperseverative Errors was mildly impaired at the 10th percentile rank.

Mr. Vanisi's Design Fluency on the Ruff Figural Fluency Test was in the low average range. His number of perseverations on this measure was mildly to moderately impaired at the 4th percentile rank, consistent with his perseverative tendency on the Wisconsin

Card Sorting Test. The Stroop Color and Word Test was overall in the average range, but mildly impaired for Interference.

GENERAL MEASURES OF NEUROPSYCHOLOGICAL FUNCTIONING:

Neuropsychological Deficit Scale (NDS)

<u>Indicator</u>	<u>Raw Score</u>
<u>General Neuropsychological Deficit Scale score*</u>	<u>57</u>
<u>Right Neuropsychological Deficit Scale score</u>	<u>15</u>
<u>Left Neuropsychological Deficit Scale score</u>	<u>10</u>
<u>Halstead Impairment Index</u>	<u>1.0</u>

\*Picture Arrangement was calculated by averaging the Perceptual Reasoning subtests of the WAIS-IV

The General Neuropsychological Deficit Scale score of the Halstead-Reitan neuropsychological battery for Mr. Vanisi was in the moderate range of impairment at 57. The Halstead Impairment Index was in the severely impaired range at 1.0.

PERSONALITY FUNCTIONS:

Multiscale Dissociation Inventory (MDI)

<u>Scale</u>	<u>Raw Score</u>	<u>T-Score</u>	<u>Percentile Rank</u>
<b>Disengagement (DENG)</b>	5	44	27
<b>Depersonalization (DEPR)</b>	5	48	42-45
<b>Derealization (DERL)</b>	5	46	34-37
<b>Emotional Constriction/Numbing (ECON)</b>	5	47	39
<b>Memory Disturbance (MEMD)</b>	5	44	27
<b>Identity Dissociation (IDDIS)</b>	7	71	98

The Multiscale Dissociation Inventory was negative for dissociation.

FORMULATIONS AND IMPRESSIONS:

An in-depth review of the history of Siasosi Vanisi reveals an individual who was in a state of chronic mental illness at the time of the homicide of Sergeant George Sullivan on 1/14/1998. The history makes it clear that Mr. Vanisi had early onset ADHD and a number of psychosocial losses and traumas in childhood. The history also makes it clear

that in his mid-20's Mr. Vanisi had a psychotic break and developed a schizophrenic disorder that is best characterized as a Schizoaffective Disorder due to both a chronic schizophrenic presentation that is separate and apart from his mood disorder, but concomitant with a Bipolar One Disorder that is primarily hypomanic/manic, with much less frequent and remote bouts of depression.

At the time of the homicide Mr. Vanisi had delusional and perseverative thinking about the need to kill a police officer; he had been talking about an imaginary friend Lester; he had a preoccupation with religious ideas/religiosity, flight of ideas, and emotional lability. He appeared to essentially enter into a state of schizophrenia and persistent hypomania/mania in his early twenties. Mr. Vanisi remained in a psychotic and decompensated state throughout his imprisonment, with partial improvement on high doses of anti-psychotic, tranquilizing and mood stabilizing medication. He has smeared feces on the walls and his body. He at times sings, crows, openly masturbates, talks to himself, and bangs his head against the walls. He becomes mute. He has periodic alexithymia which is a marked flattening of emotions and affects, and is a negative symptom of schizophrenia.

The conceptualization by other doctors/mental health experts of Mr. Vanisi as malingering in the face of his chronic (over 15 years), inexorable, severe, and persistent psychotic and manic presentation along with perseveration which is a sign of brain injury/dysfunction is both counter-intuitive and completely unsupportable given the consistency and chronicity of the evidence. The fact that Mr. Vanisi had not been previously diagnosed with a schizophrenic type of disorder is also very hard to understand given the facts of his past behavior, his psychiatric presentation, and the fact that he has been, defacto, treated for both psychotic and mood disorder for years with massive doses of anti-psychotic and mood stabilizing medication with partial, yet very incomplete, improvement. I have reviewed the report and data summary sheets of Dr. A.M. Amezaga of February 2005, and there is nothing in his report that persuades me against my opinion, as stated within a reasonable degree of neuropsychological and psychological scientific certainty, that Mr. Vanisi is not malingering at any point since his arrest and conviction for the homicide in question. The technical problems with Dr. Amazega's conclusion include that he only administered half of the VIP, and that the ECST-R Atypical Presentation range indicate the non-feigning of psychotic symptomatology. I have also reviewed the Memorandum from Mr. Specchio regarding Dr. Edward J. Lynn, M.D.'s statement to him in April 1998 that "he left off a MMPI packet for the client to complete and mail back to him." It is inappropriate for a psychologist or mental health professional to rely on test results wherein it is not proven who took the test or whether anyone coached the examinee. Leaving the MMPI test with the prison to mail and send back violates this security procedure and also violates test and test item security. Therefore, any conclusions based on such an MMPI are rendered unreliable and invalid.

Mr. Vanisi clearly presents as having a history of Attention Deficit-Hyperactivity Disorder, Combined Type with symptoms present around the age of 5 when his family



had to place barbed wire fencing around their home in order to prevent his leaving. Mr. Vanisi's score on the Conner's Adult ADHD Rating Scales suggests marked symptoms of ADHD when un-medicated. ADHD is one of the contributing factors to his hypomanic presentation.

Neuropsychological evaluation of Mr. Vanisi is reflective of significant, moderate to severe neurocognitive dysfunction/impairment in the presence of normal symptom validity testing (TOMM) and low average intellectual functions. Neuropsychological markers of brain damage are very significant in the case of Mr. Vanisi and include the following:

A Halstead Impairment Index of 1.0 (maximum, severe range); a General Neuropsychological Deficit Scale score of 57 on the Halstead Reitan Neuropsychological Battery (moderate range of impairment); 108 errors on the Category Test at the 1<sup>st</sup> percentile rank, a marked perseverative tendency on both the Wisconsin Card Sorting Test and the Ruff Figural Fluency Test; a 34 point discrepancy between his Verbal Comprehension Index on the WAIS-IV at the 68<sup>th</sup> percentile rank and Perceptual Reasoning at the 4<sup>th</sup> percentile rank; moderate impairment of Immediate Memory at the 2<sup>nd</sup> percentile rank and mild to moderate impairment in Delayed Memory; impaired sensory-perceptual functions; impaired tactile-kinesthetic problem solving; and a Localization score of 0 on the Tactual Performance Test.

In addition, Mr. Vanisi has evidence of severe executive-frontal dysfunction with a very significant perseverative tendency, impaired complex sequencing, impaired concept formation, and impaired non-verbal abstract reasoning.

Also, Mr. Vanisi has language deficits with mildly impaired semantic fluency and mildly impaired auditory-verbal comprehension. His math computation is mildly impaired at the 5<sup>th</sup> percentile rank. His sentence comprehension is mildly impaired at the 6<sup>th</sup> percentile rank.

By testing, Mr. Vanisi presents with symptoms of dementia including memory deficit, executive-frontal and language deficits. However, the etiology of these symptoms is somewhat unclear and likely includes a combination of factors including ADHD, which is a disorder of the frontal cortex, the effects of chronic schizophrenia which are relatively consistent with his neuropsychological presentation, toxic substance abuse (fen-phen and methamphetamine), and to a mild extent medication side effects.

By history, Mr. Vanisi has had some mild exposure to Post-Concussion Syndrome/Traumatic Brain Injury, which could help to explain his neuropsychological presentation, but is not in my opinion the primary cause of his neuropsychological dysfunction. Mr. Vanisi's ADHD provides a partial explanation for his executive-frontal dysfunction. The effects of his medication on Mr. Vanisi's neuropsychological functioning are likely relatively minor given no obvious extrapyramidal signs, flattening of facial features, tremor or gait problems, which could be side effects of psychotropic medication. Although his medications may have had some negative impact on his

neuropsychological testing profile, it is very unlikely that this has caused the level of dysfunction that is present in Mr. Vanisi including short-term memory, executive functions, language impairments, and motor and sensory perceptual functions.

Diagnostic impressions of Siao Si Vanisi using DSM-IV-TR criteria are offered as being reliable and accurate within a reasonable degree of neuropsychological and psychological scientific certainty as follows:

<b>Axes</b>		<b>Codes</b>	<b>Descriptions</b>
<b>Axis I</b>	Clinical Disorders	295.70 314.00  294.1  304.40  305.00	Schizoaffective Disorder; Attention Deficit Hyperactivity Disorder, Combined Type; Dementia Due to Multiple Etiologies, probable, including a severe, chronic schizophrenic disorder; Amphetamine Abuse and Dependence, Remotely; History of Alcohol Abuse;
<b>Axis II</b>	Personality Disorders/MR	V71.09	No Diagnosis
<b>Axis III</b>	Medical Conditions		chronic Fen-phen and methamphetamine abuse, possible history of mild concussion
<b>Axis IV</b>	Psychosocial Problems		Incarceration on death row, problems with primary support group
<b>Axis V</b>	Global Assessment of Functioning		30/100

Based on all the information available to me, it is my opinion that Mr. Vanisi has been mentally ill since well before the onset of the crime in question, with increasing deterioration of mental/psychiatric functions in the years preceding the homicide. He has a long-standing history of ADHD.

To clarify the exact etiology of Mr. Vanisi's neuro-cognitive impairments I recommend that he have a three-Tesla brain MRI with Diffusion Tensor Imaging and/or a brain PET scan with brain MRI for comparison purposes.

Mr. Vanisi's Psychotic Disorder appeared to begin in his early twenties, which is consistent with the typical course of a schizophrenic illness. To reiterate, Mr. Vanisi's presentation of extreme mental illness is not something, in my opinion, that can be consistently malingered for a decade and a half. Mr. Vanisi continues to persistently hypomanic and to display some schizophrenic symptoms despite copious psychotropic medication including IM Haldol, Seroquel, Vistaril and Lithium.

Mr. Vanisi will likely require chronic psychiatric medication in order to be compliant with the prison regimen and/or with society in general in the long-term.

**RE: Siasoi Vanisi**  
**Date: April 18, 2011**  
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The severity of the above diagnostic conclusions, including a schizophrenic break in Mr. Vanisi's mid-twenties that has persisted to this day and is still under intensive medication treatment, raises, in my opinion, a reasonable question as to whether or not Mr. Vanisi was fully sane at the time of the commission of this crime. This question is raised by the intensity and severity of his psychotic state at the time of the homicide that is well-documented in the affidavits.

The above diagnoses and opinions are offered as being reliable and accurate within a reasonable degree of neuropsychological and psychological professional scientific certainty.

Please do not hesitate to contact me with any questions.

Sincerely yours,

A handwritten signature in black ink that reads "Jonathan H. Mack, Psy.D." The signature is written in a cursive, flowing style.

Jonathan H. Mack, Psy.D.

New Jersey Professional Psychology License #35SI00232100

Pennsylvania Professional Psychology License #PS004877L

Director, Forensic Psychology and Neuropsychology Services, P.C.

Registrant, National Register of Health Service Providers in Psychology

JHM/dw

AA06569

Exhibit 164

Exhibit 164

**Dr. SIALE 'ALO FOLIAKI**  
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April 18, 2011

Ben Scroggins  
Attorney at Law  
Federal Public Defender  
411 East Bonneville Avenue, Suite 250  
Las Vegas  
NEVADA 89101

**Re: Vanisi v E.K. McDaniel, et al.**

**Examinee:** Siaoisi Vanisi  
**DOB:** [REDACTED]  
**D/Offence:** January 13, 1998  
**D/Exam:** March 28 2011

**INDEPENDENT MEDICAL EXAMINATION IN THE FIELD OF PSYCHIATRY**

Dear Mr. Scroggins

Please find enclosed the comprehensive psychiatric report as requested by your office on Mr Siaoisi Vanisi. The face to face diagnostic psychiatric evaluation took place at Nevada State Prison in Ely Nevada on March 28, 2011 and took approximately four and a half hours. The purpose of this evaluation was to help determine whether or not there are

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psychiatric and neuropsychological issues that were not presented to, and thus not considered by, the jury at the time of their deliberations in the penalty phase of his trial. These factors more likely than not would have impaired or diminished Mr. Vanisi's capacity to maintain consciousness and intentionality at the time of the murder of Officer Sullivan and therefore should have been available to the jury in determining his sentence. As per our discussions your office required the following matters addressed in my report:

1. Conduct a review of all records related to the case with particular reference and analysis of previous psychiatric reports and psychological testing undertaken on Mr. Vanisi.
2. Interview Mr. Vanisi at Ely State Prison.
3. Draft and finalize a report and if required undertake any necessary consultation and collateral interviews.

The report is structured in a very specific manner that is designed so that the key findings of the evaluation are stated up front. The reader then has a clear understanding of what the findings of the evaluation are so that in reading the report they can judge the merits of the conclusions reached as each piece of information is detailed. The report structure is therefore designed so that the reader can keep the conclusions in mind while they digest the report. This particular report structure is the reverse of how most psychiatric evaluations are presented whereby the historical information, investigations, mental state exam are presented first and then the conclusions follow at the end. Due to the large amount of information related to this case that approach was considered too cumbersome.

The key findings are therefore presented at the beginning under the Executive Conclusions in Section 1 of the report (rather than at the end) followed by Section 2 which contains the Diagnostic Conclusions. The report requires a systematic numbering schedule so that the rationale and evidence that underpins the Executive Conclusions in Section 1 and Diagnostic Conclusions in Section 2 can be easily cross referenced by the reader as they make their way through the body of the report. Section 3 is a summary of the evidence that supports the diagnostic conclusions and provides a formulation that

attempts an explanation as to why Mr. Vanisi's mental status develops in the way it does. A brief description of the sources of information is given in Section 4 and the evidence for the formulation is examined in more detail in the body of the report. A close examination of the previous psychiatric reports (and related material) is undertaken, with a particular analysis of their strengths and weaknesses in relation to issues of competency and diagnosis. The previous psychiatric and psychological reports are examined at this point so that the reader can compare and contrast their conclusions with those that have been reached in Sections 1, 2 and 3. The information is tightly grouped in this way purposefully to highlight the stark differences between medical opinions.

The rest of the report then returns to the format used by most psychiatrists in the preparation of a report of this nature and details all other information that enables accurate diagnoses, diagnostic statements and conclusions. The numbering system allows for the sources of information and evidence to be catalogued and systematically referred to which is an efficient method of handling a large amount of information that clarifies, highlights and at times proves contentious issues for the reader and also saves a high degree of repetition which is problematic in reports of this size.

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## **1.0 EXECUTIVE CONCLUSIONS**

- 1.1 Mr. Vanisi suffers from a chronic and disabling mental disorder known as a Schizoaffective Disorder that greatly impairs his cognitive, emotional and behavioural control and the evidence for this is unequivocal as will be demonstrated in great detail in this report.
- 1.2 Mr. Vanisi as part of his Schizoaffective Disorder, compounded by substance misuse was suffering from a severe, psychotically driven disturbance of mind with marked delusional ideas at the time of the instant offense – the murder of Police Sgt. George Sullivan on the 13<sup>th</sup> of January 1998.
- 1.3 Previous mental health professionals did not have access to sufficiently robust information regarding Mr. Vanisi's genetic predisposition to mental illness, his major childhood developmental insults, evidence of pre-offence mental instability, the necessary neuropsychiatric battery of tests and important neurological investigations (CT Scan, MRI, EEG's) to make an accurate diagnostic assessment. The psychiatric and psychological opinions therefore failed to diagnose and hence convey to the sentencing court the true extent, depth and breadth of Mr. Vanisi's disordered mental status.
- 1.4 Mr. Vanisi is not and has never been Malingering in the true clinical sense of the term. The evidence is very strong and is based primarily on the most recent Neuropsychiatric Psychometric Testing and Psychiatric Evaluation. The evidence also strongly challenges the issue of Mr. Vanisi's perceived legal competency.
- 1.5 Mr. Vanisi without medication would return to a florid state of psychosis and lability of mood very rapidly. It would be completely unethical to stop his medications to test this hypothesis and demonstrate the seriousness of his ongoing Schizoaffective Mental Disorder but a large body of evidence will be presented to support this conclusion.

## 2.0 DIAGNOSTIC CONCLUSIONS

2.1 Schizoaffective Disorder is a primary mental health condition categorized below as per the Diagnostic Statistical Manual Fourth Edition - Text Revised (DSM IV-TR) of the American Psychiatric Association. The World Health Organisation (WHO) uses the International Compendium of Diseases Tenth Edition (ICD-10) but for the purposes of this case the DSM-IV-TR diagnostic system is chosen as the case falls under the jurisdiction of United States of America federal law.

Mr. Vanisi is therefore diagnosed using the American Psychiatric Association's multi-axial diagnostic system as follows:

2.2	Axis I Diagnoses	- 295.70	Schizoaffective Disorder – Bipolar Type
		- 314.01	ADHD – Combined Type
2.3	Axis II Diagnosis	-	Deferred
2.4	Axis III Diagnoses	-	Diabetes Mellitus Type II
		-	Hypertension
		-	Hypercholesterolemia
2.5	Axis IV	-	Death Penalty
2.6	Axis V	-	GAF Score 35-40

## 2.7 Discussion of Diagnostic Conclusions

2.7.1 Schizoaffective Disorder is defined as follows: *“it is presently conceived as an illness with coexisting, but independent schizophrenic (psychotic) and mood components. Schizoaffective disorder is seen primarily as part of a schizophrenia spectrum rather than an equal hybrid of mood and schizophrenia disorders.”*. [Kaplan and Saddock 2000]. The evidence indicates that Mr. Vanisi began suffering from sufficient psychiatric symptoms for a diagnosis of Schizoaffective Disorder to have been made many years before the instant offense.

2.7.2 Mr. Vanisi’s Schizo-affective Disorder is associated with significant cognitive deficits. The severity and pattern of his cognitive deficits is seen in people with long standing Schizophrenia which strengthens the diagnosis of Schizoaffective Disorder compared with Bipolar Mood Disorder which appears to have been the diagnosis of choice for many psychiatrists that have evaluated him. It is also likely that his long period of non-treatment, combined with substance use, possible head trauma (from physical confrontation with other people and the police) and long standing heavy doses of psychotropic medication impacted on his neuropsychiatric cognitive testing. It is important to note that an individual suffering from Schizoaffective Disorder is a much more disabled person if they have the cognitive profile of Mr. Vanisi. The impact that Mr. Vanisi’s cognitive deficits has on his overall degree of mental disturbance will be discussed in great detail in this report. Mr. Vanisi’s cognitive deficits have a significant impact on his behaviour and actions (see Section 22 for full description). A brief summary of Mr Vanisi’s cognitive deficits are listed below.

2.7.3 The summary of Mr Vanisi's Wechsler Adult Intelligence Scale-IV (WISC IV - Cognitive Evaluation Tool) scores are as follows:

Verbal Comprehension -	Score 107 ranked 68 <sup>th</sup> percentile
Perceptual Reasoning -	Score 73 ranked 4 <sup>th</sup> percentile
Working Memory -	Score 80 ranked 9 <sup>th</sup> percentile
Processing Speed -	Score 81 ranked 10 <sup>th</sup> percentile
Full Scale -	Score 83 ranked 13 <sup>th</sup> percentile
General Ability -	Score 23 ranked 23 <sup>rd</sup> percentile

2.7.4 These scores indicate that Mr. Vanisi has strong verbal fluency (Verbal Comprehension) scores which reflect a capacity to converse legibly. His ability to critique, analyse and explore the issues that he appears so able to talk about however is severely impaired (Perceptual Reasoning). His working memory and processing speeds are the other cognitive deficits that are in the moderately impaired range. Therefore Mr. Vanisi has major cognitive deficits that increase the severity of his Schizoaffective Disorder.

2.7.5 Mr. Vanisi's strong verbal fluency is a cognitive strength but is very misleading. As a result almost all previous psychiatrists, mental health and other professionals have formed an inaccurate opinion of Mr. Vanisi's true intelligence. In almost all previous reports reviewed for this psychiatric opinion almost all the professionals who have seen him believed that he was either intelligent or very intelligent based on his verbal fluency skills. Mr. Vanisi's WISC-IV cognitive tests indicate however that apart from his verbal fluency his other cognitive capacities are in the mild to moderately impaired range (see Section 22 for full discussion). In other words his intelligence should not be judged from his conversational ability alone and he is in fact well below that of the normal person meaning he is actually far from the "intelligent" person often described in other evaluations.

2.7.6 The psychiatric evaluation confirms Mr. Vanisi's verbal fluency but complete lack of comprehension and capacity for self awareness and deeper personal analysis. Mr. Vanisi's psychiatric presentation is dominated by unique psychiatric phenomena known as alexithymia. Alexithymia is defined as an inability or difficulty describing or being aware of one's emotions. Alexithymia dominates Mr. Vanisi's mental status examination and demonstrates a marked incapacity to understand his own mental status and by default severely impairs his ability to understand the mental status of others.

2.7.7 Mr. Vanisi continues to labour under the conviction that the death of Police Sgt Sullivan was unavoidable. Mr. Vanisi suffers from the psychotically based delusion that he was compelled to kill a policeman and that he was powerless against this. This psychotic delusion is part of his Schizoaffective Disorder. The delusion was present at the time of the murder and he felt compelled to act on it. With treatment other aspects of his psychosis, namely the lability of his mood, disorganised thought processes, bizarre behaviour, self neglect have improved with medication but his systematized delusional formulation that required him to kill a policeman still remains.

2.8 The mood disordered component of Mr. Vanisi's presentation requires special attention. Attributing Mr. Vanisi's severe fluctuations in mood as being secondary to his Schizoaffective Disorder can be debateable. The majority of psychiatric opinions (discussed in Section 5) diagnose Mr. Vanisi as suffering from Bipolar Mood Disorder with psychotic symptoms. I argue against this and consider Mr. Vanisi to have primarily a psychotic condition that affects his mood state rather than the other way around. The evidence for this will be presented in the body of this report. In summary Mr. Vanisi experiences a marked decline from his best level of functioning, beginning in adolescence, has increasingly bizarre and disorganised behaviour, with a marked decline in his personal self-cares which is

persistent and independent of marked mood swings, is much more consistent with a Schizophrenic illness. Mr. Vanisi's descent into mental illness is the classical description and course of a primarily schizophrenic illness. As his schizophrenic illness worsens associated with his declining cognitive state, his mood fluctuations worsen to the extent that his mental disorder is most accurately diagnosed as Schizoaffective Disorder.

- 2.9.1 Attention Deficit Hyperactivity Disorder (ADHD) – 314.01 – This diagnosis requires the individual to present with significant deficits in attention, concentration, impulsivity and maintenance of normal levels of activity. There is strong evidence from the legal declarations of Mr. Vanisi's family that indicate that as a child and teenager he would most certainly meet criteria for ADHD and when tested as an adult his test scores strongly correlate with ongoing ADHD. An important caveat is that the diagnosis of ADHD cannot be made if the disorder occurs exclusively during the course of a Pervasive Developmental Disorder, Schizophrenia, or other psychotic disorder and are not better accounted for by another mental disorder [DSM-IV-TR 2005]. The evidence strongly indicates that Mr. Vanisi met criteria for ADHD well before the onset of his Schizoaffective Disorder.

### **3.0 DIAGNOSTIC FORMULATION**

- 3.0 The following diagnostic formulation is a collation of the most important aspects of Mr. Vanisi's psychiatric autobiography that identify the significant factors and events that contributed to Mr. Vanisi's mental status prior to the instant offense, at the time of the instant offence and the following years of incarceration.

#### **3.1 Genetic Predisposition to Mental Disorder**

- 3.1.1 There is strong evidence from the legal declarations from various family members and friends that a number of first degree relatives of Mr. Vanisi suffered from undiagnosed mental health disorders. The list includes; his biological father, Maka'afa Vanisi, his biological mother Luisa Tafuna, his sister Sela Vanisi and brother Tevita Vanisi (who died from illicit drug use and solvent abuse while still a teenager). The predominant feature is that his biological father Mr. Maka'afa Vanisi has an almost identical life history, poor level of overall functioning with bizarre behaviours, including stabbing another person with a knife (not causing death) when aged twenty-eight years of age (see Section 11 for full description of family psychiatric history).
- 3.1.2 There is strong evidence that his biological mother Luisa Vanisi suffered from maternal depression both pre and post delivery of Mr. Vanisi which is a significant risk factor for the later development of childhood and adult psychopathology.

#### **3.2 Environmental Impact on Mental Disorder**

- 3.2.1 There is strong evidence from the legal declarations from various family members and friends that Mr. Vanisi experienced a significant number of

environmental insults that would predispose a person to suffering from adult psychopathology.

3.2.2 At birth Mr. Vanisi was informally adopted by his maternal auntie Toeumu Tafuna. His auntie appears to be very maternal and cared well for Mr. Vanisi as a baby. When he was age three however she left Tonga to travel to the United States to care for an ailing brother. Due to the informal adoption his adoptive mother could not take Mr. Vanisi with her to America as she could not prove legal custody. The family describe the traumatic scene at separation at the airport and change in his personality over the following weeks and months following his adopted mother's departure. There is a large body of literature related to the psychological distress caused by separation from primary care givers and this is the first of a series of developmental insults that Mr. Vanisi will experience (see Section 21 for analysis of psychological consequences of insecure attachment).

3.2.3 At age six Mr. Vanisi, his biological mother and other siblings travel to the San Bruno area in the United States of America from Tonga. He is then reunited with his adoptive mother who immediately takes him back into her care but this is clearly a confusing time for the young Mr. Vanisi. He has to readjust to moving away from his primary care giver (and biological mother) of the last three years and readjust to life back with his adoptive mother with whom he would have had conflicting emotions over which he was not yet mature enough to understand.

3.2.4 Mr. Vanisi's cousin states in a legal declaration that Mr. Vanisi's eldest brother Sitiveni Vanisi started sexually molesting Mr. Vanisi when he arrives in America (this is also reported in a legal declaration by his wife). It was noted that Mr. Vanisi started demonstrating unusual behaviours at



this time. Mr. Vanisi as a young child would sometimes behave as if he had different personalities and would act strangely.

3.2.5 Mr. Vanisi now experiences a pathological parenting style from the key adults in his life. His biological and adoptive mothers and maternal uncle Mr. Maile Tafuna (according to the legal declarations provided) alternate between an indulgent parenting style (allowing Mr. Vanisi to do whatever he wants from his two mothers) and an authoritarian parenting style from the dominant male in his life (demanding rigid conformity) that establishes a confusing interpersonal dynamic that is hard for Mr. Vanisi's developing ego to integrate into a coherent sense of self. There is a rigidity inherent in the structure of his home and church life (e.g. prayers at 5.00am each morning) that helps to keep the adolescent Mr. Vanisi on track but there is evidence that he is failing to form a strong sense of his true self as he is presenting himself as a certain person at home and at church but someone quite different when out and about with friends (see Sections 11 & 12 for full description of family dynamics and developing identity problems).

3.2.6 All reports indicate that Mr. Vanisi, now growing up in San Bruno was a "good boy", polite, respectful, church going and a young person who tried hard to please everyone. His academic achievement is just above average (which leads to unrealistic expectations from family who start believing he is capable of going to medical school or law school) and there is little evidence of oppositional or antisocial behaviour, but he could be disruptive in Grade School and early High School (tendency not to stay on task, talking too much, being slightly odd). His peers at school describe him as "weird" and there is ample evidence for him being "odd", having a tendency to be verbose and doing "funny things" that are entertaining to others but he himself appears not to fully comprehend. He does not use alcohol or illicit drugs according to friends and family until near the end of his senior year at High School.

- 3.2.7 Mr. Vanisi loses his older brother Tevita Vanisi (died from direct effects of substance abuse) when he is aged fifteen. It is reported that Mr. Vanisi was depressed for some time and reportedly regretted not having a more positive relationship with his brother. Shortly after this his grandfather (whom he helped nurse in his old age) passes away having a similar impact on Mr. Vanisi's mental state. The following year another close maternal uncle, with whom he had lived dies from a brain tumour.
- 3.2.8 The most obvious distortion of his adolescent years is his evident uncertainty around his sense of identity. There are numerous reports of his growing tendency to deny his Tongan heritage and take on multiple personal identities. He develops a number of pseudonyms and different people start knowing him using different names. Each individual identity comes with its own dress style, voice and personal characteristics. His conversations take on a grandiose and nonsensical style and there is an increase in the frequency and bizarreness of his erratic forms of behaviour (see Section 18 for full details of his growing erratic behaviour and personal identities). The diagnostic possibility of Dissociative Identity Disorder (previously known as Multiple Personality Disorder) is considered but he does not suffer from the associated amnesia required for the diagnosis and the neuropsychometric tests do not support the diagnosis.

### **3.3 Descent into Mental Illness**

- 3.3.1 The extent of Mr. Vanisi's distorted sense of self, his cognitive and emotional deficits become more apparent once he leaves the rigidly organised structure of family, school and church life in his late adolescence.
- 3.3.2 Mr. Vanisi's first attempt to undertake an independent and constructive life event was his enrolment for Mormon Church missionary work aged

nineteen. The family held a large celebration dinner (attended by over two hundred people) but Mr. Vanisi was sent home in disgrace after confessing to impregnating a young Tongan woman before going on his missionary work. Unbeknown to him this young woman was his first cousin. The shame and humiliation he experienced would have had a significant impact on his developing mental status as sexual relations amongst biological relatives is very taboo in Tongan culture.

3.3.2 The evidence is that Mr. Vanisi's mental status takes a significant turn for the worst following the shame and humiliation of his failed mission. He goes from job to job and cannot hold down any form of employment for an extended period. He has multiple menial, unskilled jobs that are well below what family would have predicted from his schooling achievement. Prior to his failed mission he was quite particular in his dress and cleanliness but after being sent home in shame from his church missionary work he had lost a lot of weight, dressed in strange clothes and had bizarre hairstyles. His conversational issues were ten times worse and he spoke much louder, dominated conversations and did not want anyone else to talk and he seemed to be having conversations with himself.

3.3.3 Mr. Vanisi leaves San Bruno and moves to Los Angeles. He dissociates himself from other Tongan people, marries a cocktail waitress who gets pregnant to him (family boycott wedding because woman is not Tongan) and calls himself Perrin Vanacey (transliteration of Vanisi). The name Perrin he takes from the Lea and Perrin Soya Sauce that he likes.

3.3.4 At this point Mr. Vanisi attempts to get his life back on track and he attempts to recommit his life back to the Mormon Church. He had to confess all his sins to his Bishop and once the full extent of his deviant behaviour was known he was excommunicated from the church. The psychological impact of excommunication must have been another very

destabilising event for Mr. Vanisi as the Church had been a cornerstone of his life.

3.3.5 The evidence presented in the legal declarations suggests that Mr. Vanisi's mental status is indicative of a Schizophrenic like illness and is deteriorating markedly by 1996-1997. Associates of Mr. Vanisi report even further personality changes at this time and his behaviour becomes more bizarre. He gains a lot of weight, wearing dirty clothes, stopped bathing regularly, stops shaving, cutting or combing his hair. He starts to speak in tongues and rambles about a lot of biblical topics and there is evidence of growing domestic violence in his marriage. His bizarre behaviour is often made fun of by associates but it is reported that he appears oblivious to this. At this point, most associates report that Mr. Vanisi is not using drugs or alcohol but this changes, after his wife leaves him mid-1996 due to his inability to support the family financially and his growing bizarre behaviour.

3.3.6 His wife DeeAnn Vanisi reports in her declaration strong evidence for Mr. Vanisi's descent into florid psychosis. She declares that before she left, Mr. Vanisi was talking to himself for hours at a time while looking in the mirror and he began collecting plastic bottles (hundreds if not thousands) that he piled up in the apartment as he was building a spaceship (she became frightened as he appeared not to be joking) and maintained this idea for a long period of time. He paints his bedroom black, hung several photos of himself on the wall, writes weird Tongan words and draws strange symbols and images that are predominantly sexual in nature in marker pens. His wife also reports that Mr. Vanisi becomes a pathological liar, lying unnecessarily about things that are easily discoverable. For example, his identity, his college education (he did not attend college) and his Hollywood acting career. (Mr. Vanisi manages to be paid as an extra

on a beer commercial which is the only evidence of paid employment in acting).

- 3.3.7 After his wife leaves him Mr. Vanisi is reported to be often found alone in his apartment crying in the dark, rarely sleeps and walks the streets of the community all hours of the day and night. He forms a relationship with a severely obese, alcoholic, elderly next door neighbour who he works for as a driver which evolves into paid sexual favours. She dies suddenly in late 1997 and Mr. Vanisi was the only witness to her death and later that day he moves to Reno, Nevada as he reportedly becomes paranoid that a murder investigation will take place and he will be convicted of her murder.

### **3.4 Police Incidents**

- 3.4.1 Mr. Vanisi develops in his adolescent years an obsession that police are purposefully harassing him and racially profiling him. This obsession grows in intensity and the more mentally disordered Mr. Vanisi becomes he begins to form an obsession of a delusional nature about killing a police officer. This short section highlights the important incidents.
- 3.4.2 San Bruno Police Department Crime Report from 02/07/1989 when Mr. Vanisi is aged nineteen years old he is reportedly arrested in a mall by Police for refusal to provide identification or answer questions when asked. It was noted that Mr. Vanisi challenged the police officer to a fight and the officer placed him under arrest. It was noted that Mr. Vanisi resisted being handcuffed.
- 3.4.3 In the late 1980's Mr. Vanisi and a group of his friends and cousins are pulled over by Police while visiting Salt Lake City. David Kinikini reports in his signed legal declaration that:

*“Even though Siaoosi was handcuffed he had absolutely no fear of the police and was mouthing off at them. He kept asking the police officers why he and his cousins were handcuffed, why they had stopped them in the first place and whether they were being racially profiled. Siaoosi repeatedly asked the officers for their names and badge numbers... the officers eventually let everyone go without charging anyone with anything or writing a ticket”.*

3.4.4 Offense Chronology from the Law Offices of the Federal Public Defender note that in 11/4/1995, Mr. Vanisi got into a fight with two patrons at a bar. It was reported he was asked to leave, but returned 20 minutes later and continued to try to start fights. The police arrived when Mr. Vanisi was leaving as the passenger in a car and they attempted to arrest him. They ordered him out of the car, but he refused repeatedly even after the police utilized force. It was noted that Mr. Vanisi’s seatbelt had to be cut and he was pulled from the car. It was reported that Mr. Vanisi was not combative but did resist arrest and was described by associates present that he was a *“bloody mess, with cuts and bruises all over his head, face and torso”*.

3.4.5 Numerous reports emerge following this incident that Mr. Vanisi is voicing his desire to kill a policeman.

### **3.5 Multiple Personalities**

3.5.1 Mr. Vanisi is noted to exhibit strange behaviour of taking on different personalities that reportedly occurs around the time of the sexual abuse from his older sibling starting.

3.5.2 Mr. Vanisi experiences significant teasing about his race at primary school and this would have been in conjunction with his inability to speak

English which he was still learning. It appears that he became ashamed of being Tongan and tried to mix with the white children and avoided the Tongans at his school.

- 3.5.3 At entry into school his adoptive mother changes his name from Siaosi Vanisi to George Tafuna. It is not known what impact this has on his developing sense of self but may contribute to further destabilizing of personal identity.
- 3.5.4 In 1992 he changed his name to Perrin Vanacey (unofficial name change) and during this time he started telling people he was from New Caledonia and other people that he was Chinese African.
- 3.5.5 Mr. Vanisi's wife reports that early in their relationship she noticed that he had various identification cards and licenses including; George Tafuna, Perrin Vanacey, Sonny Brown (a Crocodile Dundee character), Gia Como (an Italian persona), Rocky (a more erratic persona), a superhero personality where he dressed in woman's leggings, tights and a cape and all of his personas he would maintain in the community oblivious to the reactions of others. He was often a cross-dresser wearing skirts and wigs, stockings, high heels and make-up and he would wear these outfits to bars, restaurants, supermarkets and around the neighbourhood. By 1995 his wife reports Mr. Vanisi's different identities had begun to take on a life of their own. Each personality had its own hairstyle, wig or hat, clothing, way of talking, tone of voice or accent. His wife reports he never mixed up the different character traits between personalities and they always remained constant whenever he was in his individual personality. From other reports it appears that the Sonny Brown and Rocky persona's (the more aggressive and dominant identities) began to dominate over time.

### **3.6 Mental Status Prior to the Homicide**

- 3.6.1 For most of 1997 through to his arrest in January 1998 the legal declarations of all his friends, family and associates who knew him well summarise his behaviour as being hyperactive, excitable, distractible, pressured, labile with incoherent speech, making random comments about subjects that were not connected to what he was talking about frequently changing subjects.
- 3.6.2 Associates that spent the most time with him in 1997 report that after the banning of the stimulant Fen-Phen Mr. Vanisi starts using marijuana in increasingly large amounts which Mr. Vanisi confirms through his own reports. His alcohol intake increases dramatically, with occasional use of speed.
- 3.6.3 Late 1997 following the death of the elderly next door neighbour Mr. Vanisi travels to Reno. His behaviour in Reno is described by his family as being so bizarre and embarrassing that they stopped taking him out to social events. Mr. Vanisi was reported to have been talking to the family dog endlessly reporting that the dog was talking back to him and he referred to the dog as "*the almighty*". He prepared the dog special meals and took it everywhere he went.
- 3.6.4 A month before the homicide Mr. Vanisi's brother-in-law drives him to the airport supposedly on a trip to China for a film shoot. They stop at a restaurant on the way there and Mr. Vanisi became very angry about something and started throwing beer cans around the restaurant. He had no bags or luggage for the trip only a case of beer. His wife believes that the trip was a complete fabrication.



- 3.6.5 During the week of the murder he went to a family party organised by his uncle. Different relatives at the party report that Mr. Vanisi was dressed up in a wig, danced a weird Native American dance, waving a hatchet around.
- 3.6.6 The evidence presented from those that associated with Mr. Vanisi in the week leading up to the murder was that he had not slept for days on end, communicating with the family dog excessively, muttering and talking to himself and being emotionally labile. These signs and symptoms are the hallmarks of psychosis.

### **3.7 Mental Status at the Homicide**

- 3.7.1 Mr. Vanisi reports on the night of the homicide that he went out walking with his cousin's dog not intending to kill a policeman but he knew that it was inevitable that this would finally eventuate. He reports that it was not until he was approached by Police Sgt. Sullivan and assaulted by him (the actual sequence of events is debated) that he takes the hatchet out from under his shirt sleeve and kills Sgt. Sullivan in response to a strong compelling urge that had been building inside of him for a long period of time.
- 3.7.2 Mr. Vanisi reports that he had incapacitated Sgt. Sullivan and the thought came into his mind that the kind thing to do was to kill him so that he would not have to live life as a cripple.
- 3.7.3 Once Mr. Vanisi knew that Sgt. Sullivan was dead he experienced a marked catharsis and was momentarily calm and felt a sense of tranquillity before becoming agitated again as he attempted his poorly coordinated escape.

### **3.8 Mental Status in Custody**

- 3.8.1 Mr. Vanisi's mental status since being in custody has been very disturbed. He has had numerous mental health assessments over the last twelve years from a range of mental health clinicians. His predominant diagnosis has been Bipolar Mood Disorder, and Antisocial Personality Disorder (see Section 6 for full description of previous psychiatric opinions).
- 3.8.2 Mr. Vanisi has been medicated heavily. The records indicate that his mental status is much more settled when on medication and the times when he has been non-compliant or under treated he has become very disturbed (see Section 10 for full description of medication history)
- 3.8.3 The issue that Mr. Vanisi has been malingering has been considered by various mental health professionals over the course of his incarceration. This issue has been finally clarified by the most recent battery of neuropsychiatric tests undertaken in October 2010. These tests indicate that Mr. Vanisi has major cognitive deficits that affect his higher executive functioning. Mr. Vanisi does not have the intellectual power to strategically feign such a disturbed mental status over such an extended period of time and report his psychiatric phenomenology to a range of professionals with such a high degree of consistency (see Section 22 for full description of neurocognitive findings).

### **3.9 Diagnostic Formulation**

- 3.9.1 Collating the summary of facts of Mr. Vanisi's psychiatric autobiography allows the following formulation to be constructed.
- 3.9.2 Mr. Vanisi inherited a genetic predisposition for mental illness from both his parents and is not the only child of his parents that has experienced

mental illness. His biological father is a very disturbed human being that becomes completely incapable of living autonomously which is a hallmark of significant mental illness. His biological mother experienced maternal depression and his early childhood involved serious attachment disturbances. His grade school years and early adolescence is a particularly confusing time due to the move from a simple village life of a Pacific Island to the complex urban environment that is San Bruno in 1976. Mr. Vanisi experiences sexual abuse from an older sibling soon after arriving in the United States and faces the confusion of the contrasting parenting styles of his adult care-givers. He experiences very strict school, home and church life and although this provides him the necessary structure for Mr. Vanisi to progress satisfactorily the traumatic experiences strangle his ability to develop a strong sense of self. He is not however a violent or aggressive person at this stage in his life.

The structured life that protects Mr. Vanisi from experiencing severe levels of emotional distress changes in late adolescence and early adulthood. He is no longer bound by the strict rules and boundaries of his earlier life and he now becomes directly responsible for himself and the decisions that he makes.

At this point in Mr. Vanisi's life, his developing psychotic illness becomes more evident and his poor executive functioning (found on psychometric testing when incarcerated) combine to impact on his inability to progress academically or occupationally. Every endeavour he attempts goes poorly and some of his failures, and the shame and humiliation he experiences are psychologically difficult for his inadequate cognitive functioning to adequately address. His growing sense of failure causes distress which acts on his genetic vulnerability to mental instability, his poorly formed sense of self and identity confusion in conjunction with his poor intellectual capacities, lead to the overt expression of psychiatric illness.

This manifests itself in his growing identity confusion and descent into frank psychosis with significant lability of mood. He has a number of negative interactions with Police during this period and his poor executive functioning does not allow him to integrate his experiences into a rational view that enables him to see his role in contributing towards the negative dynamic with the police. Mr. Vanisi's descent into overt psychosis causes him to lose touch with reality and he develops a systematic delusional idea that initially is poorly formed but somehow involves the police as being a constant and sinister force in his life.

Towards the end of 1997 the convergence of his growing mental illness, the separation from his wife, the death of the elderly neighbour with whom he has been consorting, appear to be the final straw. There is a marked increase in alcohol and illicit drug use and the formation of the psychotically driven notion that the killing of a police officer will miraculously restore his life to an even keel. This distorted delusional idea grows so strong that he senses and communicates this notion (that he describes as a driving force) to friends and family well before the act. Family and friends do not take him seriously despite recognising that he is becoming more mentally disturbed. They fail to believe him because his premorbid personality as a child and adolescent is not aggressive or violent.

The four weeks leading up to the instant offense, Mr. Vanisi descends into florid psychosis and the psychotically driven notion to kill a policeman is released as his labile mood state increases his impulsivity, and propensity towards violence. Mr. Vanisi kills a policeman that he happened upon in a poorly planned, random, non-rational manner in a psychotic rage. It speaks to his delusional thinking that "*any policeman would do*". True to his systematised delusional thinking Mr. Vanisi experiences a momentary release from the unmanageable emotional tensions that had been driving

his behaviour. He then makes a number of simplistic, poorly considered decisions as he tries to escape the scene and avoid the consequences of his actions.

Mr. Vanisi's inevitable capture and incarceration proves that effecting his psychotic delusion to kill a police officer has not freed him of his ongoing psychological turmoil. In fact his actions complete his descent into madness as he can no longer integrate his actions into a cohesive, rational and coherent understanding of himself and requires external restraint to keep him and those around him safe.

To spend time with Mr. Vanisi now is akin to speaking with the shell of a person. The exterior is calm and well presented but his interior psychic world is no longer accessible. There is an obvious immaturity that speaks to an arrested emotional development. He is very child-like in his lack of appreciation of the harmful things that he has done in his life

He talks a lot, no longer capable of any analysis of the issues he is talking about which is the cardinal sign of his absolute disconnection from reality.

Without the prescribed psychotropic medication Mr. Vanisi's psychosis would return very rapidly leading to severe mood fluctuations and he would again experience the psychological state present at the time he committed the murder of Police Sgt George Sullivan in 1998. He was a very disturbed and clearly mentally disordered human being well before the instant offence, during the actual act of committing the instant offence and continues to be a very disturbed but medically stabilised human being up until the present time.

Mr. Vanisi reported to me that *"he loves being on death row, it's the first time I've felt normal in my life and people here take good care of me"*. It

is ironic that in prison, heavily medicated, and with his civil liberties taken away from him that Mr. Vanisi should report such a sentiment. The most logical explanation for this expressed sentiment is that for the first time in his adult life that his Schizoaffective Disorder has been adequately treated with the right combination of medications finally arrived at through a long process of trial and error.

#### **4.0 SOURCES OF INFORMATION**

- 4.0 A comprehensive psychiatric evaluation is dependent on the quality of the information that is available. Psychiatry is not an exact science, therefore the credibility of conclusions is dependent on credible sources of information that present consistent themes from a variety of sources. In preparation of this report I have had the benefit of having access to a large number of legal declarations from friends and family that knew Mr. Vanisi well and the insights and opinions of various mental health professionals and observations of him over an extended period while he has been incarcerated within the prison system.
- 4.1 A large amount of material was sent to me to review from the Federal Public Defenders Office for the District of Nevada. The material contained a large number of documents contained within the “Expert Manuals”, and also included video material on CD of Mr. Vanisi while in custody and other collateral information supplied when I visited Nevada to complete the evaluation. The information supplied was analysed in differing levels of detail according to the degree of pertinence to the formulation of an accurate psychiatric autobiography. The full list of information sources is contained in Appendix B as the large number of reports and documents made listing them in the body of the report too cumbersome.
- 4.2 A two hour consultation with Dr. Jonathan H. Mack, Psy.D. a Neuropsychologist who had previously completed a thorough battery of psychometric tests on Mr. Vanisi.
- 4.3 A four and a half hour face to face psychiatric assessment with Mr. Vanisi conducted on the 28<sup>th</sup> of March at Ely State Penitentiary.

## **5.0 HISTORICAL PSYCHIATRIC REPORTS**

5.0 Conclusions about competency, mental disorder, malingering should reflect a convergence of evidence from a variety of sources including direct contact, relevant history, appropriate medical, laboratory, radiological, neurophysiological and neuropsychiatric testing using validated instruments. Review of previous psychiatric reports and psychological testing is therefore a critical element in the evidence gathering process and therefore a large proportion of this report is devoted to this task.

5.1 Particular attention is given in this report to previous opinions by psychiatric colleagues. The analysis requires a focus on the comprehensiveness, robustness and evidence supporting the validity of the observations and conclusions that previous medical experts have made concerning Mr. Vanisi's mental state, and consequently his competency to understand the nature of the instant offence, competency to stand trial and diagnosis. Four very important caveats however need to be addressed at this point.

5.1.1 My psychiatric colleagues did not have access to the extremely detailed developmental and family history, prepared by the Nevada Federal Defenders Office and made available to me for the preparation of this comprehensive psychiatric evaluation.

5.1.2 My colleagues also did not have access to the comprehensive neuropsychiatric battery of tests undertaken by Dr. Jonathan H. Mack in October 2010 demonstrating marked degree of cognitive impairment (see 3.2).

5.1.3 It is my strong clinical contention that if my colleagues had this information available to them that the nature and findings of their psychiatric opinions would have been significantly different.



- 5.1.4 The only other proviso is that there must remain a degree of caution interpreting cognitive testing undertaken in 2010 implying that the same cognitive deficits were present at the time of incarceration and the preceding years. Mr. Vanisi's cognitive functioning could have been much better in 1998 and deteriorated over the course of his incarceration but again there is evidence of the same cognitive limitations picked up in the neuropsychiatric testing undertaken in 2010 being present at least in 2005 (see 5.7.6 & 5.7.7).
- 5.2 I have reviewed all the psychiatric reports that have been completed on Mr. Vanisi and sent to me for review. The reports are analysed here in chronological order.
- 5.3 Dr. Richard W. Lewis Ph.D in his report dated October 10, 1998 to the Honourable Connie Steinheimer District Court Judge Washoe County, Reno, Nevada is focused on making a determination of Mr. Vanisi's mental competency to understand the nature of the charges against him. At the time of interview Dr. Lewis reports that Mr. Vanisi had been on psychotropic medication for the treatment of the working diagnosis of Bipolar Mood Disorder for ten days. The report contains the following information which is critiqued as follows:
- 5.3.1 *"...no difficulty interacting with the examiner in a thoughtful and intelligent manner"*, indicating that Mr. Vanisi must have been relatively stable mentally at the time of interview.
- 5.3.2 *"He appeared from the results of the mental status examination to be a very intelligent man"*. Dr. Lewis does not indicate how he formed this opinion. Formal neuropsychiatric testing using an accepted instrument is required to give a valid estimate of an individual's intelligence quotient. It appears Dr. Lewis has based this statement on his personal impressions of the quality of Mr. Vanisi's conversational abilities. Not a particularly

scientifically robust process but not necessarily completely inaccurate. If however Dr. Lewis had access to Mr. Vanisi's most recent neuropsychiatric tests then he would have recognised his verbal fluency as being his only area of cognitive strength. It would have been professionally and clinically more accurate to refer to evidence validating his claim that Mr. Vanisi is a "*very intelligent man*".

5.3.3 "*He has an above average grasp of the English language and can think abstractly with no difficulty*". This type of statement requires referencing using concrete examples. The capacity of individuals to think in an abstract manner can range from the shallow to the highly complex. Dr. Lewis gives no example from his interview to support his assumption, as this is what it remains without elaboration. Reference to the psychometric tests (see Section 22) indicates that in fact Mr. Vanisi does have a moderate capacity to think abstractly but not the ability conveyed by the statement that he "*can think abstractly with no difficulty*."

5.3.4 "*He claims to have speaking knowledge of six languages. His obvious intelligence and proficiency with English suggests he has the capacity to do so*". Dr. Lewis does not raise the very real possibility that Mr. Vanisi is expressing a grandiose idea (i.e. feigned extra-ordinary abilities that are designed to reinforce the fragile ego – for example the ability to speak multiple languages when the possibility exists that Mr. Vanisi does not actually have this ability) consistent with the working diagnosis of a Bipolar Mood Disorder (BPMD). Individuals treated with psychotropic medication for BPMD can experience a marked reduction in overt mood symptoms. For example the elevated mood, racing thoughts, distractibility, high levels of energy and drive that are diagnostic of the disorder respond well to certain medication. They can then be left however with symptoms like grandiosity that reflect, a deeper psychopathology that medication

alone can sometimes not ameliorate but give a clue to the personality structure of the individual and degree of remaining psychopathology

5.3.5 *“He thinks he has been suffering from a Bipolar Disorder and as he looks back on his life can see significant shifts in his affect from depression to feeling extremely high”*. Dr. Lewis should have asked and then described in his report what Mr. Vanisi’s understanding of Bipolar Disorder was. Dr. Lewis implies that Mr. Vanisi used the term himself and assumes that his lay person understanding of the medical term approximates its clinical meaning. This can only again be a poorly formulated assumption without capturing in Mr. Vanisi’s own words what his interpretation of what it means for him to be suffering from the medical condition known as *Bipolar Disorder*. This is particularly pertinent in the context of his known cognitive comprehension difficulties.

5.3.6 Dr. Lewis reaches the conclusion that *“Mr. Vanisi is of sufficient mentality to understand the nature of the charges against him and to assist his counsel in his defense”*. The test for competency to stand trial in most jurisdictions in the Western legal system involves the capacity of the defendant to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him. Dr. Lewis’ conclusion that Mr. Vanisi passes this test of competency is based on a number of assumptions that have been poorly validated and therefore severely undermines the credibility of his stated conclusion.

5.3.7 Dr. Lewis had an ethical “duty of care” to Mr. Vanisi in making a decision of competency that had the potential for serious consequences for Mr. Vanisi. The question as to whether Dr. Lewis’ conclusion of competency was right or wrong depends on the credibility demonstrated by the quality of his psychiatric evaluation as provided to the Court. His report

demonstrates that he did not reach the standard demanded of a person with his qualifications and skill set. In my opinion as outlined by paragraphs 5.3.3, 5.3.4, 5.3.5 and 5.3.6 Dr. Lewis bases his conclusion on evaluation findings that are not credible therefore impacting significantly on his conclusion of Mr. Vanisi's competency.

- 5.4 Dr. Philip A. Rich M.D. in his report dated October 27, 1998 to the Honourable Connie Steinheimer District Court Judge Washoe County, Reno, Nevada is again focused on making a determination of mental competency. The important aspects of his report are as follows:

- 5.4.1 Dr. Rich states the following in relation to Mr. Vanisi's competency:

*"It is my professional opinion that Mr. Vanisi is of sufficient mentality to be able to aid and assist counsel in his defense".* Dr. Rich appears to make this judgement from his mental state findings which are summarised below.

- 5.4.2 The psychiatric history that Dr. Rich gathers from Mr. Vanisi is consistent with how Mr. Vanisi reports events across psychiatric evaluations. His important findings are:

- 5.4.3 *"He states that he has abused marijuana on a daily basis since 1997. He states that marijuana is his drug of choice. He has tried speed five times".*

- 5.4.4 *"His affect has been volatile, and he states he has been manic at times and depressed at times...He states he has never heard voices or seen things that are not there.* Mr. Vanisi consistently reports the absence of visual or auditory hallucinations, even though the admission of these phenomena would strengthen his position of "mental illness" and therefore counts against the assumption of malingering.

- 5.4.5 *“He states that he has had grandiose delusions when he was manic, and felt like he was invincible. He states at times that he feels like Peter Pan and is magical”.* These are symptoms of psychosis and are more grandiose in nature when they appear during periods of significant mood disturbance which in this case is mania.
- 5.4.6 *“His short term memory is good in that he could remember three out of three objects after five minutes. His immediate memory is good, in that he could remember a seven digit forward number.”* Dr. Rich undertakes aspects of the Mini-Mental State Examination that is essentially a cognitive screening test. It tends only to uncover at a superficial level evidence for cognitive deficits that are then evaluated using a formal battery of neuropsychiatric tests. In relation to memory function Dr. Rich reports that it is intact. On formal neuropsychiatric testing Mr. Vanisi’s working memory tests results indicate very poor function – 9<sup>th</sup> Percentile Rank (see Section 22 for full neuropsychiatric test scores) Dr. Rich goes on to report that:
- 5.4.7 *“Intellectual functioning is evaluated as good – when asked the distance from San Francisco to New York City, he said 3000 miles.”* Mr. Vanisi’s intellectual functioning is actually very poor. He has above average Verbal Comprehension (67<sup>th</sup> Percentile Rank) but very poor Perceptual Reasoning (4<sup>th</sup> Percentile Rank), Working Memory (9<sup>th</sup> Percentile Rank) and Processing Speed (10<sup>th</sup> Percentile Rank) which indicates that his intellectual functioning (which is a collation of these four subset scores) places his overall intellectual functioning in the 13<sup>th</sup> Percentile Rank.
- 5.4.8 *“Abstract thinking: When asked what the phrase, ‘The early bird gets the worm means’ he stated, ‘You can reap what you sow by getting up early’. When he was asked what he would do if he found an addressed, sealed, stamped envelope lying on the sidewalk, he stated ‘I would put it in the*

*mailbox.”* Mr. Vanisi’s accurate interpretation of the proverb and appropriate response to finding an envelope on the sidewalk are simple tests of abstract cognitive abilities. Not surprisingly Mr. Vanisi on formal testing using the Wechsler Adult Intelligence Scale-IV, Verbal Comprehension has a raw score of 24 in the Similarities Test (tests abstract thought from the more simple to the more complex e.g. what are the similarities between democracy and autocracy) which places him in the 37<sup>th</sup> Percentile Rank (see Section 22). This demonstrates a simple level of abstract thought – the more difficult abstract concepts were not able to be interpreted by Mr. Vanisi otherwise he would have scored higher in the test.

5.4.9 Dr. Rich’s diagnostic impression was:

<i>Axis I</i>	<i>Bipolar Mood Disorder</i> <i>Polysubstance Abuse</i>
<i>Axis II</i>	<i>Mixed Personality Traits</i>
<i>Axis III</i>	<i>Diabetes</i>
<i>Axis IV</i>	<i>Number 4</i>
<i>Axis V</i>	<i>GAF score of 32; GAF score over the past year of 47.</i>

5.4.10 Dr. Rich is making a decision of competency in relation to Mr. Vanisi’s capacity to stand trial. The question again is whether his conclusions are credible based on the quality of his report provided to the Court. In my opinion Dr. Rich has made the same mistake as Dr. Lewis in that they have misinterpreted Mr. Vanisi’s strong verbal fluency as a pseudo-measure of his overall intelligence quotient (see 5.4.4, 5.4.5, 5.4.6, 5.4.7, 5.4.8). This is a simple mistake to make and without a robust clinical examination process and access to robust neuropsychiatric measures then Mr. Vanisi’s true cognitive deficits and his lack of intelligence in its most comprehensive form would not have been fully demonstrated. He has also

failed to comprehend the delusional nature of Mr. Vanisi's psychotic drive towards killing a police officer.

- 5.5 Dr. Edward J. Lynn MD in his report dated July 8, 1999 to Mr. Stephen Gregory, Chief Deputy Public Defender Washoe County Public Defender's Office Reno reviews Mr. Vanisi's mental state in relation to diagnostic clarification. Dr. Lynn interviewed Mr. Vanisi on the 8<sup>th</sup> of July 1999 and had seen him previously on the 24<sup>th</sup> of April 1998. Dr. Lynn reports:

5.5.1 *"At the time [of interview] there were suggestions of possible Bipolar and ADHD issues in addition to antisocial behaviours. I reviewed recent records including reports by Thomas Bittker MD and Ole Thienhaus MD. Both of these psychiatrists (without having been able to interview him) concluded from the record that he must be malingering, based on bizarre behaviours that he was acting crazy".* The notion that Mr. Vanisi is malingering or feigning mental illness (for potential advantage) is a theme that is difficult to clinically address. The onus is on clinicians that consider this to be the case to provide robust evidence for the claim, particularly when the evidence for the diagnosis of an Axis I condition is robust.

5.5.2 Dr. Lynn reports that *"Dr. Mace Knapp, a prison psychologist, felt after interview, that although he was manipulating, Mr. Vanisi was suffering from Bipolar Mania without psychosis on Axis I and Psychopathic Deviation on Axis II"*. The impression given is that Mr. Vanisi has Bipolar Disorder but is able to accentuate his mental illness as a manipulative act. This is conceptually possible, but implies an aspect of malingering to his clinical presentation that requires a high level of executive functioning that Mr. Vanisi has proven not to have.

- 5.6 Transcripts of testimony of Dr. Ole Thienhaus October 4, 1999 Second Judicial Court of the State of Nevada. The transcripts of Dr. Thienhaus give further

indication of Mr. Vanisi's mental status. The most significant aspects of his testimony are reported here.

5.6.1 *"I was asked to see him I think September 30<sup>th</sup> of 1998 as a routine consultation for an inmate presenting complaint of possible mental illness referred to me by the nurse at the jail. I came up with the impression of, quote, possibly bipolar disorder or cyclothymia, which is a similar condition".*

5.6.2 *"Actually, I will tell you the most confident I was in my diagnosis was most recently, meaning almost a year or – almost a year later, when I saw him last week and he presented with quite a significant degree of pressure of speech, and I wrote 'continue Lithium – slight increase of Lithium recommended', because the pressure of speech was so prominent that I felt more confident this was the right diagnosis. In addition I should mention that one of my colleagues [Dr. Lynn] in another setting had seen Mr. Vanisi independently of me and told me that was his impression too".*

5.6.3 Dr. Thienhaus is then questioned about what the symptoms of Bipolar Disorder and the impact of illicit drugs [namely amphetamines] has on someone who maybe suffering from Bipolar Disorder. The issue of malingering is then raised by the lawyer. The following question is asked *"All right, Doctor, what is malingering"* and Dr. Thienhaus responds:

*"Malingering is the conscious fabrication of symptoms of any kind for usually a defined purpose, such as disability benefits or a lenient sentence or what have you, can be any benefit whatever. But the concept is fabrication, and it's conscious".* The lawyer then goes on to ask Dr. Thienhaus about whether Mr. Vanisi shows any signs of Malingering. *"Any evidence of malingering in Mr. Vanisi?"* Dr. Thienhaus responds:



*“Well, there was one episode that caused me to suspect that. And that was I was referred Mr. Vanisi one point later in the fall of '98. I believe it was, give me a second. No, it was in the spring of 1999. 5/5/99 in fact. He presented with florid psychosis at the time. I'll describe to you what a psychosis means. In this particular case, he had a circular orange rind around his waist as a medical device to help his sinuses, and he accused law enforcement personnel at the jail of, quote, splashing a liquid, unquote, on him and conspiring against him. Besides his formal thought was disorganized, his speech became so fast it was impossible for me to follow his lengthy monologues. And he approached incoherence, meaning the words just didn't hang together”.*

*“Now that's a very dramatic presentation and wouldn't cause me at all to think of malingering. In fact, I immediately went in and prescribed antipsychotic medication. What caused me to wonder about the possibility of malingering was that 24 hours later, when I saw him all was gone. Coherent, goal oriented, no symptoms of thought disorder, no hallucinosis. He was argumentative and somewhat loquacious and he denied yesterday's episode. Quote Am I accused of being psychotic? Unquote. He showed, in other words, an unexpectedly rapid response to the medication which is really not consistent with the way these drugs work, which usually take several days to make an impact on the loss of reality.”* Dr. Thienhaus fails to report how difficult it is to feign the symptoms observed in Mr. Vanisi, that is it is very difficult to speak incoherently, in a pressured manner, maintaining a degree of disorganisation while going on for lengthy monologues. This would be an impressive skill and could be possible to feign (but not probable). Dr. Thienhaus also fails to mention that although rapid response to antipsychotics is uncommon there is documented evidence of its occurrence. The only final point to make here is that if Mr. Vanisi is considered by these experts to be intelligent, he would recognise the need

to maintain a level of unwellness if he was attempting to convince medical experts of diagnosable mental illness and therefore not show too quick a recovery in 24 hours. This however is simply a matter of conjecture and cannot be proven. It is raised here simply as a discussion point as there is no way of proving or disproving this assumption. What can be proven however is that Mr. Vanisi's psychometric tests indicate that he is unable to make complex plans and execute them over a long period of time. This type of presentation requires complex planning and complex attention to detail which is cognitively beyond Mr. Vanisi (see Section 22). The issue of malingering is dealt with throughout this report but essentially there is substantial and incontrovertible evidence that Mr. Vanisi is not a malingerer. Dr. Thienhaus concludes the issue of malingering by saying:

5.6.4 *"I think the evidence suggests that he's more likely to be suffering from a bipolar disorder than that he's malingering but it's impossible for me with my limited database to come up with a conclusive diagnosis".*

5.7 Dr. Thomas A. Bittker M.D. in his report dated January 14, 2005 to the Honourable Connie Steinheimer District Court Judge Washoe County, Reno Nevada undertakes a comprehensive forensic psychiatric evaluation. He reports his reason for assessment as being:

*"To evaluate Siaosi Vanisi regarding his present competence to maintain and participate in the capital post-conviction habeas proceedings. Specifically the assessment of competence should address the ability of Mr. Vanisi to assist and communicate with counsel, understand and knowingly participate in the habeas proceedings as a litigant and witness and understand the difference between the truth and a lie, and the consequence of lying as a witness in the court".*

5.7.1 Dr. Bittker reports that his chart review indicates the Mr. Vanisi is recorded as suffering from the following psychiatric conditions:

1. *Bipolar Mood Disorder*
2. *Polysubstance Dependence*
3. *Antisocial Personality Disorder”*

5.7.2 Dr. Bittker reports that Mr. Vanisi was taking the following medications at that time of evaluation:

1. *Depakote 500mg b.i.d. (twice daily)*
2. *Haldol 50mg IMI (intramuscular injection), two weekly*
3. *Cogentin 1mg b.i.d. (twice daily)*

5.7.3 Dr. Bittker reports that in conversation with co-counsel that they had reported to him that:

*“...at Mr. Vanisi’s hearing on 11/22/04, he was markedly guarded, displayed blunted affect and appeared to be heavily sedated. In addition they reported their concerns about Mr. Vanisi’s bizarre behaviour while incarcerated including draping himself in a cape, remaining outdoors for 24 hours, and requiring multiple disciplinary interventions. They stated that Mr. Vanisi was not forthcoming in dialogue with them and consistently maintained a high degree of suspicion of them. Specifically they stated that Mr. Vanisi never discussed with them the circumstances preceding the instant offenses. Both co-counsels concluded that they had great difficulty representing Mr. Vanisi coincident to his lack of disclosure about key elements in the case”.*

5.7.4 Dr. Bittker records Mr. Vanisi was initially quite guarded particularly when talking about his background, the circumstances prior to the instant offenses and his divorce with his wife. Dr. Bittker writes:

*“He acknowledged taking Depakene, Haldol and Cogentin. He acknowledged significant ambivalence about taking these medications. He stated that the medicines, on the one hand, helped control his bizarre behaviour and helped him conform but on the other hand they did not permit him to be himself and in particular on the medicines he believed that he was not spontaneous, he could not be creative nor could he be concentrate. He made reference to frequent natural highs he would sing, be energetic creative, ‘vivacious’, spontaneous and extremely intuitive. He also acknowledged periods of lows marked by hypersomnia and depressed mood. He admitted to feeling chronically suicidal and stated he has felt suicidal for many years, but he has never acted out in a suicidal way. He denied experiencing auditory or visual hallucinations but did admit to feeling frequently depersonalised, having nihilistic delusions (nothing really matters) and being specifically uncaring about whether he lives or dies”.* Mr. Vanisi demonstrates a consistency of symptoms in what he reports that would be difficult to maintain over an extended period if it were not what he was truly experiencing. He reports his natural highs and lows marked with hypersomnia, continues to deny auditory and visual hallucinations, but this is the first mention of nihilistic delusions.

5.7.5 One the most important matters discussed in Dr. Bittker’s report is the presence of the cognitive deficits that affect interpretive and analytical cognitive skills picked up on neuropsychiatric testing (see Section 22). Dr. Bittker writes in 2005:

*“He only has a vague awareness of the expectations for his behaviour in the court room and could not specifically respond as to what he would say or do if somebody told a lie about him in court. Furthermore, his nihilistic*

*delusions penetrated his awareness of the distinction between the truth and a lie. When asked about the importance of the distinction, Mr. Vanisi responded merely that a lie was perjury, but could not elaborate further and did not seem to fully capture the significance of being transparent with his defense counsels. On a number of occasions, I attempted to inquire about the nature of his inner life and on each occasion; he would respond either 'I can't talk about that' or 'I don't want to talk about that' or 'I don't know'. He had limited insight to what apparently, through other observers appeared to be the bizarre motivation associated with the instant offenses for which he had been convicted". Mr. Vanisi's inability to describe his inner life reflects the most significant neuropsychiatric deficit found on testing and that is – Perceptual Reasoning where he was ranked in the 4<sup>th</sup> Percentile (see 3.2). This apparent deficit remains a strong feature of his current mental status and is explored in more detail in Section 19.*

5.7.6 The significant aspects of the Mental Status Examination undertaken by Dr. Bittker are as follows:

*" the fluidity of his speech grew as did his emotional lability. During the second part of this interview, his speech was pressured, excited and displayed flight of ideas". These are some of the cardinal signs of a manic presentation. Dr. Bittker writes on, "His affect during the second part of the interview was expansive and he acknowledged feeling good. In spite of this positive acknowledgement, ongoing thoughts of death and his intent to die. As for the specific cognitive elements in the mental status exam, Mr. Vanisi was oriented to time, place and person and circumstance. He could recall the details of his previous meal. He declined to perform arithmetic exercises but was capable of spelling world backwards and had a full awareness of current events." Of real interest here is Mr. Vanisi's refusal*

to perform the arithmetic exercises but his acceptance of the spelling exercise. Reference to Mr. Vanisi's test scores indicate the following:

- *Word Reading - 66<sup>th</sup> Percentile Rank*
- *Spelling - 77<sup>th</sup> Percentile Rank*
- *Sentence Comprehension - 6<sup>th</sup> Percentile Rank*
- *Reading Composite 25<sup>th</sup> Percentile Rank*
- *Maths Computation 5<sup>th</sup> Percentile Rank*

The only acceptable inference here is that he refused to do the arithmetic because he was unable to and his personality type does not deal well with any task or activity that could lead to a sense of shame or humiliation. Of more import however is his desire to do the spell test (spell the word 'World' backwards) as I formed the impression that Mr. Vanisi is very keen to show his competency at tasks he is good at. A strong indication of the validity of these assumptions is the evidence for strong reading and spelling but poor mathematical ability as demonstrated by the neuropsychiatric testing (see Section 22) and perhaps a small piece of evidence of Mr. Vanisi's cognitive deficits being present in 2005 when Dr. Bittker undertakes this evaluation.

- 5.7.7 Dr. Bittker also describes a simple capacity for abstract thinking as found on previous psychiatric evaluations but difficulty distinguishing between more complex concepts that require a higher degree of perceptual reasoning. He reports:

*"He was able to correctly identify the similarity between a grape and a banana. He could not distinguish misery from poverty."*

- 5.7.8 Dr. Bittker summarises his findings in his formulation at the end of his report by reporting:

*“Mr. Vanisi presents with a complicated history. Unfortunately I do not currently have access to prior psychiatric assessments, however in reading the abstraction of Dr. Thienhaus prior testimony, I note that Dr. Thienhaus affirmed that Mr. Vanisi suffered Bipolar Mood Disorder but it is not extreme or severe.*

*“Mr. Vanisi’s current presentation is consistent with a diagnosis of Bipolar Disorder, mixed type with psychosis. The psychotic manifestations are reflected in his bizarre behaviour, his nihilistic delusions, his narcissistic entitlement, and his marked ambivalence about issues such as life, death and the nature of reality. (It is my contention that this finding is not truly ambivalence but his cognitive inability to comprehend these deeper existential questions about life).*

*Although he has a reasonable level of sophistication about the trial process (verbal fluency – he can talk well about the mechanics of the Court processes without a deeper appreciation of what the mechanics of the Court processes are designed to deliver), his guardedness, manic entitlement and paranoia inhibit his ability to cooperate with counsel.*

*Mr. Vanisi’s comments regarding the medication are most revealing. His reports about the effects of haloperidol are consistent with my clinical experience with the agent, as well as reports in the literature. Specifically haloperidol will contain the positive symptoms of psychosis, but leaves Mr. Vanisi feeling numb and lacking spontaneity”.* This comment by Dr. Bittker is interesting in that it implies that Dr. Bittker senses a degree of honesty in Mr. Vanisi’s responses to his evaluation. This is another small but important finding against Mr. Vanisi malingering.

- 5.7.9 Dr. Bittker makes good recommendations about medication options at the end of his report recommending a change to newer antipsychotic

medication that has less adverse side-effects on Mr. Vanisi and less impact on his diabetic status and high cholesterol.

5.7.10 Dr. Bittker's psychiatric evaluation is by far the most thoughtful and considered and this is reflected in the improved quality of his history taking and genuine attempts to provide reasons and evidence for the diagnostic statements that he makes and treatment plan he recommends.

5.8 Dr. A.M. Amezaga, Jr., Ph.D. Nevada Licensed Psychologist in his report dated February 15, 2005 to the Honorable Steinheimer District Court Judge, Washoe County, Reno, Nevada reports the following conclusions:

1. *Mr. Vanisi has a factual understanding of courtroom proceedings.*
2. *His rational ability to assist his attorney with his defense is at most mildly impaired.*
3. *His rational understanding of the court room proceedings is not impaired".*

He bases his conclusions on his mental status examination plus the results of the two psychometric tests he undertakes and gives significant weighting to.

5.8.1 Dr. Amezaga goes on to record that:

*"Apart from the possibility of a developmental disability such as mental retardation, tests of intelligence are irrelevant to the question of competency to proceed. In like manner measures of personality or personality style (e.g. MMPI, etc) are also irrelevant to the ultimate question".* It is both of academic and clinical interest that Dr. Amezaga should make such a statement. I think that he would accept that there is a need for a certain level of intelligence to allow comprehension of court proceedings hence the caveat of mental retardation. Valid neuropsychiatric testing enables us as mental health professionals to understand specific



cognitive strengths and weaknesses of any given individual and particularly those that face the death penalty. Mr. Vanisi's cognitive deficits have a significant explanatory role when analysing the results of the psychometric tests that Dr. Amezaga performs and it would be interesting to garner a response from him in relation to interpreting his test results if he knew the extent of Mr. Vanisi's intellectual impairment.

The two tests that Dr. Amezaga goes on to administer were the:

1. Evaluation of Competency to Stand Trial-Revised (ECST-R)
2. Validity Indicator Profile – Non-verbal Subtest (VIP).

5.8.2 The conclusions that Dr. Amezaga draws from the ECST-R are difficult for me to comment on as I am unfamiliar with this particular tool. What is interesting to note is the consistency of Mr. Vanisi's mental status examinations across multiple psychiatric evaluations when his mood state is stable. Dr. Amezaga reports in his mental status examination that:

*“He denied the experience of all psychotic symptoms. He claims that he has never experienced any form of hallucination, be it auditory or visual. He demonstrated no flight of ideas, loose association thought blocking or derailment that might suggest an ongoing psychotic process”. And slightly before describing this component of his mental state he reports: “He often answered more difficult or emotionally laden questions with an ‘I don’t know’ response or the statement, ‘I’m not going to respond to that (e.g, ‘How do you feel about all that has happened to you’).”*

5.8.3 In analysing the results of the ECST-R Dr. Amezaga concludes that:

*“In summary, as was observed as part of his overall presentation, the results of his ECST-R testing indicate no effort to feign or exaggerate psychiatric symptoms in order to suggest the possibility of incompetency.*

*Point in fact he may actually be experiencing, possibly in an attempt to present himself as an individual who does not require the regime of potent psychiatric medications that he is now, involuntarily receiving”.*

- 5.8.4 The Validity Indicator Profile (VIP) is a non-verbal sub-test that consists of picture matrix problems with two answer choices, one is correct and one incorrect. The test is used to identify when the results of psychological testing may be invalid because of the intention to perform sub-optimally (feigning impoverished performance) or because of a decreased effort, be it intentional or not. Dr. Amezaga reports his findings of the results of the VIP test as follows:

*“The defendant’s performance on the non-verbal subtest of the VIP is likely not an accurate representation of his maximal capacity to respond correctly. There is sufficient reliable evidence to support a conclusion that he intended to represent himself as impaired on the test. An alternate conclusion is that he actually intended to do well but he was extremely unlucky in guessing the correct answers for many of the test items that exceeded his problem-solving capacity. Based on the presence of a pattern of prolonged and incorrect responding, the best, most likely conclusion is that the defendant intended to respond incorrectly to a majority of the quite difficult to most difficult test items. Of the four response style options offered by the VIP, his style is characteristic of a pattern of suppressive responding. His response pattern suggests that he deliberately suppressed correct answer choices and instead chose incorrect answers. Alternatively, his sustained very poor performance could be a result of incorrect, but yet improbable guessing. The probability that his extended demonstration of suppressed answers would result from guessing alone is less than .50 percent”.*

5.8.5 At this point it would be a valuable exercise to compare Dr. Amezaga's test results with another test of malingering undertaken by another clinical psychologist Dr. Jonathan H. Mack in October 2010. Dr. Mack chooses another psychometric tool known as the Test of Memory Malingering (TOMM). This tool is based on research in neuropsychology designed to offer a systematic way to discriminate between malingering and real memory impairments in adults. The TOMM is particularly effective for detecting malingering for several reasons. First it looks like a memory test, not a malingering test. Participants do not suspect that they are being evaluated for malingering. Second the test appears more difficult than it actually is, which leads malingerers to intentionally perform poorly while non-malingerers exert their full effort and do well. Third, though the TOMM is sensitive to malingering, it is insensitive to neurological impairments. The TOMM offers a norm-based criterion to detect malingering, which supplements the more traditional procedure of using below-chance performance as the criterion for malingering. Norms are provided for individuals aged 16 to 84. In addition, extensive data has been collected from cognitively intact normals and clinical samples with cognitive impairment, aphasia, traumatic brain injury, dementia and no impairment at all. The psychometric properties of the TOMM make it a particularly useful instrument for testing Mr. Vanisi as there is evidence of cognitive deficits consistent with a pattern similar to dementia (see Section 22) and possibly undiagnosed Traumatic Brain Injury (requires completion of neurological imaging – CT Scans or MRI).

5.8.6 Mr. Vanisi's test results for the TOMM as of October 2010 were as follows:

<i>Trial 1</i>	<i>Score = 43/50</i>
<i>Trial 2</i>	<i>Score = 50/50</i>

The cut off score for malingering is less than 45. Two trials are always conducted as the “practice effect” almost always has a positive effect on the second trial whereby the majority of participants perform better because they have previously been exposed to the questions. This was the case for Mr. Vanisi with him scoring a perfect 50/50 in the second trial.

5.8.7 In effect Mr. Vanisi has now performed two separate tests conducted by two reputable psychologists arriving at two opposite conclusions. Dr. Amezaga using the VIP describes Mr. Vanisi as having the very high probability of intentionally suppressing correct answers and therefore malingering and Dr. Mack using the TOMM reports that Mr. Vanisi is highly unlikely to be malingering.

5.8.8 Any debate about the psychometric strengths and weaknesses of the VIP and TOMM should be left to experts in the field of neuropsychometric testing. What is pertinent here is that Dr. Amezaga reports in his findings of the Evaluation of Competency to Stand Trial-Revised (ECST-R) that Mr. Vanisi seems to “...*indicate no effort to feign or exaggerate psychiatric symptoms in order to suggest the possibility of incompetency*”. It makes logical sense that if an individual is malingering that he would attempt to manipulate both tests in a direction that would favour his desired outcome. To suggest no effort of feigning in one test and then suggest feigning in the following test would be a complex and sophisticated strategy to implement. The evidence from the this full battery of tests and longitudinal history of incarceration would not support Mr. Vanisi having the intellectual capacity to implement such a sophisticated and complex plan.

## **6.0 PRIOR PSCYCHICATRIC HISTORY**

6.0 The critical issue for this section is whether there is strong evidence that Mr. Vanisi suffered from overt mental disorder before the instant offense. Mr. Vanisi's position is that he never suffered from a mental disorder prior to the instant offense (see 6.1). This is in complete contrast to the signed declarations from those individuals closest to him and the personal history collated by the Federal Defender's Office. This section will cover in some detail the stated opinions of family and friends who knew Mr. Vanisi well in his formative years. The time leading up to the instant offense will be dealt with in more detail in another Section 18 but some aspects of Mr. Vanisi's prior psychiatric history touch on this period.

6.1 Mr. Vanisi at the time of evaluation denied that he had been involved with any form of psychiatric assessment or treatment prior to the instant offense. He also denied ever experiencing a mental disorder before the instant offense. He did admit though that there were times at high school that his behaviour was "out there" and he felt more and more "out of control" leading up to the instant offense. He did not believe however that he was mentally disordered at the time of the offense.

6.2 There is no evidence provided to me by the Federal Defender's Office that contradicts Mr. Vanisi's stated position of not having had contact with mental health services prior to the instant offense. This is an interesting position to take if he is attempting a defense based on being mentally disordered.

6.3 Laura Lui reports in her signed declaration upon penalty of perjury in April 2011 that she is the wife of Siaosi Vanisi's maternal cousin, Olisi Lui. She is an attorney and is the only Tongan attorney in the state of Nevada and has been a member of the Nevada state bar since 1995. She reports that she has interacted

with Mr. Vanisi and his family for over twenty years. Laura Lui reports the following:

6.3.1 *“Siaosi seemed like he was suffering from a cultural identity crisis when I saw him in L.A. during the early 1990's. Siaosi denied his Tongan background and pretended to be from another culture. Siaosi refused to speak Tongan, and when someone addressed him in Tongan he acted as if he did not understand the person. Siaosi only hung out with Caucasian people and he tried his best to speak, talk and dress like a white person. It seemed like Siaosi was trying to be someone else”.*

6.3.2 *“I moved back to Reno in 1994, and I continued seeing Siaosi when he periodically came to town for visits. Siaosi acted strangely whenever he visited my husband, Olisi, and I. Siaosi spoke quickly, he rapidly changed subjects, and he rambled a lot when he spoke to the point that I could not always understand what he was trying to say. Siaosi also suffered from mood swings. Siaosi stopped taking care of his personal appearance and hygiene. He was no longer dressing neatly and grooming his hair as he always did in the past and he gained a lot of weight”.* It is important to note here that this report of significant mood swings and personality change (lack of concern about appearance could be less about personality change and more about perhaps a depressive illness) comes from a highly credible source and dates back to 1994 which is well before the instant offense.

6.4 Heidi Bailey-Aloi reports in her signed declaration upon penalty of perjury in April 2011 that she is a former friend of Siaosi Vanisi and currently resides in Salt Lake County, Utah. She reports that she met Mr. Vanisi in 1991 at the Latter Day Saints (LDS) Church Institute that was located across the street from El Camino College in Los Angeles. She was attending El Camino College at the time and

although Mr. Vanisi was not, he spent a lot of time around the campus with her and others in her circle of friends. Heidi Bailey-Aloi reports the following:

6.4.1 *“When I first met Siaosi, he was living with his cousins John and Jeff Finau. Siaosi never worked much and he was pretty much a freeloader who lived in various places and moved whenever the people he was living with had enough of him. When Siaosi had places of his own he usually rented random rooms and apartments that were located near beaches in sketchy neighborhoods”.* This statement gives an indication of itinerancy which could be indicative of a disturbed mental state (but definitely not definitive).

6.4.2 *“I had the impression that Siaosi was mentally disturbed from the time that we met. When Siaosi spoke with people his conversations were all over the place, he rambled a lot and spoke rapidly. I wasn’t always able to follow everything that Siaosi said because he spoke incoherently at times. Siaosi also frequently made himself laugh at strange and inappropriate times when he spoke with people. I often had no idea what Siaosi was laughing about. Siaosi was inappropriately friendly with people who he barely knew and even complete strangers”.*

6.4.3 *“Siaosi developed identity issues by the time of my return in 1994. Siaosi stopped telling people that he was Tongan, and began saying he was born in Africa, or that he was half Black and half Chinese. Siaosi never talked with me about his family’s background at any point during our friendship”.* This statement supports the statement by Attorney Laura Lui.

6.4.4 *“I never knew when Siaosi was serious or not. Siaosi sometimes said the strangest things that made everyone laugh but he often looked at everyone with a serious expression on his face like he wasn’t joking and had no idea why we all found his comment to be funny. Siaosi had a flat puzzled look*

*on his face at everyone's response during these occasions". A feasible extrapolation could be that Mr. Vanisi was already experiencing the deficits in cognitive interpretation found on neuropsychiatric testing in 2010.*

6.4.5 *"Siaosi began wearing weird and inappropriate outfits in public. Siaosi enjoyed dressing up like a super-hero in electric blue waist tights and a cape. Siaosi had no reservations about walking around the community with this outfit on, and he didn't seem to care about anyone's reaction. It seemed like any kind of attention was good attention for Siaosi because he seemed to believe that people were actually recognizing him as being a star or a famous person. Siaosi displayed various other weird and inappropriate behaviors that suggested to me that he was not mentally stable. Siaosi was never right in his mind and his condition only grew worse as time went on".* Again, this commentary of Mr. Vanisi's instability occurs well before the instant offense.

6.5 David Kinikini reports in his signed declaration upon penalty of perjury in April 2011 that he is a cousin of Siaosi Vanisi, has known him since they were children and currently resides in Salt Lake County, Utah. David Kinikini reports the following:

6.5.1 *"I was about 10 years old when I first began having meaningful interactions with Siaosi. We saw one another frequently throughout our childhood. Siaosi and I normally saw each other throughout each year at holidays, weddings, funerals, and various family and LDS church events. Siaosi sometimes spent summers in Salt Lake City and I also went to San Bruno to do the same. Whenever I was in San Bruno I usually stayed with Siaosi and Toeumu at his Uncle Moli's house. Whenever Siaosi was in Salt Lake City, he usually stayed at my family's home. Whenever we were in the same place Siaosi and I were always together".*



- 6.5.2 *“When Siaosi had discussions, as a teen, he usually spoke rapidly and frequently changed the topic of the conversation to unrelated areas without an explanation. It was sometimes difficult to hold conversations with Siaosi because of the fast way that he talked and changed topics”.*
- 6.5.3 *“Siaosi was devoted to the LDS church and he always tried to influence me and our other cousins to do the right thing. Siaosi never used foul language and he never allowed any of us to use curse words or talk in a rude manner to our elders. Siaosi once disciplined me for speaking in a rude manner towards my older sister by smacking me in the back of my head and telling me to never to do it again”.* It appears from this statement that Mr. Vanisi was a respectful person and a committed member of the LDS church community when he was a younger man.
- 6.5.4 *“Not long after being sent home from his mission, Siaosi came to Salt Lake for a visit. Siaosi showed up with a white male friend, his hair was done up in a spiky punk rock style with the sides shaved off, he was dressed in strange colorful clothes, he lost a lot of weight and for the first time in his life he did not stay with the family during this trip. I had no idea where Siaosi stayed and I assumed that he either stayed in a hotel or in the home of his white friend’s relatives”.* It appears a significant shift in Mr. Vanisi’s personality occurred following the humiliation of his failed attempt to undertake missionary work for the LDS church.
- 6.5.5 *“Siaosi’s conversational speech issues were ten times worse when he came to Salt Lake after his failed mission (see 6.5.2). Siaosi came across as a bigger know-it-all and he frequently changed topics and spoke off subject. Siaosi now spoke much louder and he totally dominated conversations because he almost never allowed anyone to get a word in during conversations. Siaosi almost seemed like he was carrying on a conversation with himself most of the time”.* This description has an

element of the phenomenological psychopathology known as pressured speech associated with flight of ideas. It appears that he is in a manic state but without a formal mental state examination this can only be a calculated assumption.

6.5.6 *“Siaosi began cursing when he talked for the first time in his life. This was very unusual for Siaosi because he was always so religious and he never approved of such language”*. Is this indicative of personality change or more frank mental illness?

6.5.7 A few years later David Kinikini reports that he had several opportunities to observe Siaosi’s strange behaviors when he was on his mission in Manhattan Beach between 1994 to 1995 and following the completion of his church mission in January 1995, He returned to the Los Angeles area shortly afterwards and lived there for a while. He had at least two full years to interact with Siaosi and witness his odd behaviors firsthand. He reports that:

*“Siaosi spoke very rapidly and his conversations were all over the place. Siaosi constantly changed subjects when he spoke with me and talked about things that were totally unrelated to each other. I often had a difficult time following Siaosi’s thought process during conversations”*. He goes on to say that *“Siaosi had different identities that had their own individual names, ways of dressing, hats, hair styles, mannerisms, ways of speaking and other characteristics. Siaosi might be a dancer one day and then a reggae guy with fake dread locks the next. Siaosi used to take me for drives around the Manhattan Beach area and he made stops at various clubs, restaurants and social spots. When Siaosi walked into a location with one outfit and wig he used one name, and then left me at that location and returned later in a different outfit and wig and he’d use another name. Siaosi also spoke differently. Siaosi then took me to another spot and did*

*the same thing all over again. Siasosi kept various clothes, wigs and hats in his old Volkswagen van and he changed outfits in his vehicle. Siasosi often changed his outfits and identities several times a night and I found this behavior to be very disturbing. Siasosi was always broke, yet he acted like he had money. I stopped going out with Siasosi after a while, because I did not feel comfortable around him in social settings".* This is the behavior of a person that is becoming very disturbed, but again without a formal psychiatric evaluation at the time of these behaviors it is problematic to make assumptions as to exactly what the mental status of Mr. Vanisi is at this time.

## 7.0 CUSTODIAL PSYCHIATRIC HISTORY

7.0 The critical issue here is whether Mr. Vanisi's custodial period reveals a diagnosable mental illness. Mr. Vanisi has had multiple psychiatric assessments and running commentary of his mental state while incarcerated. Despite questions of malingering and diagnostic differences of opinion, the overall impression is that Mr. Vanisi has always suffered from a degree of psychopathology. The extent of the psychopathology has varied with each assessment depending on his presentation and circumstances at the time. I have paid particular attention in this analysis on issues of safety to self and others, the relationship between his mental state and compliance with medication and whether the evidence of incarceration confirms or refutes the presence of a major mental disorder.

7.1 The first comment from a registered medical professional about Mr. Vanisi's mental state appears 12 days following the instant offense, recorded on 01/25/98 following a physical examination. Dr. William G. Andrade M.D. records:

*"His mental status is thoughtful, direct and matter-of-fact. He denies any suicidal ideations. He denies previous psychological counselling. He denies fits of depression or blackouts".*

7.2 The first registered concerns about any suicide risk appears on 02/02/98 when a WCSO "Request For Mental Health Assessment" form was completed. The form states:

*"Inmate stating some depressions 'comes and goes', also says he has fleeting thoughts about suicide but not at this time – tends to answer questions with a philosophical air and makes referral to the Bible and Judas hanging himself. Asking for info about Bipolar D/o - will clarify*

*with Dr. Marion prior to giving any info to inmate as suspect inmate maybe considering this as 'defense'. I don't want to encourage... ”.*

7.2.1 A continuation report dated 02/19/98 states:

*“...that upon cell search, several rips were found in Mr. Vanisi's pillow, underwear and sheets. It was noted that a piece of sheet was tied on to elastic from underwear, “as if he was making a noose”. It was also noted that Mr. Vanisi made reference to killing himself to other inmates while on tier time. This was followed by a Custody Bulletin the following day dated 02/20/98 indicating suicidal and homicidal concerns for Mr. Vanisi.*

7.2.2 A continuation report dated 07/07/98 states:

*“...a few inmates reported that Mr. Vanisi had made suicidal statements. Mr. Vanisi was brought to the infirmary for suicide watch”.*

7.2.3 In an email composed by a Tracey Bloom noted on 09/18/98 following a period of mental instability that when asked how he was doing he stated:

*“I don't know what to do, maybe you guys should shoot me in the head next time you take me out”. Mr. Vanisi denied [however] feeling suicidal”.*

7.2.4 In letters to his wife Mr. Vanisi between 12/07/98-01/17/99 he writes:

*Every seconds tick like a time bomb for me at this moment. I need to stop and disentangle my nuclear bomb, before I blow up and hurt myself”. He expresses some suicidal thoughts with statements such as: “I'm going to blow my brains into confetti, I'm going to be a chain smoker when I get to*

*the joint. G-d I'm having a bad day. Clint Eastwood's dirty hary gun would make my day".*

- 7.2.5 On an Ely State Prison Behavioural Observations and Referral form on 03/08/00 it was noted that Mr. Vanisi was:

*"...not sleeping well and had poor hygiene. It was reported that his speech was loud, he was talking to himself and over talkative and he did not make sense and had a preoccupation with death".*

- 7.2.6 It is not until some eight years later before any further reference to self-harm or suicidal intent is raised. On 02/21/08 it was reported that:

*"Mr. Vanisi's speech was loud and he was talking to himself...Self injurious behaviour was noted included banging his head on glass in the yard."*

- 7.2.7 Despite numerous concerns over the possibility that Mr. Vanisi was a significant suicide risk and his own voiced intent at different times there is no evidence that he acted out in a truly intentional suicidal manner.

- 7.3 The best evidence for Mr. Vanisi's ongoing mental health disturbance while incarcerated comes from the psychiatric opinions of previous doctors and the evidence is that Mr. Vanisi was mentally disordered. The other major area of evidence is a close examination of the medications prescribed. Section 10 examines the medication prescribed for Mr. Vanisi from the time of his incarceration up until the present. In conjunction with the longitudinal psychiatric evaluations over the past thirteen years there is no doubt that Mr. Vanisi has always been mentally disturbed while in custody. The evidence indicates that he has only been settled in custody when he has been prescribed the appropriate medication for his mental health disorder (see Section 10).

## **8.0 PRIOR LEGAL AND FORENSIC HISTORY**

- 8.1 Mr. Vanisi reported that prior to his arrest for the murder of Sgt. Sullivan he had no previous felony convictions and this is supported by the collateral information provided by the Federal Defender's Office.
- 8.2 In February 1989 there is a crime report from the San Bruno Police Department indicating that Mr. Vanisi reportedly refused to provide the police with identification and refused to answer questions. It was noted that Mr. Vanisi challenged the officer to a fight and the officer placed him under arrest. It was noted that Mr. Vanisi resisted being handcuffed. Mr. Vanisi would have been aged nineteen at the time.

## **9.0 MEDICAL HISTORY**

- 9.0 A critical component of completing a thorough psychiatric evaluation is the exclusion of possible organic (physical) medical problems that could explain bizarre or unusual behaviour. For example, neurological conditions like epilepsy can manifest with psychiatric phenomena, as can trauma such as a subdural haematoma (bleeding in the brain), or even an undiagnosed brain tumor. At the time of the instant offense Mr. Vanisi's behaviour was sufficiently bizarre and disorganised that the treating psychiatrists should have undertaken the necessary investigations to rule out a possible organic cause for his clinical presentation.
- 9.1 There was sufficient evidence for possible Traumatic Brain Injury (TBI) as a possible cause of his disorganized and bizarre behaviour that this should have been investigated. Mr. Vanisi had a history, particularly in his twenties, of numerous physical altercations with other people and the police that he could have sustained a TBI. The investigations that should have been performed were either a CT Scan or MRI Scan but neither of these investigations were undertaken.
- 9.2 Mr. Vanisi's bizarre and disorganised behaviour could also have been explained by a medical condition known as Temporal Lobe Epilepsy. The investigation of choice would be the neurophysiological investigation for epilepsy known as an EEG (Electroencephalogram). This investigation has not been completed on Mr. Vanisi.
- 9.3 Mr. Vanisi has developed Type II Non-Insulin Dependent Diabetes while in prison and is receiving appropriate medical treatment.
- 9.4 Mr. Vanisi has also been diagnosed as suffering from Hypertension and Hypercholesterolemia e in prison and is receiving appropriate medical treatment.



## 10.0 MEDICATION HISTORY

10.0 The following section is a detailed analysis of Mr. Vanisi's medication history. The critical aspects of Mr. Vanisi's medication history is what medications are chosen, at what dose, and what happens to his mental status if his medications are incorrect, or given in incorrect doses or when he is poorly compliant with medications. The choice of psychotropic medication gives strong support for a particular psychiatric diagnosis. Large doses of psychotropic medication have significant correlation with severity of psychiatric illness and argue against malingering. Individuals who are feigning mental illness will not be able to physiologically tolerate large doses of antipsychotic medications as the tranquilising effect would be far too sedating without the presence of psychosis to moderate their effects. Please note that this medication review is strictly limited to psychotropic medication.

10.1 There is a period of imprisonment that occurs immediately after arrest. This is a relatively short time in comparison with the time Mr. Vanisi has spent on death row at Ely State Prison. The focus here is on his incarceration at Ely State Prison.

10.2 The following medications were charted from May - Oct 1999. The antipsychotic medications are used mainly for psychosis and the doses indicate that his psychosis was not too severe. An antidepressant at low dose is also present including medication (Cogentin) for the Parkinson-like side-effects of the antipsychotics.

Haldol	5mg as (Potent Antipsychotic) – small dose
Elavil	50mg nocte (Antidepressant) – small dose
Risperidone	0.5mg-1.0mg (Antipsychotic) – small dose
Cogentin	1mg helps with side-effects of antipsychotics

10.3 In October 1999 there were some medication changes – the Haldol and Cogentin were discontinued and Lithium Citrate was added. Lithium is the first line drug

for the treatment of Bipolar Mood Disorder. It is used in conjunction with Risperidone and Elavil indicated a depressive element needs treating and some psychotic symptoms (although Risperidone can be used to ameliorate elevated mood).

Lithium Citrate	160mg (Mood Stabiliser)
Elavil	50mg
Risperidone	0.5mg

- 10.4 In November 1999 the Lithium is increased and the Risperidone is stopped. This indicates that at this time the psychiatrist would have been working on Bipolar Mood Disorder as being the predominant presenting feature and that his psychotic symptoms had resolved.

Lithium Citrate	240mg
Elavil	50mg

- 10.5 In January 2000 the Lithium Citrate is swapped for Lithium Carbonate (slightly different preparation of Lithium), and the dose is now much higher. The Elavil is changed to a similar tricyclic antidepressant known as Nortriptyline. These two compounds are very similar and it is mostly a matter of professional preference as to which of these two agents are used. No antipsychotic is being used at this time and in March 2000 the Nortriptyline is decreased to 100mg per day.

Lithium Carbonate	1500mg (marginally high dose)
Nortriptyline	150mg (average dose)

- 10.6 In April 2000 the potent antipsychotic medication is added to the regimen indicating that either his mood disorder is suddenly deteriorating or psychotic symptoms are again a problematic part of his clinical presentation.

Haldol	10mg
Lithium Carbonate	1500mg
Nortriptyline	150mg (average dose)
Cogentin	1mg

- 10.7 In May 2000 it appears that a major review of his medications has taken place and a new mood stabilizer, namely Tegretol has been added and appears to be his only medication. This is difficult to interpret possibly the medical records at this time are incomplete. The Nortriptyline is stopped indicating that Mr. Vanisi is no longer depressed.

Tegretol	400mg (Mood Stabilizer)
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- 10.8 In June 2000 the Lithium is recommenced at a lesser dose in conjunction with the Tegretol so he is now on two mood stabilizers and no antipsychotics indicating primary diagnosis being Bipolar Mood Disorder.

Tegretol	400mg
Lithium	900mg

- 10.9 In September 2000 the Lithium increases, the Tegretol appears to be tapered off and stopped with another mood stabiliser is added and there is still no evidence of adding antipsychotics. The increased dosages of mood stabilisers indicate that Mr. Vanisi's mood must have been unstable at this time and the treating psychiatrist felt that a change in mood stabilizer would help. At this time they start a new mood stabilizer known as Depakote (also known as Depakene).

Lithium Carbonate	1200mg
Depakene	1000mg

- 10.10 Mr. Vanisi must have a relatively stable period for a few months because the next medication change is not until May 2001 whereby the Depakene is increased.

Lithium Carbonate	1200mg
Depakene	1500mg (moderate high dose)

- 10.11 In September 2001 Mr. Vanisi must experience a depressive episode as another but different type of antidepressant (Selective Serotonin Reuptake Inhibitor) is added.

Lithium Carbonate	1200mg
Depakene	1500mg
Celexa	20mg

- 10.12 In January 2002 Mr. Vanisi's antidepressants get swapped. This is probably due to non-response of his depressive symptoms to Celexa which gets changed to Paxil which is the same class of drug.

Lithium Carbonate	1200mg
Depakene	1500mg
Paxil	20mg

- 10.13 In February 2002 the mood stabilizers are stopped and Mr. Vanisi is treated with just the antidepressant. For this to occur Mr. Vanisi's mental state must have stabilized.

Paxil	20mg
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- 10.14 In August 2002 the Paxil is stopped and the mood stabilizers recommenced. This can only be a result of Mr. Vanisi becoming manic because antidepressants can cause and sustain mania so must be stopped and his mania is treated with a mood stabilizer.

Depakene	1500mg
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- 10.15 In November 2002 the mood stabilizer Depakene is swapped for Tegretol. The only reason behind this would be the treating psychiatrist was unaware of the previous use and failure of Tegretol.

Tegretol	400mg
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- 10.16 It appears that Mr. Vanisi's must have continued to deteriorate as in April 2003 the potent antipsychotic Haldol is recommenced at a dose of 25mg and given intramuscularly. Mr. Vanisi was either refusing medication or severely disturbed to be given Haldol using the intramuscular route. This is increased in May 2003 to 75 given intramuscularly which is a significant dose and the Tegretol is stopped and Depakene restarted. It appears that the decision to start Tegretol was poor (and there was evidence from May-June 2000 that Tegretol was ineffective in Mr. Vanisi's case. The side-effect agent Cogentin is restarted with Haldol.

Haldol	75mg IMI (intramuscular injection)
Depakene	500mg
Cogentin	1mg

- 10.17 Mr. Vanisi must have responded well to the combination of an antipsychotic and mood stabilizer which is the treatment of choice if the diagnosis is Schizoaffective Disorder rather than just purely Bipolar Mood Disorder. The next change seen is the cessation of Depakene (so the mood stabilizer is stopped) in June 2005 and a reduction of Haldol to 50mg IMI in December 2005 which indicates his mental state must have been very stable for these changes to have been made. In June 2006 after what appears to have been a period of relative stability a further reduction of Haldol occurs to 37.5mg and this is the only medication he is on.

- 10.18 In February 2008 Mr. Vanisi must experience a marked deterioration in his mental status as the Haldol which is a potent antipsychotic is suddenly increased to very high doses and another antipsychotic (newer atypical type is added) Ziprasidone is added at the dose of 160mg daily. He is now charted 150mg Haldol and the side-effect medication Cogentin is doubled to 2mg.

Haldol	150mg
Ziprasidone	160mg
Cogentin	2mg

- 10.19 In September 2008 Mr. Vanisi's mental status must not have settled despite high doses of antipsychotics and he was recommenced back on Lithium which was the first mood stabiliser that he had been prescribed many years ago. It appears the Ziprasidone has been stopped so he is back onto the combination of antipsychotic and mood stabiliser which is again the most preferable medication combination for the diagnosis of Schizoaffective Disorder. He is now charted:

Haldol	150mg
Cogentin	2mg
Lithium	1500mg

- 10.20 This medication regimen appears to work well for Mr. Vanisi as the next change is a reduction in the total dose of his Lithium Carbonate to 900mg in October 2008. He remains on very high doses of Haldol however and this is a concern but must reflect the severity of his illness. He is now charted:

Haldol	150mg
Cogentin	2mg
Lithium	900mg

- 10.21 This medication remains unchanged until approximately twelve months later in October 2009 when another antipsychotic known as Seroquel is added. This is an atypical antipsychotic that has good mood stabilizing properties so is considered a very good agent for the treatment of Schizoaffective Disorder. The addition of the newer antipsychotic is probably a combination of a newer agent becoming available and perhaps a deterioration in his mental status. He is now charted:

Haldol	150mg
Cogentin	2mg
Lithium	900mg
Seroquel	300mg

10.22 This medication regimen must be working well for Mr. Vanisi as few changes have been made right up to the present time. His reported mental status on his current medication regimen is that *“it makes me feel normal”*. This would be close to the ideal medication regimen for a person suffering from moderately severe Schizoaffective Disorder. A strong endorsement of the validity of any psychiatric diagnoses is the medication regimen that best treats the condition. In this regimen the Haldol is a potent antipsychotic and treats the Schizophrenic component of his condition. The Lithium is the most efficacious mood stabiliser and treats the bipolar/mood component of his illness. Seroquel is an agent with proven antipsychotic and mood stabilising properties and his Cogentin treats side-effects from his Haldol. He is now charted:

Haldol	150mg
Cogentin	2mg
Lithium	900mg
Seroquel	300mg

10.23 In conclusion, it is evident that through trial and error over many years Mr. Vanisi's treating clinicians have arrived at the best medication regimen for his condition. These psychotropic medications would cause marked physiological disturbances to any person not mentally disordered so the issue of malingering can readily be discounted. The other significant pattern that emerges is that each and every time his antipsychotic or mood stabilizer is stopped he has progressively become unwell and as a result the medications have had to be reinstated (and at times at higher doses given). If he was strictly suffering from only Bipolar Mood Disorder then the strong doses of ongoing antipsychotics would not have been required so this in itself provides strong support for the validity and robustness of the preferred diagnosis of Schizoaffective Disorder.

## **11.0 FAMILY HISTORY**

- 11.0 The critical features that require exploration when taking a family history include – any evidence of mental illness in the biological parents, the nature of their personalities, the quality of their attachment to Mr. Vanisi and the other siblings, and any evidence of mental illness in the other siblings. This enables any biologically weighted vulnerability to mental illness to be identified and taken into consideration when formulating the case.

Siaosi Vanisi was born on June 26, 1970, in Nukualofa, Tonga to Maka'afa Vanisi and Luisa Tafuna-Vanisi. Siaosi was the fifth of seven children born to his mother, Luisa. Steven (Sitiveni) Tafuna was the oldest child, Leini Tafuna was the second, Sela Vanisi-DeBruce was the third, Tevita Vanisi, now deceased, was the fourth, Mo'ale Tafuna was the sixth, and the youngest was Tupou Ulu'ave. The information presented here is derived almost exclusively from declarations of family and friends as provided by the Federal Defender's Office.

- 11.1 Siaosi Vanisi's biological father is Maka'afa Vanisi who is the fourth child of seven to Kuli Vanisi and Sela Tai-Vanisi, both of Tonga.

Maka'afa was described as also exhibiting mood swings whether he was intoxicated or not and quickly swung from being happy to very angry. As a teenager he was intoxicated on most days, was often angry and aggressive and was regularly involved in physical fights. Maka'afa was a heavy user of alcohol, intoxicated most days and when drunk he was often heard talking to himself in a nonsensical way and was often seen staring into the distance. It was impossible to predict Maka'afa's moods and reactions to different situations because they were constantly changing and without explanation.

- 11.1.1 Makaafa never held any long term jobs as he was a very unreliable worker. It appears also he was unable to hold down any long term



relationships with women although he was well known for his womanising ways. He was reported as having a short attention span, had a lot of difficulties completing tasks and was never able to live independently of others.

11.1.2 Whenever Maka'afa became intoxicated he experienced changes in his personality. Maka'afa often told unrealistic stories about himself being a sports champion or even the direct decedent of a revered Tongan warrior and was often seen doing a Tongan warrior dance. Maka'afa enjoyed dressing up as a soldier or policeman and walking around town in these outfits, even though he was never a member of the military or the police. Maka'afa was also known for carrying large and small knives, and hanging them off of his uniform. When Maka'afa was in his late twenties he was arrested in Tonga for stabbing another man. The stab was not fatal because the man survived his injuries. Maka'afa never went to trial because a family friend bought Maka'afa a ticket to go to Hawaii to work for him in 1969.

11.1.3 Maka'afa and Luisa (Siaosi's mother) married after she was pregnant with their first child. Maka'afa neglected his fatherly duties and did not spend much time with the family. When Louisa was pregnant with their third child (Siaosi) Maka'afa left Tonga and was not involved in Louisa's life or those of his children until he became ill later in his life, when he moved to the United States and his eldest daughter Sela cared for him until he died in March 2010.

11.1.4 Maka'afa did not have a relationship of any significance with his son Siaosi (they only met a few times).

11.2 Siaosi Vanisi's biological mother Luisa Tafuna-Vanisi was the sixth child of seven children to parents Tevita Tafuna and Olotomu Lolohea-Tafuna both of Tonga.

11.2.1 Luisa's eldest child Sitiveni was fathered by a police officer who had nothing to do with the child. Her second child Leini was fathered by a family member (Sitani Mapa-Havili), who appears only to have had a sexual relationship with her which brought great shame to her and her family.

11.2.2 Luisa then meets and marries Maka'afa (Mr. Vanisi's biological father) and they have three children together, namely Sela, Tevita and Siaosi. Maka'afa separates from Luisa and leaves the country while she is pregnant with Siaosi.

11.2.3 Following the birth of Siaosi, Luisa continues her sexual relationship with the family member (Sitani Mapa-Havili) and has another child Mo'ale who remains in Tonga after the rest of the family leave and was adopted by the father's family.

11.2.4 Luisa then travels to the United States of America with all her children (except the youngest Mo'ale) after marrying Penihaati H. Ulu'ave. They have one child together namely Tupou Ulu'ave but the relationship does not last long. Her new husband was very abusive and Luisa divorces him.

11.2.5 Luisa is reportedly a charismatic, attractive woman with many friends. Luisa was not known to be a smoker, drink alcohol or use illicit drugs. After Luisa moved to San Francisco she lived with various family members until after her divorce from Mr Ulu'ave. After which time she saved to buy the house in which her daughter Sela currently lives. She

worked as a housekeeper in hotels and later as an attendant at a convalescent home.

11.2.6 Some family members report that Luisa had extreme mood swings as well with periods of depression.

11.2.7 Luisa died a year after her son Siaosi Vanisi was arrested for the murder of Police Sergeant Sullivan.

11.3 Siaosi Vanisi's eldest brother Sitiveni is a half-sibling. He was adopted by Luisa's brother Moli and his wife Lose

11.3.1 Sitiveni appears to have started drinking as a teenager and dropped out of school. It is reported that he started abusing alcohol in a binge drinking manner, marijuana and later used cocaine.

11.3.2 Sitiveni was reportedly such a heavy drinker that he would have marked personality changes, mood swings and memory loss. He checked himself into rehabilitation after having a dream that Satan was coming to get him and is now clean and sober and managing to hold a marriage together.

11.4 Siaosi Vanisi's elder sister Leini is a half-sibling but is considered the model Tongan female child.

11.4.1 Leini is also adopted out to Moli (Luisa's brother) and his wife Lose. Leini does well at school, graduating from high school. She manages to go on her Church Mission which is an important mile stone, marries in her twenties and has three children. There appear to be no major mental health problems but Leini appears to keep her distance from her siblings. She always seemed like she was afraid to completely embrace Luisa and her siblings out of a fear that she might alienate her adopted mother, Lose.

11.5 Siaosi Vanisi's eldest full blood sibling is Sela who appears to have had significant mental health problems from a young age, although no formal mental health assessment has been sought or treatment given.

11.5.1 Sela is reported to have been disciplined quite firmly by her mother Luisa. When Luisa beat Sela she used to pull her hair, slap her, pinch her, and punch her. Luisa also used to beat Sela with sticks, shoes, brooms, belts and just about anything else that she could pick up around the house. Different family members report that Luisa beat Sela in the privacy of the family's home, as well as in public and in front of strangers. Luisa's beatings often left red marks on Sela's skin, but not cuts. Sela admits that she was a very free spirited and defiant child, and it seemed like her mother was always trying to tame her. Sela believes that she received more beatings than her other siblings.

11.5.2 Sela suffers from deep bouts of debilitating feelings of depression. When she experiences these episodes she is unable to go to work, do any household chores, stays in bed for multiple days at a time and feels completely powerless and sees no point in doing anything.

11.5.3 Sela also reports that she suffers from severe mood swings going from lively and happy one moment to feeling very sad, agitated and bothered in the next. She reports that she feels very thankful for having a supportive and patient husband.

11.6 Siaosi Vanisi's only full brother sibling is Tevita who appears to have always been a difficult child, was always in trouble at school, overactive and appears to have had a learning disability. He was very disruptive, hyperactive and was expelled from various schools starting right back at elementary school for behavioural issues.

11.6.1 Tevita frequently exhibited erratic, bizarre and reckless behaviour with no sense of danger. He apparently had no sense of shame, embarrassment or inhibitions.

11.6.2 Tevita was usually not high or intoxicated on any substances when he exhibited his strange and reckless behaviors. However, Tevita did abuse drugs and alcohol at times. Tevita huffed glue and inhaled aerosol cans, amongst other things. Tevita ultimately died from sniffing whiteout. The family never wanted to admit it and no one liked discussing the true cause of Tevita death. Substance abuse is often a marker for significant mental disorder and at times a form of self-medication. The fact that he died from substance abuse reflects a high degree of psychopathology. Tevita did not have a close relationship with his brother Siaosi.

11.7 The youngest sibling his Tupou Ulu'ave who has a separate biological father so is a half sibling to Mr. Vanisi. He was adopted out to a paternal uncle and there is no mention in any of the declarations as to any mental health status of this sibling.

## **12.0 DEVELOPMENTAL HISTORY**

12.0 The critical issues from a developmental perspective that are risk factors for the development of adult psychopathology are as follows; (1) attachment problems (2) abuse – which can be passive (neglect) or active (sexual or physical abuse), (3) bullying, (4) pathological parenting, (5) exposure to drugs and alcohol, and (6) peer relationship problems. Analysis of the legal declarations provided by the Federal Defender's Office allows a comprehensive review and understanding of Mr. Vanisi's developmental history. As will be demonstrated below there is clear evidence of many of the above risk factors for adult psychopathology.

12.1 Mr. Siaosi Vanisi was born on June 26, 1970 on the South Pacific Island of Tongatapu, which is part of the archipelago of the Kingdom of Tonga, which is a feudal, autocratic society ruled over by the current king his majesty King Tupou the fifth. His biological father is Maka'afa Vanisi and his biological mother is Luisa Tafuna-Vanisi (now deceased).

12.2 Vanisi is the fifth child of seven born to his mother Luisa Tafuna-Vanisi. Vanisi reports that as far as he was aware his mother was in good health, experienced no delivery difficulties with him and does not recall his mother ever raising any post-natal concerns for either him or herself.

12.3 There is strong evidence from the declarations that when Mr. Vanisi's biological mother Luisa Vanisi was pregnant with him, his biological father Maka'afa Vanisi deserted his mother, left Tonga and moved to another country. The evidence presented by family members is that Luisa fell into a deep depression. This is potentially significant as maternal depression is a critical risk factor for the later development of childhood and adult psychopathology (see Section 21.0). Common problems include learning difficulties, hyperactivity disorders and emotional dysregulation which are hypothesised to be a result of overstimulation of the autonomic nervous system (pituitary-hypothyroid-adrenal axis).

- 12.4 Mr. Vanisi was born in his family home with the assistance of a midwife. There are no medical records to indicate any birth trauma and there is no evidence provided that would indicate this. Mr. Vanisi himself is unable to recall any discussions amongst his family that would indicate any birth complications.
- 12.5 At birth Vanisi was given to his maternal aunt Luisa Vanisi's sister, Toeumu Tafuna which is a common practice amongst Tongans known as "Pusiaki". Adoption of children by strangers is a foreign concept amongst Tongans who adopt the children of other family members as is required as a result of infertility or one family having too many children to support. It appears that Vanisi did not know for many years who his true mother was.
- 12.6 His adopted mother Toeumu Tafuna appears to care well for her adopted child. At age three Toeumu Tafuna is required to leave Tonga to travel to the United States to care for an ailing brother. Due to the informal adoption his auntie could not take Mr. Vanisi with her to America as she could not prove legal custody. The legal declarations describe a very traumatic separation and Mr. Vanisi is reported to have remained very distressed and inconsolable for several months. It is reported that he was very withdrawn and isolated himself during the years that he was separated from his adoptive mother Toeumu Tafuna and often refused to interact with his siblings and hid under his bed and cried for long periods.
- 12.7 Mr. Vanisi returned to his biological mother and was raised by her until they travelled together with his other siblings to San Francisco. It is uncertain from the records whether Mr. Vanisi attended school in the islands. There is no evidence of significant head trauma while he resided in Tonga. One hospitalization is recorded for a dog bite to the face at age three.
- 12.8 Mr. Vanisi travels with his biological mother and her new husband Mr. Penihaati Ulu'ave. Upon arrival in the USA the family stayed with a maternal uncle, Mr.

Maile Tafuna who is considered the head of the family as he was the eldest brother in the family.

- 12.9 Mr. Vanisi's new step-father was very abusive and physically assaulted his biological mother, often in the presence of the children and others.
- 12.10 On arrival in San Francisco Mr. Vanisi was given back to his adoptive mother Toeumu Tafuna who is unmarried (she never marries). For the next two years he would not let Toeumu out of his sight. If she leaves to go out he would become so emotionally distraught that she would stay or take him with her.
- 12.11 Regular family talent quests were held and Toeumu Tafuna (the adoptive mother) would often dress up Mr. Vanisi as a girl and he would perform to much hilarity in dresses, wigs and make-up.
- 12.12 According to the legal declarations Mr. Vanisi tried very hard to please his adoptive mother Toeumu, apparently to stop her from deserting him again. He was very clingy so was nicknamed "Pe" which is a Tongan word for "baby". This nickname stuck with him until he was an adult.
- 12.13 Mr. Vanisi was unaware until he was approximately ten years old (perhaps slightly older) that Luisa Vanisi was his biological mother. According to the declarations Mr. Vanisi was very upset and quite depressed for some time after finding out. It is reported that his depression was related to moving from being an "only child" to the fifth child out of seven.
- 12.14 Mr. Vanisi is often reported to have asked his biological mother why she had given him up for adoption. His biological mother's response was always quite cold indicating to him that her sister Toeumu needed a child more than she did. At



age twelve Mr. Vanisi wanted to return to live with his biological mother and his siblings but this idea was rejected.

- 12.15 The legal declaration of his wife DeeAnn Vanisi indicates that Mr. Vanisi confides in her that his older brother Sitiveni Vanisi had been sexually abusing him as a child. There is supporting evidence from a cousin's legal declaration that supports the evidence given by his wife of the sexual abuse from his older brother.
- 12.16 At junior high school it is noted that Mr. Vanisi started enquiring about his biological father. His adoptive mother tells him that his biological father had died. When Mr. Vanisi is aged sixteen his biological father contacts the family and wants to see his children. Mr. Vanisi and his brother Tevita were reportedly very happy to meet their father. His adoptive mother Toeumu Tafuna was apparently against the meeting.
- 12.17 The legal declarations from the family report Mr. Vanisi as being a pleasant, neat and tidy young man who was eager to please. They report that he was conscientious and always well presented. He was not aggressive or violent prone, but he was very protective of his cousins but he was never the instigator of trouble.
- 12.18 From age twelve to eighteen Mr. Vanisi joined the Boy Scouts and did very well. He attended the majority of meetings and by the age of eighteen he had pass the requirements of an Eagle Scout – one of the highest positions that a scout can achieve.
- 12.19 Mr. Vanisi and his adoptive mother shared a room with an elderly family member who was moderately incapacitated. From the age of ten to fifteen years the young Mr. Vanisi was responsible for feeding, bathing and cleaning the old man and

from all reports he did this task with care and affection. He came to look upon this elderly man as a pseudo-grandfather figure.

- 12.20 The three major adult caregivers in Mr. Vanisi's life are his biological mother Luisa Vanisi, his adopted mother Toeumu Tafuna and his two maternal uncles – Maile Tafuna (head of the family) and Moli Tafuna who had adopted Luisa Vanisi's two oldest children. From approximately ten years of age Mr. Vanisi received severe scoldings often for little or no reason. Mr. Maile Tafuna was overly strict and rigid with all the children in the extended family but is reported to have treated Mr. Vanisi the worst.
- 12.21 Mr. Vanisi's adoptive mother also beat Mr. Vanisi frequently up to the age of twelve until she was told by his Uncle Maile to stop as it was creating a lot of anger in the young man.
- 12.22 The legal declarations indicate that Mr. Vanisi has strong negative emotions towards his maternal uncle Mr. Maile Tafuna and the authoritarian parenting style that he adopted. Mr. Vanisi felt that his uncle disliked him and treated him unfairly.
- 12.23 Mr. Vanisi was an active member of the Church of Latter Day Saints from a young age. He was a devoted member of the church and very principled according to the legal declarations. He was known for always attempting to get his cousins to do the right thing.
- 12.24 The legal declarations report however that despite his conscientiousness towards the church he was known to be a bit weird. For example he was known for his bizarre dancing style at the church socials and being very talkative and extroverted.
- 12.25 Mr. Vanisi had no part time jobs in his school years and depended on family members for money and particularly his adoptive mother Toeumu Tafuna who

gave him free access to her bank account. This is one indication of a parenting style that at times was overly indulgent. It is reported that his adoptive mother was very inconsistent in her parenting style often spoiling him but at other times being very abusive towards him and punishing him.

- 12.26 When Mr. Vanisi was aged fifteen his older brother Tevita died. It is reported that Mr. Vanisi took this death hard and was depressed for several weeks afterwards. Very shortly after the elderly family member he cared for died and is reported that he was deeply upset by his passing and cried a lot for several weeks after his death. The following year his other maternal uncle Mr. Moli Tafuna had a series of strokes and also died.
- 12.27 The legal declarations report that Mr. Vanisi was not using alcohol or illicit drugs while at high school. Mr. Vanisi reports that he was using alcohol when he went to parties but he reports he was not a heavy user at that stage in his life.
- 12.28 The declarations also report that Mr. Vanisi had a tendency to “hang out” with the white children in the neighborhood. He never discussed why he had a tendency to hang out almost exclusively with the white children and the family felt that although he tried to hang out with the white kids that he was never fully accepted by them. His older sister reports that she never saw him hang out with Tongans or other Pacific Islanders in the neighborhood and he almost exclusively dated white girls, except for the Tongan cousin he had his first daughter with. Many people in the family believed that he was not proud of his heritage and tried to avoid being around his people because he was ashamed of them.

### 13.0 ACADEMIC HISTORY

13.0 The academic history gives a guide to premorbid intellectual functioning. The results indicate that Mr. Vanisi was an average student but intellectually capable of coping with academic activities during adolescence.

13.1 The name indicated on the records was George Tafuna. His subjects and grades were as follows:

1985-1986:

<u>Subject</u>	<u>Grade</u>
English 1	C
Social Science 1	C
Mathematics 1	C
Spanish 1	D
Typing 1	D
Athletics	A
Athletics	A
English 2	B
Social Science 2	B
Mathematics 2	A
Spanish 2	C
Typing 2	C
Physical Ed 2	F
Physical Ed 2	D

1986-1987:

<u>Subject</u>	<u>Grade</u>
English 3	B
Algebra 0.5	C
Life Science 1	B
Compute Bus 1	C
Safety Ed	C
Athletics	A
Athletics	A
English 4	B
Algebra 1.0	C
Life Science 2	B
Compute Bus 2	C
Res Pln/Desgn 1	B
Athletics	A
Athletics	A

1987-1988:

<u>Subject</u>	<u>Grade</u>
English 5	C
US History 1	B
Algebra 1.5	B
Biology 1	C
Res Pln/Desgn 2	B
Athletics	A
Athletics	B
English 6	C
Algebra 2.0	A
Biology 2	B
Res Pln/Desgn 3	C
School/Comm SV	A
Athletics	A
Athletics	A

1988-1989:

<u>Subject</u>	<u>Grade</u>
English 7	D
Economics	B
Geometry 1	F
Chemistry 1	D
School/Comm SV	A
Athletics	A
Athletics	A
English 8	B
Amer Government	D
Child Growth	C
Genl Work Exper	F

13.2 Fall 1990:

<u>Course</u>	<u>Grade</u>
Pers/Commnty Health Prob	C
Men Intcol Football Team	W
Basic Weight Training: beg	W
General Psychology	C

13.3 Spring 1991:

<u>Course</u>	<u>Grade</u>
Beginning Voice Class I	D
Effective Speaking	F
Introduction to Acting	W

## **14.0 WORK CAPACITY**

- 14.0 The importance of analysing the work history during a psychiatric autobiography is that it gives an indication of mental stability. A consistent work history gives an indication of a person's ability to manage inter-personal relationships outside that of family and friends (who have a vested interest in the relationship). It also indicates an ability to persevere, be organised, and hold a longer term goal in mind. This section analyses Mr. Vanisi's reported work history.
- 14.1 Mr. Vanisi's work history, as reported through the legal declarations of family members, indicate that at high school he never worked at any part time jobs.
- 14.2 Mr. Vanisi reports that the first paid job he works was as a waiter at a local Pizzeria. He reports that this job lasted three months. He also reports various part time jobs at numerous pubs, nightclubs and restaurants as a waiter, bell boy and bouncer. It appears that he quits (or is possibly fired) from all of these jobs after a short duration.
- 14.3 Mr. Vanisi is particularly vocal about a promising Hollywood career but declarations indicate that the sum of his Hollywood career is one beer commercial as an extra, earning him \$3000 dollars which he apparently spent soon after at a strip club in Las Vegas.
- 14.4 Closer to the instant offense Mr. Vanisi was employed as a driver by an ailing alcoholic neighbour. This employment situation evolved into him regularly being paid for sex. It is reported that he was paid \$200 per episode of sexual intercourse. Legal declarations from his cousins report that Mr. Vanisi found the sex repulsive and he was disgusted in himself for continuing this arrangement. This arrangement continued until she died and appears to have been a significant contributing factor to his deteriorating mental status at the time.

- 14.5 Family declarations including that from his wife indicate that Mr. Vanisi was never able to financially support himself nor later his wife and children. He was always dependent on others for financial aide mostly from his adoptive mother, other family and friends. He even asks assistance from the church but it was never sufficient to allow him to meet his financial obligations.

## **15.0 ALCOHOL AND DRUG HISTORY**

- 15.0 The importance of undertaking a thorough alcohol and drug history is that substance misuse can significantly contribute to the expression of mental illness.
- 15.1 Mr. Vanisi reports that he did not use any illicit substances while at Grade of High School. The signed declarations of friends and family support this, except perhaps some alcohol use in his final year of High School.
- 15.2 Mr. Vanisi obviously starts using alcohol more regularly when he leaves home and moves out of San Bruno to Los Angeles after his failed Church mission but at this stage family are unaware to what extent. Mr. Vanisi reports that it was more casual in nature but when he did drink he would often binge drink particularly as he moved into his mid-twenties.
- 15.3 Mr. Vanisi develops an addiction to the medication Fen-phen. This is an anti-obesity medication and it is uncertain when exactly he develops this addiction but the evidence from the legal declarations indicates that large numbers of empty bottles are found in his apartment in 1996-1997. The active ingredients in Fen-phen are known to cause increased anxiety, memory loss, changes in behaviour, depression, mood swings and even psychosis. The evidence points to a marked increase in alcohol and marijuana use and an uncertain amount of amphetamines following the separation from his wife in mid-1996.
- 15.4 There is a significant body of literature that indicates that both marijuana and amphetamine based drugs can markedly worsen psychosis. At the time of the instant offense Mr. Vanisi is floridly psychotic and there is sufficient literature and clinical evidence to support the conclusion that his substance use contributed to the severity of his psychosis. The evidence indicates that he was using large amounts of substances reaching a crescendo just before the instant offense.



## 16.0 LEISURE ACTIVITIES

- 16.1 Mr. Vanisi was an active member of the Boy Scout movement from ages twelve to eighteen making his way through the ranks to become an Eagle Scout. This would have required a reasonable degree of discipline and perseverance as the Eagle Scout is the highest rank attainable. This would have required a reasonable degree of organisational and intellectual skill.
- 16.2 Mr. Vanisi was an active member of the Church of Latter Day Saints youth groups. It is reported that he was a very conscientious member of church and his youth group involvement appears sincere. He tries to live in accordance with the principles of the church and he is even referred to as "*a goody too shoes*" by some cousins.
- 16.3 There is some evidence of Mr. Vanisi participating in organised sport while at school and shortly after he leaves high school as a young adult. He appears to have reasonable aptitude and ability but his ability is certainly not in the realm of being able to forge a professional career as a sportsperson.
- 16.4 Mr. Vanisi's mental status clearly starts to deteriorate in his late adolescence and early twenties. At this point there is no evidence of organized leisure activities except his attempts to gain entry into an acting career but this is more occupational in nature rather than a leisure activity.

## 17.0 RELATIONSHIP HISTORY

- 17.1 Mr. Vanisi reports that he had no serious relationships until after he completed high school. He reports that he has always been interested in girls from a young age but didn't have "girl-friends" while at school. Enquiries about why this was the case met with vague responses.
- 17.2 Mr. Vanisi reports that he had his first full sexual experience aged nineteen. He enjoys the act of sexual intercourse and he reports that he then has a number of sexual encounters with different woman. When asked how many different women he has had sexual relationships with he replied "*maybe six to eight women*". He denied any animosity to women saying "*I respect women and value them*".
- 17.3 Mr. Vanisi reports that he could not remember exactly when he met his future wife DeAnn but he says by that time he had no problems approaching women. He said he knew "*how to make women laugh*", and he loved DeAnn. When asked what it was specifically he liked about DeAnn his answers were rather glib.
- 17.4 Mr. Vanisi has a rather poor appreciation of how much emotional pain he had caused his wife DeAnn. In a passage from a letter she writes to him on 02/21/98 in prison just over a month following the instant offense she says (REF-EXPERTMANUALMACK000736):

*"My whole life with you was a lie. You are a liar. I feel so stupid. You lied about everything. I really felt like I knew you. You are a total stranger, I don't trust anyone anymore. Anyway I really hate you fuckin George Leo, Rocky, Siaosi, Giacomo, Pe – whoever you are, I hate you"*. When interviewing Mr. Vanisi he gave the impression that his married life had been fine and that their separation had been amicable. He describes that he was not aware of any animosity his wife might harbour towards him and clearly has a distorted view of the true extent of

the pain and suffering (as demonstrated by her letter) he caused his wife before and after the instant offense.

- 17.5 Mr. Vanisi writes a letter to his ex-wife DeAnn on 08/09/99 well over a year after the instant offense (REF-EXPERTMANUALMACK001106). The letter expresses some affection, love and obvious sexual references but is poorly organised, slightly nonsensical and not reality based as he writes:

*“I recognise the simple joy of receiving a letter from a spouse can make one feel. Therefore, I hope this warms your heart. Just wrapping your heart in my bosom. I wish I can feel something of yours that’s located somewhere in your brassiere. Anyway I miss you terribly. I wish I can fast forward to the future where all my wishes of you and I are in each others arms”.* The letter does not indicate that Mr. Vanisi considers her perspective or acknowledges how she might feel about receiving a letter from him is a possible indication of his alexithymia (inability to recognise the emotional state of oneself or others). The sexual reference is probably inappropriate in the sense that she is now his ex-wife and the fantasy of being together again is slightly absurd considering he is on death row and she is no longer actively in relationship with him. The language he uses e.g. brassiere is sophisticated but the actual messages he attempts to convey are shallow and child-like. It speaks to an arrested emotional development and immaturity.

## 18.0 MENTAL STATUS LEADING UP TO INSTANT OFFENSE

18.0 The most critical question is whether or not Mr. Vanisi was mentally disturbed at the time he committed the murder of Police Sgt. George Sullivan on the 13<sup>th</sup> of January 1998. Attempting to answer this question requires an analysis of genetic, environmental and psychological factors and the historical impact these factors have had on Mr. Vanisi's mental state leading up to the instant offense. These factors have been explored in some detail and a clear picture of mental instability in Mr. Vanisi appears on the background family mental disorder (genetic factors) with major attachment issues and dysfunctional family dynamics (environmental factors), identity challenges, and clear cognitive deficits that have added to Mr. Vanisi's difficulties in managing the challenges of adult life. The historical evidence indicates that Mr. Vanisi has a heavy weighting towards the development of a major mental disorder. This section deals with the period in Mr. Vanisi's life leading up to the instant offense taking into consideration the complex matrix of precipitating factors discussed above in an attempt to give an evidence based answer to the question posed.

18.1 A few weeks before Mr. Vanisi is arrested for the instant offense he visits his cousin Le'o Kinikini who has known and interacted with Mr. Vanisi since childhood. Le'o Kinikini-Tongi goes on to declare in her sworn declaration that:

18.1.1 *"During Christmas week 1997, just a couple of weeks before his arrest on the instant case, Siaosi drove to Salt Lake City to visit me and my family on Emery Street. Siaosi came with presents for me and my siblings, Susanna and Maile Kinikini. The gifts included name brand perfumes and colognes, and other items. Siaosi apparently decided to come to Salt Lake at the spur of the moment and he did not give anyone advance notice".*

18.1.2 *"Siaosi did not seem like he was in his right mind during this visit. Siaosi had gum in his mouth and he was chewing it very quickly like a rabbit.*