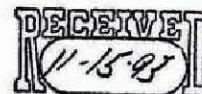


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PETITIONER'S EXHIBIT #38
Dr. Wilkins' forensic evaluation



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FORENSIC EVALUATION

NAME: JESSIE MISSELLEY, JR.

DATE: 11-8-93

INTRODUCTION:

Jessie Misskelley is an 18 year old, white, single, male seen for evaluation at the request of his attorney. This young man has been charged with a capital murder offense and is currently awaiting trial.

The following report is based on a variety of sources. Jessie was seen by this evaluator for both psychological assessment and interview for approximately eleven hours. These evaluation dates were on 10-15-93, 10-22-93, and 11-4-93. Also available are some 500 to 600 pages of Jessie's school records, about 400 to 500 correspondence letters Jessie has sent or received since he has been incarcerated, approximately 100 pages of various school work and school activities Jessie's parents provided to the evaluator, and information from an extended interview with Mr. & Mrs. Jessie Misskelley, Sr. Also available are medical records from Dr. Terry Davis, a psychologist, in 1983 and again in 1989, medical records from the East Arkansas Regional Mental Health Center in 1983 and again in 1987, and an educational assessment completed by Rita Cates, a school psychologist, in April of 1992. Also available were Medical Examiner reports of 5-7-93 and a confession, with follow-up, by Jessie Misskelley, Jr. dated 6-3-93. In addition to the above review of materials and clinical interview, Jessie was administered a WAIS-R, a MMPI-2, a Wechsler Memory Scale, a Bender Gestalt, a House/Tree/Person, a WRAT-R, a REY Auditory Verbal Learning Test, a Clock Drawing Test, a Bicycle Drawing Test, a Rorschach Test, several of Lawrence Kolberg's Moral Development Stories, and several assessment procedures to assess Jessie's level of cognitive functioning. These were based heavily on the work of Jean Piaget and the test material were basically developed by Gold Schmid and Bentler. This evaluation also included a Mental Status Assessment.

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SOCIAL & EDUCATIONAL HISTORY:

Jessie Misskelley is a lifelong resident of Northeast Arkansas having lived the majority of his life around the West Memphis/Marion locations. Jessie has a total of five brothers and seven sisters of varying biological relatedness. Jessie is the 3rd from the youngest child. He has two sisters younger than he. Jessie was abandoned by his biological mother around age 4. Apparently from records, he had a significant amount of trauma in dealing with that. Jessie has basically been raised by his father and his step-mother. Jessie's step-mother, for all practical purposes, is his primary maternal care giver. Jessie's biological mother was absent from his life from approximately age 4 to age 16 and even at this date she has a minimal amount of contact with him. Jessie has lived in a wide variety of dysfunctional social and family systems. His father has been in prison and has an apparent alcohol problem. There is a fair amount of conflict between Jessie's parents. At the time of the crime Jessie's parents were separated, although they have come back together again since this past Summer. Jessie reports, he has always done poorly in school and school records verify this. Jessie last attended school in the 1991-92 school year. He did not return to school this year. His last year in school he had all F's except for a C in resource Math. Over the years a wide variety of achievement testing has been done as part of the educational process. Jessie's maximum scores for all areas of academic achievement were in the 3rd and 4th grade levels. Jessie has never passed any of the Arkansas Minimum Performance Tests. In fact, even in 1981, when he was age 5, there was an indication he was markedly below skills on the Clymer-Barrett Pre-reading Test. At that time Jessie's score was in the 9th percentile. We see a young man who from the beginning has had marked difficulty in school. Jessie's report cards indicate a long series of primarily D's and F's. Jessie was retained twice in kindergarten and twice in the 2nd grade. School records indicate, Jessie had a variety of conflict problems at school with some aggressive outbursts. Although, the records seem to indicate over the past few years there has been a marked decrease in his spontaneous, aggressive behavior. At various times throughout different evaluations, Jessie has been diagnosed with a conduct disorder and as being mentally retarded. Testing by the East Arkansas Regional Mental Health Center in 1983 indicates Jessie had a Full Scale I Q of 67. That placed him in the mild mental retardation range. At the time Jessie was being seen there on referral from his school system. However, the school system ruled Jessie had no special education needs and they recommended individual and family therapy and he was not placed in any kind of special school program. Jessie moved on to different schools after that and had been in resource and special education programs ever since 2nd grade. A retesting on the

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WISC-R by Ms. Gates in 1992 indicates a Full Scale I Q of 73 which is slightly higher than previous documentation. This places Jessie in the borderline range of intellectual functioning. Previous records also indicate at various times when Jessie was a child he engaged in a lot of self mutilating behavior with head banging, hair pulling, self biting, etc.. Throughout medical and school records is a consistent pattern that Jessie was in urgent need of ongoing counseling and was probably in urgent need of ongoing family therapy as well. Jessie's social life as a child was clearly fraught with multiple moves and a pattern of inconsistency. While Jessie is not aware as to whether his mother used alcohol or drugs during her pregnancy with him, Jessie's biological father indicates, his ex-wife was a very heavy substance abuser and he assumes she did use a fair amount of drugs and alcohol during her pregnancy with Jessie. Jessie denies, ever being sexually abused as a child. There was probably physical abuse, although Jessie views this as his father, "trying to make me tougher." He indicates, his father beat him a lot. He reports, some people used to baby-sit him and they would put his head in the toilet and flush it. Jessie's father, as noted above, was a heavy alcohol abuser and apparently when Jessie was a young child he was left with various baby-sitters.

When seen for the present evaluation, Jessie reports, he does get sad fairly often and this occurred even before his current difficulties. He indicates, he sometimes gets sad for no reason. Jessie denies, having any trouble sleeping. He notes, his appetite is good. Jessie does shake all the time, in fact when seen on all three evaluation sessions Jessie did have a significant tremor in both hands. Jessie denies, ever having been unconscious. He reports, he was hit hard once on the head when he was a child. He does have a rather large scar underneath his right eyebrow. Jessie reveals no problem with word finding skills. He indicates, at times he does get easily angered but he gets over it rapidly. Jessie reports, he has no suicidal ideation. He notes, he has talked about it in the past but he, "didn't really mean it." Jessie reached puberty at age 12 and has been active sexually with a number of partners. However, he has been dating the same girl for the past nine months and they have not been sexually active. Jessie notes, and his parents verify, he was sick fairly often as a child with a lot of colds, flues, and such illnesses. Jessie denies, any homosexual encounters or any homosexual urges. He gets fairly irritated at this subject and says, "my dad raised me the right way." Jessie denies, ever having any kind of sexual fantasies regarding inappropriate sexual activities. Jessie reports, he was a heavy gas huffer for approximately two years when he was about 13 or 14. He has also used pot and has been a heavy alcohol user as well. Clearly much of Jessie's behavior problems during his later school years were directly linked to his substance abuse

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problems as well as his early dysfunctional child rearing styles. Jessie reports, a lifelong problem of getting very angry and upset with people when they begin to holler at him or raise their voices. He notes, his older brother always laughed and picked on him as a child and this causes him great difficulty. Jessie indicates, he has been involved in some minor legal difficulties including the breaking of a window and other relatively minor juvenile offenses.

Mental Status Assessment on 10-15-93 indicates, Jessie is unable to do serial 3's backwards. He can count from 3 to 30 by 3's if he uses his fingers. To the proverb, "What does don't cry over spilt milk mean," Jessie responds, "I don't know people say that all the time though." To the proverb, "What does the grass is greener on the other side of the fence mean," Jessie responds, "I guess it's greener on the other side of the fence." Jessie responds to Similarities and Differences as Tree/bush alike, "They have limbs." Tree/bush different, "A tree is taller." Midget/child alike, "Both can walk." Midget/child different, "A midget is smaller." Lie/mistake alike, "Don't know." Lie/mistake different, he just shrugs his shoulders. When asked, "What would you do if you were walking down the street and found an envelope which was already stamped, addressed, and sealed," Jessie responds, "I'd just leave it," Jessie then pauses and says, "Maybe I'd pick it up and see who's name was on it. If it was somebody that I didn't know, I'd probably just leave it there." Results on the Mental Status indicates, Jessie is oriented X 3. He does respond in a very concrete fashion.

PSYCHOMETRIC DATA:

Jessie received a Full Scale I Q of 72, a Verbal I Q of 70, and a Performance I Q Of 75. Pattern of Sub Test Scores were as follows:

<u>VERBAL TESTS</u>	<u>SCALED SCORE</u>
Information	3
Digit Span	5
Vocabulary	4
Arithmetic	5
Comprehension	3
Similarities	5
<u>PERFORMANCE TESTS</u>	<u>SCALED SCORE</u>
Picture Completion	6
Picture Arrangement	10
Block Design	4
Object Assembly	3
Digit Symbol	8

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Jessie's Full Scale I Q places him within the low borderline range of intellectual functioning. This Full Scale I Q is relatively consistent with previous measurements. Jessie's I Q with a 90% confidence level is somewhere between 67 and 77. This places Jessie in the range of borderline intellectual functioning. Pattern of Sub Test Scores is fairly non-remarkable. There is no appreciable difference between Verbal and Performance ability. This finding is fairly consistent with previous test data. Intra test score scatter is insignificant save for the particularly good showing on Picture Arrangement and Digit Symbol. Jessie's best skills are in the recognition and sequencing of visual information. There is no evidence of specific organic impairment.

Results on the Wechsler Memory Scale, particularly the Memory for Design and the Logical Memory Recall Sub-Tests indicate, Jessie has marked deficits in both visual and verbal recall.

Results on the Bicycle Drawing Test are also indicative of Jessie's difficulty in recall of visual information.

Jessie did perform with a positive learning curve on the REY Auditory Verbal Learning Test indicating a relatively normal pattern.

Results on the Bender Gestalt indicate significant problems with perseveration and line quality. We would expect memory problems and difficulty with attention and comprehension. There is indication in Jessie's profile of some mild psychotic characteristics.

Results on the WRAT-R indicate Jessie's achievement level is consistent with previous information. On this date he is able to perform reading, spelling, and arithmetic skills at the 3rd grade level.

Results on Kolberg's Moral Development Stories indicate Jessie operates at very low level of moral judgment and moral development much what we would expect from a 5 to 7 year old child.

Results on the Piaget Conservation and Matter Tasks indicate Jessie is unable to conserve matter and continues to operate in a clear childlike sense of perceptual processes. It is typical of people after the ages of 11 and 12 to begin to move to a level of thinking patterns wherein they make hypotheses about the world and then gather data to support those hypotheses. In a normal developing person when the information does not fit the hypothesis the normal response pattern is to begin to alter the hypothesis. However, as Piaget clearly documented over a long time period, young child under the age of approximately 7 tend to

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operate in a very realistic pattern. That is, a child's conception of reality is as he chooses to make it. In this case a child tends to make a hypothesis about the world and then gathers evidence to support the hypothesis. However, unlike the older child or the adult when the evidence does not fit the hypothesis the child tends to change the evidence to fit the hypothesis. That is, this is the very concrete realistic perception of reality that is used by young children. It is important to note, on all of these various moral development and cognitive development tasks, Jessie consistently scores in the level we would expect from a child of 5 to 8 years old. In no instance is Jessie able to put himself in someone else's place or to look at any kind of extenuating circumstances. Jessie, like a child, has a clear qualitative difference in his thinking ability from what we would expect from someone his age.

Results on the Rorschach Test indicate non-remarkable responses. Jessie responds in a very concrete form. He tends to pick out pieces and to produce fairly normal and common responses. There is no indication of significant psychopathology. However, given Jessie's very marked level of intellectual ability and his very concrete thinking pattern this was not particularly surprising.

Results on the House/Tree/Person indicate three very tiny, regressed drawings. We see a consistent pattern of abnormal low levels of inferiority, insecurity, dependency, low self assurance, low self concept, a lot of withdrawal, an over-concern with interpersonal warmth, the need to demonstrate masculinity, a marked pattern of very weak and inadequate strength, sexual immaturity, and some preoccupation with phallic symbols, as is common for young men over 10 or 12 years of age. We also see defensiveness, aggressive tendencies, and the need to compensate for feelings of inferiority. Jessie's drawings are also marked by a pre-dominate satisfaction being found in fantasy.

Results on the MMPI-2 indicate a valid profile. Because of Jessie's poor reading skills the complete 567 items were read to him. Validity profiles indicate normal responses on L and K. However, Jessie has an F scale with a T value of 83. This causes some pause to carefully consider the validity of Jessie's profile. Part of this response pattern may be a function of Jessie's minimal intellectual ability and his problems with comprehension. However, there is some indication of mild emotional difficulties. The mild elevation in the F scale can be viewed as an attempt at malingering. However, this does not appear to be the most appropriate interpretation. It was decided Jessie did have a valid profile and the mild elevation on the F scale was a function of his comprehension difficulties and the effect of some of his psychiatric distress. People with this profile type harbor intense feelings of inferiority and insecurity. They lack self confidence and self esteem. They

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feel very guilty about perceived failures. Withdrawal from everyday activities and emotional apathy are common. Suicidal ideation may well be present. These people tend not to be emotionally involved with others. They are suspicious, distrustful of others, and avoid deep emotional ties. They usually have a serious deficit in social skills and are most comfortable when they are alone. They are resentful of demands being placed upon them. Other people see them as moody, irritable, unfriendly, and negativistic. In general, their lifestyle is characterized as schizoid. Although, some people with this profile type are diagnosed as paranoid or schizoid personality disorders, it is also a common profile for those diagnosed as paranoid schizophrenic. Thinking is described as autistic, fragmented, tangential, and circumstantial. Their thought content is usually bizarre. Difficulties in concentrating, attention, poor judgment, and deficits in memory are common. Delusions of persecution and/or grandeur may well be present. Feelings of unreality may be reported. Affect may be blunted. Effective defenses seem to be lacking. These people respond to stress and pressure by withdrawing into fantasy and day dreaming. In fact, often they are unable to differentiate between fantasy and reality.

DIAGNOSIS:

AXIS I. 309.00 Adjustment disorder with depressed mood
305.90 Psycho-active substance abuse NOS
AXIS II. V40.00 Borderline intellectual functioning
315.90 Developmental disorder NOS
301.90 Personality disorder NOS with schizotypal,
anti-social, & dependent characteristics
AXIS III: No diagnosis

SUMMARY AND CONCLUSION:

Jessie Misskelley is an 18 year old, white, single, male seen for evaluation at the request of his attorney. Jessie is currently being held on a capital murder charge. From a wide a variety of information gathered from interview and assessment of Jessie, interview with his parents, a review of a vast amount of other medical and educational records, a clear picture of Jessie begins to emerge.

In the strictest interpretation of the legal statute, Jessie appears to be able to distinguish between right and wrong. He also appears to be able to aid in his defense. Jessie also appears to have been in control of his faculties at the time of the alleged crime. However, it should be noted, there is an

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important qualitative concern that needs to be raised at this point. While Jessie has an I Q in the low borderline range, he clearly demonstrates a significant deficit in his ability to do abstract reasoning and to comprehend a wide variety of information. Jessie consistently shows clear developmental deficits and impairments which occurred well before the age of 18. That is, we see Jessie is still doing problem solving and making moral decisions on a level comparable to a 5 to 8 year old. While it is true Jessie is able to differentiate between right and wrong, it is equally clear the criteria by which Jessie decides right and wrong are markedly different than what we would expect of an adult his age. For Jessie, decisions about right and wrong are made on the basis of the consequence of the action not in terms of any kind of intent.

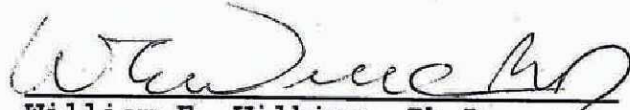
A second thing which clearly evidences itself in this wide variety of assessment material is Jessie presents himself in a schizotypal pattern. That is, both objective and projective test instruments tend to show Jessie as having marked deficits in judgment and memory. We also see Jessie is very apt to respond to any kind of pressure or stress by withdrawing into fantasy and day dreaming. In fact, Jessie at many times has severe difficulty in differentiating between fantasy and reality. This is indicated not only by the personality assessment processes but also in terms of the Piaget perspective. It is important to remember, much like a small child, Jessie forms hypotheses about the world and gathers evidence but when the evidence does not fit he tends to change the evidence. This is a fact which should give us pause in considering Jessie's perception of reality and to, much like a young child, generate a fantasy system which becomes reality for him because he has thought of it.

While there is clear indication Jessie has marked feelings of inferiority, insecurity, and other emotional difficulties, there is no indication Jessie does suffer from a severe pathological disorder. While Jessie shows the potential for aggressive behavior on assessment instruments and a variety of records indicate Jessie has indeed had aggressive outbursts in the past, it is also clear these aggressive outbursts are due to the very precise short lived events and they pass once that temporary crisis has passed. Not only does Jessie seem to lack the intellectual wherewithal to develop a complicated criminal act but he also seems to lack the psychological characteristics we would assume would be a part of a pre-meditated complicated set of criminal activities.

One final thing of importance to note is since Jessie first entered into school, in fact even prior to that time when his biological mother left him at age 4, Jessie has suffered from a

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fair amount of family and emotional dysfunction. Repeatedly throughout all medical records are indications Jessie was in need of counseling. However, all of these recommendations where in terms of learning better adjustment skills and coping skills and no one ever seriously considered the possibility of severe personality or psychotic dysfunction. All indications reveal Jessie's emotional difficulties are not of the type which would lead one to enter into a long complicated crime as the one under current adjudication.



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