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VALESIE WATSON BLEN
16 OCT 2016 PM 1:25
FILED

**IN THE SUPERIOR COURT IN AND OF THE
COUNTY OF COCONINO FOR THE STATE OF ARIZONA**

IN THE MATTER OF:

STATE OF ARIZONA,

v.

STEVEN EDWARD JONES,

No. CR 2015-00862

DEFENSE EXPERTS OPINIONS

COMES NOW, undersigned counsel, by and on behalf of Defendant Steven Edward Jones, and pursuant to Arizona Rules of Criminal Procedures 15.2, hereby gives notice of the following disclosure:

The defense expert's opinion's:

1. Stanley L. Kephart, expert opinion.
2. Dr. Edward D. French, Ph.D., expert opinion.

Respectfully submitted October 14, 2016.

BURGES McCOWAN, PLC

By B. N. McCowan
Burges N. McCowan

1 Original of the foregoing Mailed
October 14, 2016

2 Clerk of the Court
3 Coconino County Superior Court
200 N. San Francisco Street
4 Flagstaff, AZ 86001

5 Copies of the foregoing e-mailed/faxed
October 14, 2016.

6 Ammon Barker
7 Deputy County Attorney
Coconino County Attorney's Office
8 110 E. Cherry Ave
Flagstaff, AZ 86001

9 Honorable Judge Dan R. Slayton
Division 2
10 Coconino County Superior Court
200 N. San Francisco Street
11 Flagstaff, AZ 86001

12 By //s// Maggie Martell
13 Maggie Martell

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REPORT

State of Arizona v. Steven Edward Jones

by

Stanley L. Kephart

Dear Mr. McCowan:

Please accept this letter as my report in the matter of the *State of Arizona v. Steven Edward Jones*. Attached to this draft report is a copy of my C.V. You have in your office a copy of my fee schedule, which was sent to you when you retained me for this case.

SUMMARY OF QUALIFICATIONS:

Your firm contacted me requesting an analysis of a shooting that occurred on October 9, 2015 involving students at Northern Arizona State University. Prior to providing a discussion of the case and my findings, I want to highlight my qualifications that speak to my ability to assess this case.

I am a career law enforcement professional with over 38 years of combined line, middle management, and executive experience. I possess a Master's Degree in Secondary Education and in connection with that degree, in 1977 I authored my thesis entitled "*Alternatives to Lethal Force.*" (A defensive tactics program within the San Jose Police Department) Subsequently, the San Jose Police Department adopted the Police Defensive Tactics Program set forth in my thesis, a key component of which was "shoot don't shoot" and weapon retention. I have served as the Director of two of California's Police Academies certified for the presentation of the California Basic Peace Officers Course (P.O.S.T.) and mandatory Advanced In-Service Police Officer Training required by law. As a Police Academy Director, when a subject matter expert failed to show to teach a class, I was required to either find a replacement instructor on short notice or teach the class myself above and beyond my primary area of expertise, Police weapons and tactics. Because our instructor subject matter experts were working law enforcement personnel, frequently, I was required to substitute teach in a wide range of classes including: Laws of Arrest, Search and Seizure, Use of Force, Patrol Techniques, Crimes in Progress and Emergency Response to Priority Calls, all of which are on point with this case. It should be noted that these subject areas are standard throughout the country and required by law to become an Arizona Peace Officer.

As one of the first Field Training Officers for the San Jose Police Department's Field Training Officer Program, (a national best practices training model for law enforcement training of post-academy graduates) I served in that capacity as a trainer for almost three years. It is noteworthy that Arizona has adopted the San Jose Field Training Officer Model and continues to use it to this day. Finally, since I possessed national and international qualifications, I taught Arrest and Control Tactics where I was certified by the California Commission on Peace Officer Standards and Training (P.O.S.T.), as well as Six

California Community College Administration of Justice programs. Subsequently, I was appointed by P.O.S.T. as a Founding Member of the Peace Officer Killing and Serious Assault Commission where we were charged with examining serious assaults and killings of police officers nation-wide for the purpose of recommending training and equipment changes to increase officer safety.

In 2011 I retired as an Arizona Chief of Police for the second largest tribal police department in the nation, the Salt River Pima Maricopa Indian Community. In that position, all of our officers held State, Federal and Tribal law enforcement commissions. The Salt River Police Department is a 168-member full time employee agency providing full police services on a Federal Indian Reservation located in the Phoenix Metropolitan Area.

Additionally, I have held positions as a California Public Safety Director/Police Chief, a California Chief Probation Officer and a California County Undersheriff (second in Command).

As a result of the aforementioned experience, I am qualified to conduct an analysis of this shooting case by virtue of my academic experience, applied science experience in law enforcement (training and education of police), personal study in the field of law enforcement and police practices, as well as the training and education of civilian personnel including private security officers and citizens, where I have taught Firearms Training and Weapons' Retention.

I, currently, consult with law enforcement and private persons and organizations through Kephart Consulting, LLC and my Corporation IBIS2. In that regard, I use consultants, both sworn and non-sworn personnel who are Federal, State and Tribal certified and proficient in Firearms and Tactical Operations and who collectively have investigated untold numbers of shooting cases, both officer-involved and civilian-on-civilian shootings. I am an active member in the International Association of Chiefs of Police, where I previously held the office of Vice President of the Indian Country Section; a member of ASIS, a professional private security organization with international standing; a member of the National Rifle Association; and a member of Jews for the Preservation of Firearms' Ownership.

MATERIALS REVIEWED:

- CD 4 Officer Park Body Cam Video 1
- CD 16 Search Warrant Photos and Video (Steven Jones Dorm)
- CD 1 Phones and Radio 10:9:15
- CD 2 Officer Hinte Body Cam Video
- CD 3 Officer Park Dash Cam Video
- CD 4 Officer Park Body Cam Video 1
- CD 5 Officer Park Body Cam Video 2
- CD 6 Scene Photos by Det. Rodriguez
- CD 7 Initial Scene Photos, Lighting Conditions by Detective...
- CD 8 Scene Photos
- CD 9 Scene
- CD 10 Photos of S. Jones
- CD 11 Video, Interview of S. Jones
- CD 12 Audio Interviews at FMC, Phone Calls
- CD 13 Photos of FMC

- CD's 14-16 Search Warrant Photos & Video
- CD 17 Photos of N Acevedo
- CD 18 Photos of N. Acevedo & S. McConnell's Clothing
- CD 19 Audio Interviews
- CD 20 Audio of S. McConnell to Parents
- CD's 21-25 Audio Interviews of A. Kelley, M Leonard, C. Waked, C. Jones, S. Kingery & P. Kinder
- CD 26 Video interview of J. Mike
- CD 27 Audio Interview of J. Mike
- CD 28 Photos of J. Mike
- CD 29 Audio Interview of D. Fortenberry
- CD 30 Audio Interview of C. Irwin
- 0 Description of Disclosure
- #1 NAU PD DR# N 1501144 by Lance Wigley 10/9/15
- #1 NAU PD DR# N 1501144 by Keegan Park 10/9
- #1 NAU PD DR# N 1501144 by Matthew Hinte 10/10
- #1 NAU PD DR# N 1501144 by Jacob Brady 10/10
- #1 NAU PD DR# N 1501144 by Christopher Anderson 10/12
- #1 NAU PD DR# N 1501144 by Mike O'Hagan 10/12
- #1 NAU PD DR# N 1501144 by Kenneth Hunter 10/13
- #1 NAU PD DR# N 1501144 by Kenneth Hunter 10/15
- #1 NAU PD DR# N 1501144 by Christopher Anderson 10/15
- #1 NAU PD DR# N 1501144 by Andres Godinez 10/15
- #1 NAU PD DR# N 1501144 by Bradley Mihalik 10/15
- #1 NAU PD DR# N 1501144 by Background Event Chronology 10/29
- #1 NAU PD DR# N 1501144 by Blood Draw Report for Steven Jones
- Photos from Steven Jones Instagram Acct.
- NAU Housing and Residence Life Letters to Steven Jones
- Text Messages e: Deleting Steven Jones Stuff
- Emergency Contact Info
- Search Warrant
- List of Items Seized from Delta Chi
- List of Items Seized from Steve Jones
- Chain of Custody Forms
- NAU PD DR# N 1501144 Photo Evidence Log
- Receipt
- NAU PD DR# N 1501144 Evidence and Property Receipt
- FRD DR# P15 14930 10 9 15 by Melanie Montano
- FRD DR# P15 14930 10 9 15 by Michael Priest
- FRD DR# P15 14930 10 9 15 by Gilbert Herrera
- FRD DR# P15 14930 10 9 15 by Bradley Battaglia
- FRD DR# P15 14930 10 9 15 by Matthew Schmidt
- FRD DR# P15 14930 10 9 15 by Dustin Hemp
- FRD DR# P15 14930 10 9 15 by Kelsea Koustik

- FRD DR# P15 14930 10 9 15 by Kevin Sapp
- FRD DR# P15 14930 10 9 15 by Alex Chirovsky
- FRD DR# P15 14930 10 9 15 by Daniel Beckwith
- FRD DR# P15 14930 10 9 15 by Jason Cota
- FRD DR# P15 14930 10 9 15 by Bradley Gilbert
- FRD DR# P15 14930 10 9 15 by Kelly Ingram
- FRD DR# P15 14930 10 9 15 by Todd Laughlin
- FRD DR# P15 14930 10 9 15 by Christopher Waters
- FRD DR# P15 14930 10 9 15 by Todd Bishop
- FRD DR# P15 14930 10 10 15 by Ryan Turley
- FRD DR# P15 14930 10 12 15 by Adrian Barreras
- FRD DR# P15 14930 10 12 15 by Shawn Knott
- FRD DR# P15 14930 10 12 15 by Mike Slayton
- FRD DR# P15 14930 10 13 15 by Todd Martinet
- FRD DR# P15 14930 10 13 15 by Nick Jacobellis
- FRD DR# P15 14930 10 13 15 by Ryan Beckman
- FRD DR# P15 14930 10 13 15 by Jolene Coules
- FRD DR# P15 14930 10 14 15 by Joseph Candelaria
- FRD DR# P15 14930 10 14 15 by Casey Rucker
- FRD DR# P15 14930 10 14 15 by Mike Rodriguez
- Google Map Drawing by Chase Irwin 10 19 15 by Det. Mike Rodriguez
- Google Map Drawing by Dane Fortenberry 10 29 15 by Det. Mike Rodriguez
- Hand Drawn Diagrams by Nick Pletkel 10 29 15 Det. Todd Martin
- Hand Drawn Diagrams by Katarina Tatkin 10 29 15 Det. Todd Martin
- Hand Drawn Diagrams by Valeria Pabon, 10 29 15 Det. Todd Martin
- Hand Drawn Diagrams by Courtney Waked
- Hand Drawn Diagram by Michelle Leonard
- MVD info for witnesses Jordan Martinez and Garrett Harpe
- FRD DR# P15 14930 Property and Evidence Vouchers
- Probable Cause for Arrest Statement
- Disc #31 - #44 Audio Interviews
- Disc #45 Snapchat Video by Kiajai Crouch
- Disc #46 Calls
- Disc #47 Medical Examiner Photos
- Disc #48 Video of Nick Pletke
- Disc #49 Video of Shay McConnell
- Disc #50 Video of Monica Overturf
- Disc #51 Video of Jacob Mike
- Disc #52 Photos of Miqui Scollard
- Disc #53 CCSO Photos and Inter Officer Librale Photos of Nick Piring
- 0 Supplemental Disclosure
- #64 – #66 ATF DR# 785081 16 0008 by Fletcher Ogg Report 1, Shawn Murray Report 2, Fletcher Ogg Report 3

- #67 - #68 FBI DR# 356E PX672299 by Dawn Martin 10 9 15
- #69 & #70 FBI DR# 365E PX 6726299 by Dawn Martin and Charles 11 14 15
- #71 & 72 FBI DR# 365E PX 6726299 by Brian Fuller 10 13 15
- #73 & #74 FBI DR# 365E PX 6726299 by Charles Davis
- #75 FBI DR# 365E PX 6726299 by Eric Stoddard 10 15 15
- #ATF Trace of Glock GMBH 40 Caliber Firearm
- #77 CCSO DR# S15 04094 by Dennis McCabe 10 9 15
- #78 - #80 CCSO DR# S15 04094 by Andrew Silverstein, Mikkel Libarle, TristenMeyer
- #81 DL Info for Steven Jones, Nicholas Pletke, Nicholas Acevedo
- #82 Lab Report re: Alcohol Analysis by Sheila Azutillo
- Disc # 54 - #59 Audio Interviews of T. Page, DeFrates, E. Coultrap, D. Prada, M. Scollard,
- & K. Johnston
- Disc #60 Photos of Cell Phones for Search Warrant Steven Jones
- Disc #61 2nd Video Interview of Austin Contreras
- 0 Discovery Description
- #83 FPD DR P15 14930 Nick Jacobellis 10 27 15
- #84 - #85 Medical Records
- #86 - +88 Reports 15
- #89 & #90 FBI DR 356E PX 6726299 by Brian Fuller
- #0 Notice of Supplemental Disclosure by State
- #91 Lab Report: Drug Screen by Melissa Verhaeghe
- Disc #62 Video Interview of Jaylin Kunkle
- #0 Notice of Supplemental Disclosure by the State
- #92 FPD DR# P15 14930 by Nick Jacobellis 11 16
- #93 & 94 NAU PD DR# N150 01144 by Mike O Hagan 11 20 15
- #95 Scientific Exam Req. ET Wigley to DPS Crime Lab
- #96 Request for La Analysis 2 White iPhones and Laptop 12 17
- #97 Autopsy Report for Colin Brough by Medical Examiner
- #98 Toxicology Report for Colin Brough at AIT Labs
- #99 Google Map Drawing by Jacob Mike
- #100-#102 Hand Drawn Diagrams
- #103 Crime Scene Log
- #104 FMC Medical Records for Nicholas Piring
- #105-#108 Search Warrants
- Disc #63 Audio Interview of Kyle Zientek
- #0 Discovery Description
- #109-#111 NAU PD DR# N15 01144 by Mike O Hagan 10/15/15, 10/28/15, 10/29/15
- #112-#114 Google Map Drawings
- Disc #64-#66 Video Interviews
- #0 Notice of Supplemental Disclosure
- #115-#119 NAU PD DR N1501144 by Mike O Hagan
- #120 NAU PD DR N1501144 by Joseph Tritschler
- #121 Bates 586 Redacted

- #121 NAU PD DR N1501144 by Joseph Tritschler
- #122 Bates 589 Redacted
- #122-#124 NAU PD DR N1501144 by C. Anderson, L. Wigley, T. Wigley 12/11/15, 12/18/15, 1/4/16
- #125 - #132 Google Map Drawings
- #133 Visionworks Eye Glass Prescription by Kyle Zientek
- #134 Bates 608 Redacted
- #135 Outbound Jail Mail from Steven Jones
- #136 Inbound Jail Mail to Steven Jones
- Disc #67 Video Interview of Nick Acevedo
- #0 Discovery Description
- #137 NAU PD DR# N1501144 by Joseph Tritschler 12 10
- #138 Search Warrant SW2015-00140 Defendant's Vehicle
- #139 Lab Report re: Alcohol Analysis Defendant's Urine
- #140 Guardian Medical Transport Report 15 116324 for Kyle
- #141 NAU PD DR# N1501144 Evidence and Property Receipt
- #0 Disc Description
- #142-144 NAU PD DR# N1501144 by Mike O Hagan
- #145 Google Map Drawing by Nick Prato 10 13 15
- #146 Outbound Jail Mail by Steven Jones
- #147 Incoming Jail Mail to Steven Jones
- Disc #68
- #0 Disclosure
- #148 Prescription for Kyle Zienteks Eye Glasses 4 1 15
- #0 Discovery
- #149 Get Well Card Sent to Nick Prato
- Disc #69
- Disc 70
- #0 Disc Description
- #150 Laptop and Cell Phone Examination Report by AZ DPS
- #151 Outgoing Jail Mail by Steven Jones
- #152 Incoming Mail to Steven Jones
- #0 Disc Description
- #153-#154 NAU PD DR N1501144 by Mike O Hagan, Theresa Wigley 6/2/ 2016
- #155 NAU PD DR N1501144 Evidence and Property Receipt
- #156 Glendale PDDR 14 44299 Stevens Reckless Driving
- #157 & #158 Lap Report re: Firearm Exam by Terry Weaver 4/20/16
- #159 Lap Report re: Firearm Exam by Terry Weaver
- #0 Notice of Supplemental Disclosure 2016 06 02
- #169 1659-1666
- Disc 72
- #0 Discovery Description
- #161-#164, #166 NAU PD DR# N1511144 by Mike O Hagan 6 13, 6 15, 6 17 (2) 8 10 16, 2016

- #165 NAU PD DR# N1591144 by Theresa Wigley 7 23 16
- #167 Facebook Posting by Blake Casali
- #168 Lab Report re: DNA by Scott Mine 5 22 16
- #169 Photo of Kyle Zienteks Eye Glasses and Documentation
- #170 Prescription for Steven Jones Eye Glasses
- #171 Updated Arrest Report Indicating Defendants Release
- #172 Evidence and Property Receipts

Background on 262 E. Franklin

- Disc's
- Flagstaff Police Department
- NAU Police Department

SUMMARY FACT PATTERN

On October 9, 2015 Steven Jones, a new student out with his friends that night at NAU, an institution with over 20,000 students, found himself in a new environment with new friends and pledging Sigma Chi in an effort to make to acclimate himself to the campus. At approximately 2:00 a.m. when walking from a party to his vehicle with three of his friends, one of Steven's friends Shay McConnell was leaving a voice mail for his companion Hunter. During his call Shay stated, "Pick up your fucking phone ass hole," which may have been heard by the Delta Chi members inside the apartment complex on Franklin Street where Steven and his friends were standing. At this time, Steven, Shay, and Jacob were surrounded by Delta Chi members not knowing the whereabouts of Hunter who left them. **According to an eye witness, "a bunch of guys came out of the fraternity house and started fighting."** An additional independent female witness, Miqui Scollard who was positioned from a window facing Franklin Street states she states she saw a man in a white shirt run up and hit someone and attack them, at which time someone shouted, "I don't want to do this." In addition, Ms. Scollard gave first aid, and there are photos of her covered in blood.

Steven Jones states that, while walking to his car and in front of the apartments on Franklin Street on the sidewalk, Delta Chi members surrounded him and his friends, at which time they were yelling, "What are you doing here you pussies, get the fuck out of here, and I'm going to kill you." At this point, Steven Jones was struck in the face and knocked to the ground losing his glasses. He immediately jumped up and ran as did other members of his party. Steven Jones ran southbound on Franklin to the location of his vehicle and, due to his fright and inability to see after losing his glasses when he was struck, was having difficulty with his keys to get into his vehicle. Once inside the vehicle, he attempted to start the vehicle to get his friends and leave. At this time, Steven then retrieved his firearm, a Glock 22 .40 caliber from the glove box of his vehicle and stepped out of his vehicle and walked a short distance stated confronting his attackers and stated "don't move, I have a gun, get down on the fucking ground."

When Steven Jones, in fear of his life, ran to his vehicle after having been initially attacked, he was pursued by Brough and Piring. Steven was also threatened to be killed when he was initially punched in the face and was forced to confront his two attackers who had pursued him into the parking lot. At this

time, Steven Jones yells at the attackers, "Don't move, I have a gun, get down on the fucking ground," at which time one of his attacker's yells, "You have a gun, I am going to kill you." Colin Brough's last words were reportedly, "Why did you bring a gun here?" This statement acknowledges that he, Brough, knew Steven Jones had a gun. Steven Jones, then using his tactical training, employed a "double tap technique" and shot his second attacker Nick Piring.

After shooting his attackers, Steven Jones, again using his training, went to the most seriously wounded attacker Colin Brough, to give first aid. After turning Colin Brough over, Steven knelt down and attempted to stop the bleeding of his attacker. At this time, someone from the mob of 5 to 10 people who surrounded Steven hit him in the back of the head and tackled him to the ground and attempted to take his firearm from him while yelling, "you psycho, I am going to kill you." Steven then fired into the air to disperse the crowd at which time, he grazed a member of the crowd Nick Prato's neck. Steven Jones stated he only fired into the air in an effort to disperse the remaining persons attacking him.

A Mountain View resident Chase Jones came up to Steven Jones and gained his trust and told Steven he didn't care what happened and asked him to place the gun on the ground, assuring him that he was safe at this time, and Chase wouldn't let anyone take the gun. Steven complied and put the gun on the ground and walked towards the police and identified himself as the shooter at which time he was arrested, handcuffed and placed in a police vehicle.

OPINION

Based on my document review, employment experience, knowledge, education, certified training, teaching experience, and applied scientific background, it is my opinion that Steven Edward Jones, in fear of his life, and/or great bodily harm, ran from his attackers, armed himself, informed his attackers he had a firearm, which they acknowledged, and when he was attacked for the second time, shot his attackers to stop them resulting in the death of Colin Brough.

Basis #1

Steven Jones was attacked on public property by persons who came out of the Franklin Street Apartments. Steven's attackers, a group of Delta Chi Members subsequently surrounded his group and punched Steven Jones in the face knocking him to the ground, where he lost his glasses.

Basis #2

Steven Jones and his companions, after being attacked, dispersed where upon Steven Jones fled the street to his vehicle.

Basis #3

Upon reaching his vehicle and while still being in a high state of fear and anxiety, Steven had great difficulty in gaining first, access to the vehicle as he did not have his glasses and did not want to leave his friends. Now armed with his firearm, Steven Jones exited the vehicle, yelled at the attackers he had a gun, which the attackers acknowledged and, subsequently, continued their attack, where upon he shot both attackers.

Basis #4

After the attack and shooting of his assailants, Steven Jones gave first aid to his primary attacker, which clearly identifies him, Steven Jones, as a trained individual.

Basis #5

Steven Jones, a competitive shooter with his Glock 22 .40 caliber, was trained by his father an NRA-Certified Firearms' Instructor, and despite his having lost his glasses placing him at a disadvantage, he stopped the attack, which is what he was taught and trained to do.

Basis #6

During the initial attack on Steven Jones and his group, someone yelled, "I am going to kill you." followed by someone yelling, "I don't want to do this." according to an eye witness account.

Upon confronting his attackers with a firearm and flashlight, which was acknowledged by his attackers, Steven Jones yelled, "Get on the ground and don't fucking move," which was disregarded when they advanced upon Steven Jones.

Basis #7

While attempting to render first aid to his primary attacker, Steven Jones was surrounded by a group of people and, subsequently, struck in the back of the head, at which time a struggle ensued for Steven Jones' firearm. At this time, Steven was able to fire shots into the air, which dispersed his new attackers.

Basis #8

Steven Jones' attacker Colin Brough lunged at Steven when he was shot which was confirmed by the autopsy report which showed the bullet going from an up to down trajectory. Additionally, the State's expert witness stated that Colin Brough was within two feet of Steven Jones when he was shot.

Basis #9

Steven Jones, at the time of the shooting, by all accounts took a shooting stance, established target acquisition and double tapped (fired twice and scanned for effect).

Basis #10

Steven Jones made no attempt to escape, and once he placed his firearm on the ground, which was secured by Mr. Chase Jones, Steven walked with his hands up to police and identified himself as the shooter. These are not the actions of a person who had committed a crime.

CONCLUSION:

From the time Steven Jones was punched in the face and lost his glasses and during the pursuit of Jones into the parking lot, Jones believed that he was in fear of his life. After the shooting when he attempted to administer first aid to his attackers, Stevens fear for his life continued when he was attacked by a mob who yelled at him that he was a psycho while they attempted to take his firearm from him yelling they were going to kill him. Steven's fear for his life continued when he fired in the air to disperse the mob that surrounded him after he shot Mr. Colin Brough and Mr. Piring. The danger to Steven's life continued until he voluntarily placed his firearm on the ground and gave himself up to police.

As a police officer, having been involved in and participated in shootings as a participant, back-up officer, investigator, Shooting Inquiry Board Member, Chief Administrator and as a Founding Member of the California P.O.S.T. Peace Officer Killing and Serious Assault Commission, I believe that Steven Edward Jones met a law enforcement best practices' shooting standard much less a civilian standard for self-defense. This shooting was a justifiable shooting on the part of Mr. Jones, and there are specific identifying markers in the fact pattern that support Mr. Jones' training and control of his emotions under life threatening circumstances that a professionally trained peace officer would have been challenged by.

All of my opinions are based on a reasonable degree of scientific probability. As discovery is ongoing, I reserve the right to change my opinions concerning this case, should additional information be presented, which I am not now in possession of.

Executed on October 14, 2016 at Phoenix, AZ

Stanley L. Kephart
Kephart Consulting, LLC

EDWARD D. FRENCH, PH.D.
5136 N. CALLE BOSQUE
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tel. 520-991-7273

October 13, 2016

Burges McCowan
1421 East Thomas Road
Phoenix, AZ 85014

RE: State of Arizona v. Steven Jones

Dear Mr. McCowan:

You have asked for my professional opinion regarding the probable role of the psychoactive drugs, alcohol, alprazolam (Xanax), and THC (the active ingredient in marijuana) in the events that occurred on October 9, 2015 between Steven Jones and Nicholas Piring, Kyle Zientek, Nicholas Prato, and Colin Brough.

I believe I am qualified to give such an opinion based upon my professional training and experience. To summarize, I received my doctorate in pharmacology from UCLA in 1976, followed by three years of postdoctoral research at the Salk Institute in San Diego, California, and an additional year of research at the Max Planck Institute for Psychiatry in Munich, Germany. After the completion of those studies I joined the faculty of the Department of Psychiatry, at the Maryland Psychiatric Research Center in Baltimore, Maryland in 1980 as a Research Assistant and then a Research Associate Professor. In 1988 I joined the Department of Pharmacology at the University of Arizona, College of Medicine, rising to the rank of Professor with Tenure. During my entire academic career I have researched and taught in the area of neuropharmacology, the study of drug action and the effects of drugs on brain and behavior. In addition I have consulted on over fifty criminal cases involving forensic pharmacology issues.

The medical and medical examiner records found the presence of alcohol and cannabinoids in blood and urine samples from Nicholas Piring, Kyle Zientek, Colin Brough, and Nicholas Prato. Alprazolam was also found in the post-mortem blood sample of Colin Brough. The following will provide basic information on how these substances can, alone and in combination, affect a person's ability to comport their behavior in an appropriate way.

ALCOHOL

An examination of the medical records on Nicholas Piring, Kyle Zientek, Colin Brough, and Nicholas Prato show that all had blood alcohol concentrations (BAC) in excess of .08%, the legal limit for impairment in Arizona. For Nicholas Prato his BAC was .092% (1.2 times the legal limit), Kyle Zientek was .181%, (two times the legal limit), Nicholas Piring was .208%, (2.6 times the legal limit, and Colin Brough was .285% (3.5 times the legal limit). In contrast, the laboratory report on the analysis of alcohol shows that Steven Jones was negative for blood alcohol, and negative for any other centrally acting substance.

The basic and clinical science literature describing alcohol's effects on brain and behavior is enormous. So, I hope the following will suffice to lay out the average essential elements related to the effects of alcohol on physiological and psychological processes.

Alcohol is like any other general anesthetic: it depresses the central nervous system. At the lowest effective blood levels, complex, abstract, and some learned behaviors are disrupted. It is for this reason that alcohol possesses a "disinhibitory" effect on behavior. A simple way to conceptualize this is that alcohol first reduces the brakes on the brains' excitatory systems.

Inhibitions may be reduced with the result that behaviors actually increase, often expressed as aggression and violence. Aggression is a type of behavior aimed at harming another living being who is motivated to avoid such a behavioral act. Alcohol consumption, also called intoxicated aggression, has been frequently recorded in all societies. Experimental studies on aggression have demonstrated that acute doses of alcohol facilitate aggressive behavior in a dose-related manner. Moreover, alcohol-induced aggression is more likely to occur in users who are consuming excessively within a given drinking episode.

Thus, the scientific literature on forensic pharmacology of alcohol clearly indicates an association between alcohol and aggressive/violent behavior. The following are talking points summarized from the National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert #38, 1997.

Alcohol may encourage aggression or violence by disrupting normal brain function. According to the disinhibition hypothesis, for example, alcohol weakens brain mechanisms that normally restrain impulsive behaviors, including inappropriate aggression.

By impairing information processing, alcohol can also lead a person to misjudge social cues, thereby overreacting to a perceived threat.

Simultaneously, a narrowing of attention may lead to an inaccurate assessment of the future risks of acting on an immediate violent impulse.

The extent of the alcohol-violence association is further described.

Based upon published studies the percentages of violent offenders who were drinking at the time of the offense as follows: up to 86 percent of homicide offenders, 37 percent of assault offenders, 60 percent of sexual offenders, up to 57 percent of men and 27 percent of women involved in marital violence, and 13 percent of child abusers. Another study found that 42 percent of violent crimes reported to police involved alcohol. Two-thirds of victims who suffered violence by an intimate (a current or former spouse, boyfriend or girlfriend) reported that alcohol had been a factor. (Bureau of Justice Statistics, US Department of Justice, 2006). Furthermore, persons who tend to endorse antisocial and impulsive behaviors appear to be at greater risk for aggression under the acute influence of alcohol.

The following table relates BAC to stage of alcohol influence to clinical sign/symptom in non-tolerant individuals, published in: *MEDICAL TOXICOLOGY, DIAGNOSIS AND TREATMENT OF HUMAN POISONING*, BY Matthew Ellenhorn, MD, and Donald Barceloux MD. I have included BACs that are relevant to the BACs of Mr. Piring (.208%), Zientek (.181%), Brough (.285%), and Prato (.092%).

BAC (mg%): .03-.12
Stage of alcohol influence: Euphoria
Clinical sign/symptom: mild euphoria, sociability, talkativeness; increased self-confidence; decreased inhibitions; diminution of attention, judgment, and control; loss of efficiency in finer performance tests.

BAC (mg%): .09-.25
Stage of alcohol influence: Excitement
Clinical sign/symptom: emotional instability; decreased inhibitions; loss of critical judgment; impairment of memory and comprehension; decreased sensory response; increased reaction time; some muscular incoordination

BAC (mg%): .18-.30
Stage of alcohol influence: Confusion
Clinical sign/symptom: disorientation, mental confusion; dizziness; exaggerated emotional states (fear, anger, grief, etc); disturbance of sensation (double vision, et) and of perception of color, form, motion, dimensions; decreased pain sense; impaired balance; muscular incoordination; staggering gait; slurred speech

ALPRAZOLAM (XANAX)

The toxicology report on blood from Colin Brough also found the presence of alprazolam (4.3 ng/ml). I do not have information to conclude that Mr. Brough was taking alprazolam as a prescription medication. Nevertheless it should be noted that alprazolam which belongs to the class of medications, known as benzodiazepines, can produce, like alcohol, "disinhibitory behavior". Such behavior has been termed a "paradoxical reaction". One study found that 13.5% of patients given alprazolam experienced paradoxical reactions compared to those given a placebo. Mood and environment and being young may also play a role in a benzodiazepine-induced disinhibition. This adverse effect can be augmented by the concurrent presence of alcohol.

Benzodiazepines are considered central nervous system depressants which can have many other, often considered unwanted or adverse, side effects. Benzodiazepine-induced inhibition of inhibitory brain circuits may result in a decrease in the restraining influence of the brain cortex, leading to excitement, agitated toxic psychosis, increased anxiety, hostility and rage. Ingestion of alcohol, which also reduces inhibitory brain circuits, would be expected to, and indeed can, increase the severity of this reaction.

The side effects of benzodiazepines include drowsiness, confusion, ataxia, dizziness, fatigue, sedation, cognitive disorder, decreased libido, apathy, memory impairment, disorientation, depression, anterograde amnesia, restlessness, headache, slurred speech, stupor, coma, euphoria, irritability, and vivid dreams. Anterograde amnesia is the inability to recall events after the onset of amnesia, usually with an inability to form new memories, which can be temporary. Other less common effects reported were agitation, depersonalization, nightmares, and irritability. According to the source Drugs.com, 33.1% of 1,388 people taking a daily 4mg dose of Xanax reported irritability and memory impairment. 2.7% of those individuals reported disinhibition, 2.9 % reported agitation, and 10.4% reported confusion.

Abnormal mentation has occasionally been associated with benzodiazepine use. All benzodiazepines used for the control of anxiety were also implicated in causing violence. Expecting to be helped, and not harmed, by the drug, the patient is less able to understand or manage potentially overwhelming feelings of anger or violence. It has also been reported that there were 3.6 times as many acts of aggression occurring when prison inmates were prescribed benzodiazepines. Testimony was given at the John Hinckley Jr. trial for the attempted assassination of President Ronald Regan that Mr. Hinckley Jr. was in a valium-induced rage.

In a 1984 study, extreme anger and hostile behavior emerged from 8 of the first 80 patients treated with Xanax. The responses consisted of physical assaults by two patients, behavior potentially dangerous to others by two more, and verbal outbursts by the remaining four.

The relatively indiscriminate use of benzodiazepines in the Utah State Prison was associated with increase incidences of violence and murders.

Adverse effects from benzodiazepines were first noted in 1958 with the use of chlordiazepoxide. Serious crimes, including homicides, hostility, rage, delusional mania, confusional or depressive states have been reported with benzodiazepine use. The rate of aggressive behavior associated with benzodiazepine use has been reported to be 0.3-0.7%. The psychopathology associated with benzodiazepine use is exacerbated by alcohol use, a baseline level of hostility, impulsivity, frustration, personality disorder and depressive status.

The benzodiazepines most frequently associated with paradoxical reactions are the highly lipid soluble and highly potent alprazolam (Xanax) and triazolam. Some researchers have suggested that rage reactions to benzodiazepines are predictable in those with a history of poor impulse control or aggressive and destructive behavior. Paradoxical reactions have been reported in as few as 1% or as many as 29% of patients prescribed benzodiazepines. In about 7% of cases the paradoxical reaction is severe and necessitates the discontinuation of the benzodiazepine.

The behavioral disinhibition induced by either therapeutic dosage or misuse involves the loss of restraint over certain types of social behavior and may increase the risk of auto (self) or hetero-(others) aggression and acting out. The disinhibiting effects of benzodiazepines are well-known and proven by clinical trials. It is considered a model of acting out, and the causal relationship is undeniable.

As noted in one published study, rage reactions and violent episodes have especially been observed with Xanax and Valium. One report noted that healthy volunteers who had taken diazepam (10 mg) were more likely to behave aggressively under low levels of provocation than those taking other sedatives. In a placebo controlled study, volunteers taking a benzodiazepine became more hostile when confronted with a situation of interpersonal frustration. Xanax is a high potency benzodiazepine which also has a rapid onset of action. Paradoxical effects are also impacted by an underlying psychological condition. It has been reported that the single most important factor in trying to explain the effects of drugs of the benzodiazepine class (which includes Xanax) on behavior is the underlying personality of the individual. Those with a history of aggression and poor impulse control may be more prone to experiencing paradoxical reactions to benzodiazepines. People with antisocial personality disorder may also be at an increased risk of paradoxical reactions to benzodiazepines.

MARIJUANA (CANNABINOIDS)

The medical records on Mr. Prato, and Mr. Zientek found the urine toxicology screens to be positive for cannabinoids. A positive urine screen indicates that both Mr. Prato and Mr. Zientek had used marijuana, but the time and amount cannot be determined. Mr. Brough's post-mortem toxicology report found a level of THC (the psychoactive ingredient in marijuana) at 1.9 ng/ml and the non-psychoactive metabolite of THC at 7.6 ng/ml. Since THC quickly leaves the blood after intake, the presence of THC in Mr. Brough's blood suggests that marijuana had been used by Mr. Brough within a few hours prior to his death. However, based upon the blood levels, the exact time or amount used cannot be determined. One study did report that 1.6 ng/ml THC in whole blood may indicate possible impairment.

Acute marijuana intoxication alters memory functioning, including short-term memory, recognition memory, and free recall, as well as other higher cognitive functions. Acute marijuana use is also related to difficulties inhibiting inappropriate responding and is indicative of executive cognitive impairments. Executive cognitive function governs our behavioral response to environmental stimuli, problem solving, and impulsivity.

For example, acute and chronic marijuana use may decrease the ability to attend and process complex stimuli that are likely present in situations of interpersonal conflict (eg. arguments between partners), decrease the ability to inhibit inappropriate responding, and increase premature responding in conflict situations all of which may increase the likelihood of an aggressive response to conflict.

Several effects of drugs that increase the risk for violence, such as inhibition of anxieties concerning perceived punishment for violence and increased psychomotor excitation, which may, in turn, increase approach and attack behaviors. Studies which sampled college students revealed that frequent marijuana users reported exhibiting more aggressive behavior stemming from angry feelings than nonusers and occasional users. One study concluded that there was evidence to suggest that people who use marijuana are at greater risk for exposure to violence. When taken by certain individuals in certain social conditions, the use of marijuana may increase irritability and result in violence. Case reports describe explosive, agitated, and violent behavior in some individuals.

CONCLUSION

Based upon the toxicological findings (Medical Records) Mr. Piring, Mr. Zientek, Mr. Prato, and Mr. Brough were on the night of October 9, 2015 under the influence of alcohol which negatively impacted their ability to comport their behavior in an appropriate manner toward Steven Jones and his companions. Alcohol weakens brain mechanisms that normally restrain impulsive behaviors, including inappropriate aggression. Alcohol-induced aggression is more likely to occur in those who are consuming excessively with a given drinking episode. The concentrations of alcohol found in the blood of Mr. Piring, Mr. Zientek, Mr. Prato, and Mr. Brough leads one to conclude that all were drinking to excess on the night of October 9, 2015. The presence of alprazolam in Mr. Brough's blood in combination with a blood alcohol concentration of .285% further exacerbated a disinhibition of behavior progressing to a loss of behavioral control resulting in an aggressive and violent demeanor by Mr. Brough. The presence of the psychoactive cannabinoid (THC) in Mr. Brough's blood indicates his use of marijuana within a few hours prior to the indecent on October 9, 2015 may have also contributed to a further disinhibition of behavior, resulting in an aggressive and violent demeanor directed at Steven Jones and his companions.

Sincerely,

A handwritten signature in black ink on a light gray background. The signature is written in a cursive style and reads "Edward D. French".

Edward D. French, Ph.D.
Professor, Pharmacology