

paroleweb@idoc.idaho.gov
or
P.O. BOX 83720
BOISE, IDAHO 83720-1807
(208) 334-2520

PETITION FOR COMMUTATION

NAME Gerald Ross Pizzuto, Jr. IDOC# 23721
DATE 4/9/2021 INSTITUTION OR DISTRICT SUPERVISED IMSI

A. Please complete the following:

(1) Crime First Degree Murder (2) Crime First Degree Murder
Length of Sentence Death Penalty Length of Sentence Death Penalty
(3) Crime _____ (4) Crime _____
Length of Sentence _____ Length of Sentence _____

B. The following must be addressed in your petition or it will be returned.

- (1) Explain exactly what you are requesting the Commission commute or change about your sentence, such as: reduce the length of the sentence, change a fixed sentence to indeterminate, or change a consecutive sentence to concurrent, reduce the fixed portion of a sentence, or other.
- (2) Explain the reason(s) why you feel the circumstances warrant a change of sentence in your case.

C. You may attach up to 4 additional pages. **All attachments must accompany the petition to be processed and will not be returned to the petitioner.**

D. If you are applying for an **early discharge commutation**, you must complete the following:

Mailing Address: _____
Physical Address: _____
Telephone Number: _____
Message Number: _____
Email Address: _____

NOTE: A petition must be received at the Commission office by the first day of the month preceding a quarterly session. The petition must be typed or will not be considered.

The following witness signature is to acknowledge only that the Petitioner is submitting this Petition:

OR Pizzuto Jr.
Petitioner Signature

BREN PILLIPS
Case Manager or Supervising Officer Print Name

[Signature]
Case Manager or Supervising Officer Signature

- (1) Explain exactly what you are requesting the Commission commute or change about your sentence.

Commutation of two death sentences to two sentences of fixed life (life without parole).

- (2) Explain the reasons why you feel the circumstances warrant a change of sentence in your case.

Application for Clemency Hearing and Consideration

“Your mom and dad are supposed to protect you. They’re supposed to feed you, and they’re supposed to clothe you, and they’re supposed to keep the monsters away from you. But the problem is, sometimes the parents are the monsters.”

Angelinna (“Angie”) Pizzuto, Jerry’s sister. Exhibit (Ex.) 1.

Jerry Pizzuto was raised by a monster. A monster who raped him. In the shower. In his bed. In a shed in the woods. A monster who beat him. With a cattle prod. With a horse crop. With a 2x4 across the head. A monster who made him eat in the basement, sleep in a doghouse, and have sex with adult men. This monster never paid a price for inflicting all of this torture. Jerry did. Society did. Most of all, Berta Herndon and her nephew Delbert did.

Jerry Pizzuto is not making excuses for the 1986 deaths of Berta and Delbert Herndon. He accepts responsibility for his role in their murders and is remorseful for their deaths. He has carried those regrets for 34 years on death row.

Mr. Pizzuto asks the Commission to grant him a full hearing, to delve deeply into his ghastly childhood, history of brain damage since birth and brain injuries as a boy, as well as his current, terminal health condition. He recognizes the relief he requests is extraordinary, but he asks the Commission to consider the rare and unique constellation of factors in his application. After hearing the evidence, this Commission should commute his sentence to life without parole.

I. Knocking on Death's Door

At 64, Mr. Pizzuto is a frail shell of the man he once was. He has stage 4 cancer and is approaching natural death. He has begun experiencing memory loss and mild disorientation associated with the death process. Ex. 2. In hospice for over a year and confined to a wheelchair, he suffers from terminal bladder cancer, serious heart disease and a bevy of other illnesses that are expected to take his life soon. Ex. 3. His physicians estimated his life expectancy at less than 12 months, as of December 2019. Ex. 4. On March 3, 2021, Mr. Pizzuto's prison doctor noted that he "suspect[ed] . . . some level of metastasis . . . is occurring." Ex. 5. He will likely die very soon.

In addition to the terminal bladder cancer, Mr. Pizzuto has a number of other acute conditions, including chronic heart and coronary artery disease, coronary obstructive pulmonary disease (COPD), and Type 2 diabetes with related nerve damage to his legs and feet. Ex. 3. He has suffered two heart attacks and has four stents around his heart. Ex. 6.

The idea that such a sick, feeble man presents enough of a danger to society that he must be executed is far-fetched. And it is made even more implausible by Mr. Pizzuto's record in prison, which shows that he has not received a single disciplinary write-up in the last ten years. Ex. 7.

Mr. Pizzuto's terminal illness is reason enough for commutation. A number of religious leaders oppose this execution, and his illness is cited by many of them. Ex. 8. His looming death from natural causes makes going forward with his execution an unnecessary exercise, with significant operational and personnel costs for the State.

II. A Tap in the Middle of the Night

Bud Bartholomew often came for his young stepson Jerry in the middle of the night. He'd tap Jerry's head with a flashlight, put a hunting knife to his throat, and the abuse would begin.

Ex. 9. Bud savagely beat and raped Jerry. He would string Jerry up in the garage with extension cords and boot laces, tie his hands over his head to a pole, and rape and beat him. Ex. 1.

Jerry was also raped by Bud in the woods, in Bud's car, Ex. 10, and by Bud's buddies. Sometimes Bud charged his friends \$10 or \$20 to have sex with Jerry and his siblings, depending on what kind of sex was requested. Exs. 11, 12, 13. Bud took nude photos of his step-kids too, sometimes alone, sometimes in sexual positions with each other. Exs. 12, 13.

Bud began physically and sexually assaulting Jerry when he was 5 or 6, not long after Bud and Jerry's mother were married. Jerry first reported the sexual abuse to his aunt. He was walking bowlegged and crying that he had been stung by a bee. Exs. 14, 11. When she asked him to show her, Jerry revealed his testicles, black and blue and swollen. The tip of his penis was bloody. Exs. 14, 11. Jerry's aunt pressed him on whether it was a bee sting and Jerry confided in her that his step-father had done this to him. Ex. 14. Jerry's mother put onion slices on his testicles to reduce the swelling, Ex. 1, but didn't protect her son from further abuse. Ex. 15 at 3, 19.

Bud abused all his step-children, but singled out Jerry for the worst of it. Exs. 12, 13. Jerry would be beaten until he was bleeding, Ex. 16, or unconscious, and many times to the point where he would have convulsions. Exs. 17, 11. Jerry was once "delivered" back to his sister, convulsing, having been beaten from head to toe. Ex. 15 at 4. She was ordered by her step-father

to clean Jerry up, so she and another sibling put Jerry in the bathtub and washed him in cold water. Ex. 15 at 4. He had cuts, bruises, and skin missing from his back. They did not have enough band-aids, so they tore up an old sheet and wrapped Jerry like a mummy. Ex. 15 at 4.

Jerry's sister Elsie remembered that Bud seemed to get “big pleasure” from the abuse, “lining us all up ... he'd beat you with the horsewhip once. Whack. Then through the group twice ... fifteen ... sixteen ... twenty-five. You're dropping on the floor unconscious at that point.” Ex. 15 at 18–19.

When Jerry was 6, Bud hit him on the back of the head with a 2 x 4 piece of lumber. Ex. 14. He got backhanded across the room once because he didn't know how to tie his shoelaces and let a sister do it for him. Ex. 15 at 2–3. One time Jerry was stabbed with a fork by his step-father for putting his elbows on the table. Ex. 18. Another time, Bud beat Jerry down with a tall metal milk can from the dairy barn. Ex. 15 at 17. Bud also had other tools he liked to use, a cattle prod, a horse crop, a broom, a belt buckle, sticks, or just kicking with his cowboy boots. Ex. 11.

Jerry was also beaten for things his siblings had done. Jerry's step-sister recalled him being beaten across the back with a horse whip until he bled. The infraction—*she* had played with Bud's fountain pens. Ex. 18. The horse whip was a metal bar with leather straps at the end. Exs. 11, 9. It lacerated their arms, legs and backs. Ex. 11.

I don't know that we make the right words to describe how bad it was. It was a horrific set of growing up years with physical and sexual and emotional abuse, particularly --- particularly taken out on Mr. Pizzuto.

But not only was there horrific abuse that was perpetrated, but just an incredible depersonalization of it. As I understand it, not being able to live in the house, depending on -- different folks indicating either at all or for extended periods, not being allowed to eat with Bartholomew children, just many different ways that not only was the abuse perpetrated, but a real depersonalization that went on.

~Dr. Roger Moore, Expert Witness for the State of Idaho, 2010. Ex. 19.

The children feared or endured violence every day, and never lived long enough, anywhere, as Bud uprooted the family haphazardly, hopscotching from one place to the next to dodge abuse investigations. Ex. 15 at 8, 18, 25–26. The siblings would go to school with noticeable bruises after a night of pounding by Bud. Ex. 15 at 18. When they returned home from school they were told to get in the car, “[e]verything you knew was gone. All you had was the clothes on your back. And you were going off somewhere else, and the whole time you were being drilled on what your new last names were.” Ex. 15 at 18.

Bud’s emotional abuse added insult to the physical injuries, and he piled it on Jerry more than the others. After raping Jerry, Bud ordered him to go outside and get some chores done. Ex. 15 at 60. Jerry was angry and inconsolable, but managed to get a fire going in a barrel to burn garbage. Ex. 15 at 60. Bud approached holding the teddy bear Jerry had gotten for Christmas. It was Jerry’s favorite gift, and a rare source of comfort in his horrible life. Bud taunted him and threw it into the fire, screaming “[y]ou son of a bitch. You like this? You love your Teddy bear? Watch it burn.” Ex. 15 at 60.

Angie and Toni, another Pizzuto sister, recalled that the Pizzuto kids were forced to eat in the basement by themselves because they weren’t Bud’s kids. Exs. 1, 11. Sometimes, they had to sleep outside with the dogs in the dog house, and eat Gravy Train dog food. Ex. 1.

Violence was the rule, not the exception. “Just a day in the life,” as Elsie described it. “I don’t know that people can really understand that, you know, the daily, daily emotional torture, physical abuse, sexual abuse. [Bud] was just a horrible predator and a really evil man.” Ex. 15 at 4. Elsie continued:

“I just wish that I could convey how really terrible it was. We’re not talking about, oh, my dad spanked me last night and maybe hit me once too many times. ... It just was an onslaught. ... Day after day, night after night. You could be asleep in your bed and be yanked out by your hair in the middle of the night and drug off

and raped. ... And maybe he had a friend there, okay? So then you have to get up the next day and go to school and act like everything is fine. ... And you're just a kid trying to get a life, you know. Trying to live. ... In particular, he [Jerry] and [our sister] Angelin[n]a." Ex. 15 at 67–68.

The tragedy of Jerry's life is that nobody was able to intervene and save him from the brutality that tortured and broke him as a child, not even his own mother. Ex. 15 at 3, 19. His step-father's ability to avoid punishment, by disappearing to a new town when he sensed trouble from the law, prevented the children from getting the help they desperately needed. As Elsie said, "somebody should have believed and somebody should have stepped up and helped us. ... It's not like we didn't ask for it, because we did. ... It's just nobody believed you when you were a child, you know." Ex. 15 at 52.

Elsie described the extent and effects of the abuse in her family as comparable to the trauma of war:

You know, I watched this movie with Marlon Brando, and it was, you know, Vietnam. And they're going off this river, and he goes crazy. ... in the end they find him, and he's just babbling to himself, and all he can say is, "The horror. The horror." ... And so I look at my brothers and sisters, and I feel like they've been through horror that most people couldn't survive. Ex. 15 at 22.

Unlike veterans of war though, Elsie, Jerry, and their siblings were children. "You hear about veterans that go off to war. Well, we were veterans when we were ten years old." Ex. 15 at 28. While veterans now get help for their PTSD, Jerry received no help and was left to suffer alone with a monster.

III. Behind From The Start

Jerry was the odd kid a lot of adults remember from their own childhood. The one who soiled his pants and didn't seem to notice, or care. The kid who ate dirt, and bugs, was left to play by himself, and got left back in school more than once.

He was born five weeks prematurely, Exs. 14, 20, 21, and a series of brain injuries on top of all the child abuse and trauma helped to further stunt his development. And it stole his ability to fit in, make good decisions, interact with others, and control his behavior.

When Jerry was two and a half years old, he fell down a double flight of stairs into the basement, fractured his skull, and was hospitalized in a coma. Exs. 22, 20, 21. At 14, he was in a serious motorcycle accident. Exs. 21, 23. Paramedics found him unconscious and bleeding from his mouth, lips and nose. Ex. 23. His right frontal sinus region was fractured. Ex. 23. He was hospitalized for three days. Ex. 23.

That accident changed him. Exs. 22, 21. He became more prone to aggressive and violent outbursts, “it was like they took off the stoppers” and “the inhibitions were gone.” Ex. 1.

Mr. Pizzuto’s brain is damaged. It is smaller than normal, with a higher than usual amount of damaged tissue. Ex. 24. He has deficits in impulse control, language skills, verbal fluency, memory, reasoning and problem solving, and poor decision-making skills. Exs. 22, 25. Jerry has a long history of seizures and organic brain damage that significantly affected his mental capacity and ability to function in everyday life. Ex. 25.

My kids were smart enough to wipe their nose. He wasn't. At six, my kids always wiped their nose. And my kids didn't eat dirt and they didn't eat bugs.

* * *

Because -- because -- it stands out in my mind so clearly because he would sit and watch, and with the runny nose, stare at the hole. The ants would come out. And he would eat the dirt and it would stick to the snot on his face.

Kismet Winslow – Jerry’s Aunt. Ex. 14.

He was slow to learn. He had very basic vocabulary and took a long time to get words out. He preferred to use gestures to get what he wanted and to indicate his needs. Exs. 26, 14. Jerry had difficulty listening, understanding others, and could not follow directions. Ex. 26.

Jerry did poorly in school. He repeated several grades, which was further isolating because he was maturing faster physically than his younger classmates. Ex. 26. In sixth grade, for example, he was growing a mustache. Ex. 27.

At the time, special education was not available. Exs. 26, 27, 28. Despite being older than other students, Jerry performed at the bottom of his class. Exs. 26, 27. Despite failing grades, Jerry was promoted from one grade to the next. Ex. 29. His siblings often had to do his homework for him. Exs. 26, 13.

Socially, Jerry was a quiet kid who had trouble bonding with other kids. Ex. 26. Jerry kept to himself and played by himself – always an outsider to the kids he grew up with, who often didn't want to play with him due to his strangeness. Exs. 26, 16. Jerry's aunt recalled that Jerry's level of play was much lower than that of her children - "[m]y children could not relate to Jerry, and he could not keep up with them. When the other children shunned him, Jerry would either sit alone or come crawl into my lap." Ex. 30.

Jerry could be easily tricked too. Ex. 26. For example, his sister Angie would goad Jerry into grabbing the electric fence on the farm, telling him it was off. Jerry would grab the wire, and get shocked. Then a day or two later, she would repeat the trick and Jerry would fall for it again. Ex. 17.

I remember vividly coming into a room and Jerry was standing on a chair in the middle of the room. We had a dangling light socket that came down, kind of on a cord. And I came into the room and he was standing on a chair. And he licked his thumb and stuck his finger in the light socket. It blew him clear across the room.

~Elsie Pizzuto Rado, Jerry's sister. Ex. 17.

Jerry also had problems taking care of his basic needs. Exs. 12, 13, 30. He relied on his younger sisters to groom and feed him. He wore his clothes inside out or backward, and he put his shoes on the wrong feet. Exs. 26, 17. He was always dirty, and he would not bathe unless he was told.

Exs. 26, 14, 16, 31, 17, 13. Sometimes he would forget to put on his shirt, a sock, or a shoe. Ex. 30. When his nose ran, “he did not even appear to be aware of the mucus that ran and caked down his face.” Ex. 30. Jerry wet his pants at school and ate dog biscuits. Exs. 26, 14.

I just thought he was slow. He was -- he was slow to grasp things. He was dirty, no matter. I gave him a bath, but he -- if he was engaged in something outside, he would mess his pants and not say a word, and just walk around that way. And then I would catch him and see him, or one of the other kids would tattle that he has messed his pants. So he was just unkempt. He was not a child that you would want to hug a lot.

~Ruth A. Roath, Jerry's aunt. Ex. 31.

Conclusion

Mr. Pizzuto never had a chance in life. He was tortured in unimaginable ways throughout his childhood. Merciless beatings and savage rapes battered and scarred that little boy. No one was there to save Jerry from the unrelenting attacks of his own step-father, a man who should have loved and protected Jerry.

Mr. Pizzuto has been punished substantially for his own crimes, spending every day of the past 34 years —more than half his life— isolated in a tiny cell on death row. The ravages of terminal cancer and heart disease punish him more every day, binding him to a wheelchair, a prisoner of his own failing body. Once a battered and wounded little boy, Jerry is now a dying and broken old man.

While it is too late to save that little boy, it is not too late to show Jerry Pizzuto mercy. He asks that you please grant him a hearing, so he may have the chance to show why mercy and commutation of his death sentence to life without parole is warranted. Let his imminent death from natural causes take him, without going through an unnecessary, expensive, resource-consuming and trauma-inducing execution.

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 1

**(Transcript of Selections from Interview of Angelinna Pizzuto
on October 16, 2019)**

Transcript of “Angie video 1”
Selections from Interview of Angelinna Pizzuto on October 16, 2019 in Boise, Idaho
Interviewed, videotaped, and edited by Linda Mroz and Greg Worthen,
Capital Habeas Unit Investigators
Transcribed by L. Hollis Ruggieri, Capital Habeas Unit Paralegal

A. Jerry and I have an uncanny connection between us. When he’s sick I’m sick, when he has a heart attack I have a heart attack. It sounds crazy but we feel each other. We just - we always have. We always have. It’s like we’re twins. It’s, it’s crazy. But it just, just how it is with us. This is, this is really hard.

[video cuts]

A. Jerry and I did so much as kids. Uh, you know, we used to get thrown outside a lot together. I was telling Emil about that. We never starved, Jerry and I. They used to throw us outside together and we’d sleep in the doghouse together. And throw Jerry out first and then they’d throw me out. Jerry’d ask me, “you got peanut butter?” And I’d say, “yeah, you got gravy train?” “Yeah.” Cause they’d, we’d throw us out in the yard and we had Elkhound dogs. So, we’d get in the doghouse together and we’d be between the dogs, Grettle’d be there and Hansel’d be there. And we’d snuggle between us, between them, and Jerry’d say, “got peanut butter?” “Yeah, you got the gravy train?” We’d take the gravy train and dunk it in the peanut butter.

[Return to Petition Page 6](#)

[video cuts]

A. And if Jerry tried to protect us girls then he’d get a beating. He’d not only hit Jerry with a belt. He’d, he’d punch him, beat him up, take him out to the garage, and tie him like this (raises hands above head with wrists crossed), tie him up, to the pole, face first this way, and rape him, beat him. Like I said, there were times that Jerry would be so bad, his testicles were swollen so big my mom would have to put onions on ‘em to bring the swelling down.

[Return to Petition Page 4](#)

[video cuts]

A. And I hated Bud, I hated him with a passion.

[video cuts]

A. Because, he was raping us kids and beating with a horsewhip. You know? I hated him. Flat out hated him.

[video cuts]

A. I hated him. Oh, we all did, but you know, he beat us a lot, was raping us kids. And I told and nobody believed me.

[video cuts]

A. We were Pizzutos. They made uh, uh what can I use as an example? (Looking around room). Like a pig trough, it was about this long, but about that high. (Indicating size on cabinets). Down in the basement. And us Pizzutos had to eat down there and Rene too, she wasn't a Pizzuto she was a Paris, we had to eat down there, in the basement, because we weren't Bud's kids.

[Return to Petition Page 6](#)

[video cuts]

A. Elsie just was put in a position where she was the biggest, uh, she was a lot taller than me, heavier than me, and she was like the "hero," "the leader" of the kids. She had to cook, clean, and, you know, take care of us. So, Elsie wasn't really, uh, I don't know how to put this, abused as much as the rest of us kids because, uh, she was in control of cooking and cleaning and taking care of the babies. So, Elsie wasn't put in that position as much as the rest of us.

[video cuts]

A. He hated Jerry. He beat Jerry and me a lot. He used to tie Jerry to the post out in the garage, and beat him. I can remember times he beat Jerry so bad that his testicles would swell so big mom would have to take onions and cut 'em in half and put them on Jerry. Yeah.

[video cuts]

A. Bud was crazy. He'd ask you to get him a towel while he was in the shower and then drag you in there and then rape you. He was crazy, I don't know how else to put it. Just nuts.

[video cuts]

A. Jerry had a massive head injury when he was like eleven. Eleven years old.

Q. Can you describe that, please?

A. We were living in Spokane, Washington, and um, Jerry had a ten-speed bike and he built a ramp, like this (indicating with her hand that it was at an incline). And uh, I was babysitting down the street, cuz I'd been working since I was about nine. And he went round and round and round and round it like this (indicating a circular motion with her hand), and then he came off the ramp on that bike and he went off of it and it collapsed, the front of the bike collapsed and he hit right here (indicating right in the middle of her forehead with her index finger). And it opened the top of his head open here (indicating lengthwise on the top of her head from the hairline back). Really bad. I'll never forget it.

[video cuts]

A. After that Jerry was more violent, more outbursts.

[video cuts]

A. He never hurt me before that. Never hurt me, but he was more, I guess aggressive is the word, after that. But he was very protective of with me until then, up, in that way, but he got more aggressive, or you know, he was really protective. I don't know how to explain it. But

he wouldn't take it to such limits before that. Where it was like they took off the stoppers. Jerry would get in your face and push you, but, after that, he wasn't afraid to hit ya. You know, like the inhibitions were gone, you know? [Return to Petition Page 8](#)

[video cuts]

A. Yeah, he, like two years later, that he was out of control and mom put him in the Boys Ranch, and then he went and lived with dad.

[video cuts]

A. As a kid, I mean, we were all pretty much knocked around as a kid. Bud used to love to backhand us, you know? All the time. I got hit a lot. That was one of his favorite things. He either backhanded you or fisted you on top of your head so it was kind of hard to tell.

[video cuts]

A. Jerry didn't write very well, so Elsie and I always did his homework and we did Rene's. Rene wasn't good at it either. Catholic school was different back then. So, cause they flunked Jerry back to be in school with me, he was, we was always in the same grade since about the third grade.

[video cuts]

A. So he was always in the same class with me from about third grade forward. And it was easier, mom was, you know, told us to do his work. She was embarrassed that he flunked a year. He was with Elsie, Elsie was put out with it so he just stayed in class with me and we carried him, the whole way. That's what we did. It was easier for us to do his homework, cause mom was embarrassed.

[video cuts]

A. Jerry can't hardly write so, you know, they didn't care so long as it all got done. It was our responsibility. "Take care of your brother." The nuns were the same way about that.

[video cuts]

A. All we have is each other. Been that way for a long goddamned time. Family ain't supposed to be like that but I've learned it. Nothing in life is the way it's supposed to be. Your parents are supposed to protect you and they don't. No. You grow up thinking life's a fairy tale, you know? Your mom and dad are supposed to protect you. They're supposed to feed you and they're supposed to clothe you and they're supposed to keep the monsters away from you. But the problem is sometimes your parents are the monsters. You know? So what do you do? You try to survive and, you know, you grow tough skin. [Return to Petition Page 2](#)

[video cuts]

A. I'm just glad that some of them guards take care of him. He's got friends in there. I just feel so helpless, to do anything for him. I do what I can and it's not enough, you know, I can't send him enough money and I can't tell him it's gonna be ok because it's not ok.

[end of video]

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 2

**(First excerpt from Gerald Ross Pizzuto, Jr.'s
medical records)**

Mr. Pizzuto has stage 4 cancer and is approaching natural death. He has begun experiencing memory loss and mild disorientation associated with the death process. He requires regular clinical contact for support.

[Return to Petition Page 3](#)

Natural death process, unspecified depressive disorder.

Rev #: 936

Plan

Active Drug Prescription Orders (1 - 7 of 7)

Prescription/Medication	National HIE Code(s)	Effective Date	Dosage	Frequency	Expiration	Status
OXYCODONE HCL (IR) TABS 20 Mg Tabs	RxNorm: 1049686 - oxyCODONE HCl 20 MG Oral Tablet;	03/04/2020	1 tablet	EVERY 4-6 HOURS	04/02/2020	Administration Missed
OXYBUTYNIN CL TBCR 5 Mg Tb24	RxNorm: 863636 - 24 HR Oxybutynin chloride 5 MG Extended Release Oral Tablet;	02/26/2020	1 tab	THREE TIMES DAILY	08/23/2020	Received from Pharmacy
ESCITALOPRAM OXALATE TABS 5 Mg Tabs	RxNorm: 351249 - escitalopram (as escitalopram oxalate) 5 MG Oral Tablet;	01/29/2020	1	EVERY EVENING	08/25/2020	Received from Pharmacy
OMEPRAZOLE CPDR 40 Mg Cpdr	RxNorm: 200329 - Omeprazole 40 MG Delayed Release Oral Capsule; 317451 - Omeprazole...	01/28/2020	1	TWICE DAILY	07/25/2020	Received from Pharmacy
NITROGLYCERIN SL (25) SUBL 1/150 (0.4Mg) Subl	RxNorm: 198039 - Nitroglycerin 0.4 MG Sublingual Tablet;	12/30/2019	1	USE AS DIRECTED	12/28/2020	Received from Pharmacy
DOCUSATE SOD CAPS 100 Mg Caps	RxNorm: 1483571 - Docusate Sodium 100 MG Oral Capsule [DOK];	11/20/2019	2 caps	EVERY DAY	11/18/2020	Received from Pharmacy
ALBUTEROL HFA (8.5GM) INHA 90 Mcg Aers	RxNorm: 745679 - 200 ACTUAT Albuterol 0.09 MG/ACTUAT Metered Dose Inhaler; 745752 -...	06/17/2019	1-2 PUFFS	FOUR TIMES DAILY AS NEEDED	06/10/2020	Received from Pharmacy

Ordered Drug Prescriptions

Prescription/Medication	National HIE Code(s)	Effective Date	Dosage	Frequency	Expiration	Status
No Rows Found						

Lab Test Orders

Lab Test Type	National HIE Code(s)	Priority	Status	Results	Value
No Rows Found					

X-Ray Orders

X-Ray Body Area	National HIE Code(s)	Priority	Status
No Rows Found			

Consultation Request

Request Type	Service Type	Priority	Status
No Rows Found			

Follow-up Appointments

Date	Time	Type	Staff	Location
No Rows Found				

Patient Transfer Holds

Type	Expiration Date	Status
No Rows Found		

Other Actions/Procedures

No Rows Found						
---------------	--	--	--	--	--	--

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 3

(Second excerpt from Gerald Ross Pizzuto, Jr.'s medical records)

Encounter Header

Date*: 11/04/2019 Start Time*: 12:37:30 PM (MT)
 End Date*: 11/04/2019 End Time*: 12:38:58 PM (MT)
 Category: Medical Practitioner
 Type*: Practitioner - Follow up Encounter Close Date: 11/04/2019
 Location*: Idaho Maximum Security Institution [IMSI] Encounter Close Time: 10:13:29 PM (MT)
 Setting*: Clinic
 Staff Member*: Dawson, April
 Title: Regional Medical Director
 Form Type:

Subjective

Related Health Service Requests

Request Date	Area of Interest	Request Type	Status
No Rows Found			

Subjective Notes

Here to follow up after being placed on hospice care 11/1/19. Wanted to assure patient had not changed his mind about being on hospice and check on response to multiple medication changes. Patient states he feels great today. Does report that he has fallen in his cell. Has hard time getting dressed sometimes. Reports he urinated well today with only a little blood. Agrees to stop his cholesterol medication and the iron tablet. Reports stool is soft and "explosive" when passes, no constipation

Objective

Public Medication History

Date	Additional Message Elements	Patient Information	Medication Dispensed	Pharmacy	Prescriber	Patient Medication Confirmation
No Rows Found						

Vital Signs (1 - 2 of 2)

Time	Temp	Pulse	Resp	Height	Weight	BP Sys	BP Dia	Blood Sugar	BMI	O2	Comments
12:37 (MT)	97.9	77	16	5 10	185	116	64	NA	26.54	99.00	
11:05 (MT)				5 10				149			

Objective Notes

VSS, BP a little higher, Patient alert and laughing, appears very comfortable sitting in his Wheel chair
 No PE today

Assessment

Medical Diagnosis/Complaint

ICD Code	Diagnosis/Complaint
No Rows Found	

Active Allergies/Health Problems/Conditions (1 - 21 of 21)

ID Number	Category	Type	National HIE Code(s)	Diagnosis Code	Status	Status Date	Onset Date
002	Other Diagnosis	Other Diagnosis	SNOMED: 87522002 - Iron deficiency anemia (disorder) ⓘ	Iron deficiency anemia, unspecified [D50.9]	Assessed	09/20/2016	09/20/2016
003	Other Diagnosis	Pt. Specific Chronic Condition	SNOMED: 255108000 - Carcinoma of bladder (disorder) ⓘ	Malignant neoplasm of bladder, unspecified [C67.9]	Assessed	09/21/2016	09/21/2016
004	Chronic Conditions	Heart Disease	SNOMED: 413838009 - Chronic ischemic heart disease (disorder) ⓘ	Chronic ischemic heart disease, unspecified [I25.9]	Assessed	09/21/2016	09/21/2016
005	Allergies - Medication	Procainamide			Assessed	09/23/2016	
006	Allergies - Medication	mysoline			Assessed	09/23/2016	09/23/2016
007	Other Diagnosis	Pt. Specific Chronic Condition	SNOMED: 278860009 - Chronic low back pain (finding) ⓘ	Other intervertebral disc degeneration, lumbar region [M51.36]	Assessed	11/16/2016	11/16/2016
008	Chronic Conditions	Diabetes Type II	SNOMED: 424736006 - Diabetic peripheral neuropathy (disorder) ⓘ	Type 2 diabetes mellitus with diabetic neuropathy, unspecified [E11.40]	Assessed	12/07/2016	12/07/2016
009	Chronic Conditions	Hypertension	SNOMED: 1201005 - Benign essential hypertension (disorder) ⓘ	Essential (primary) hypertension [I10]	Assessed	12/07/2016	12/07/2016

39 100909

Assessment

Medical Diagnosis/Complaint	
ICD Code	Diagnosis/Complaint
No Rows Found	

Active Allergies/Health Problems/Conditions (1 - 20 of 20)							
ID Number	Category	Type	National HIE Code(s)	Diagnosis Code	Status	Status Date	Onset Date
002	Other Diagnosis	Other Diagnosis	SNOMED: 87522002 - Iron deficiency anemia (disorder) ⓘ	Iron deficiency anemia, unspecified [D50.9]	Assessed	09/20/2016	09/20/2016
003	Other Diagnosis	Pt. Specific Chronic Condition	SNOMED: 255108000 - Carcinoma of bladder (disorder) ⓘ	Malignant neoplasm of bladder, unspecified [C67.9]	Assessed	09/21/2016	09/21/2016
004	Chronic Conditions	Heart Disease	SNOMED: 413838009 - Chronic ischemic heart disease (disorder) ⓘ	Chronic ischemic heart disease, unspecified [I25.9]	Assessed	09/21/2016	09/21/2016
005	Allergies - Medication	Procainamide			Assessed	09/23/2016	
006	Allergies - Medication	mysoline	Return to Petition Page 3		Assessed	09/23/2016	09/23/2016
007	Other Diagnosis	Pt. Specific Chronic Condition	SNOMED: 278860009 - Chronic low back pain (finding) ⓘ	Other intervertebral disc degeneration, lumbar region [M51.36]	Assessed	11/16/2016	11/16/2016
008	Chronic Conditions	Diabetes Type II	SNOMED: 424736006 - Diabetic peripheral neuropathy (disorder) ⓘ	Type 2 diabetes mellitus with diabetic neuropathy, unspecified [E11.40]	Assessed	12/07/2016	12/07/2016
009	Chronic Conditions	Hypertension	SNOMED: 1201005 - Benign essential hypertension (disorder) ⓘ	Essential (primary) hypertension [I10]	Assessed	12/07/2016	12/07/2016
010	Chronic Conditions	Dyslipidemia	SNOMED: 55822004 - Hyperlipidemia (disorder) ⓘ	Hyperlipidemia, unspecified [E78.5]	Assessed	12/07/2016	12/07/2016
011	Chronic Conditions	Chronic Obstructive Pulmonary Disease (COPD)	SNOMED: 13645005 - Chronic obstructive lung disease (disorder) ⓘ	Chronic obstructive pulmonary disease, unspecified [J44.9]	Assessed	12/07/2016	12/07/2016
012	Other Diagnosis	Other Diagnosis	SNOMED: 156329007 - Seborrheic dermatitis of scalp (disorder) ⓘ	Seborrheic dermatitis, unspecified [L21.9]	Assessed	12/12/2016	12/12/2016
013	Other Diagnosis	Other Diagnosis	SNOMED: 45326000 - Shoulder pain (finding) ⓘ	Pain in right shoulder [M25.511]	Assessed	01/09/2017	01/09/2017
014	Other Diagnosis	Other Diagnosis	SNOMED: 403059006 - Onychomycosis of toenails (disorder) ⓘ	Tinea unguium [B35.1]	Assessed	08/08/2018	08/08/2018
015	Other Diagnosis	Other Diagnosis	SNOMED: 6962006 - Hypertensive retinopathy (disorder) ⓘ	Hypertensive retinopathy, bilateral [H35.033]	Assessed	10/31/2018	10/31/2018
016	Other Diagnosis	Other Diagnosis	SNOMED: 193570009 - Cataract (disorder) ⓘ	Age-related nuclear cataract, bilateral [H25.13]	Assessed	10/31/2018	10/31/2018
017	Chronic Conditions	Diabetes Type II	SNOMED: 1481000119100 - Diabetes mellitus type 2 without retinopathy (disorder) ⓘ	Type 2 diabetes mellitus without complications [E11.9]	Assessed	10/31/2018	10/31/2018
018	Other Diagnosis	Other Diagnosis	SNOMED: 134407002 - Chronic back pain (finding) ⓘ	Low back pain [M54.5]	Assessed	12/21/2018	12/21/2018
019	Other Diagnosis	Other Diagnosis	SNOMED: 301011002 - Escherichia coli urinary tract infection (disorder) ⓘ	Urinary tract infection, site not specified [N39.0]	Assessed	06/21/2019	06/21/2019
020	Other Diagnosis	Other Diagnosis	SNOMED: 16331000 - Heartburn (finding) ⓘ	Heartburn [R12]	Assessed	06/28/2019	06/28/2019
021	Other Diagnosis	Other Diagnosis	SNOMED: 401314000 - Acute non-ST segment elevation myocardial infarction (disorder) ⓘ	Non-ST elevation (NSTEMI) myocardial infarction [I21.4]	Assessed	08/07/2019	08/07/2019

Related Allergies/Health Problems/Conditions							
ID Number	Category	Type	National HIE Code(s)	Diagnosis Code	Status	Status Date	Onset Date
No Rows Found							

Assessment Notes

Urology consult in the hospital did opine that Plavix might have to be held for several days if hematuria did not gradually resolve. Inmate had stents placed in July 2019 and Plavix should be continued if at all possible.

Plan

Treatment Orders				
Category	Type	Frequency	For Days	Specify Comments
No Rows Found				


Active Drug Prescription Orders (1 - 20 of 20)

39 099897

CHSS027C - Health Services Encounter

Name: PIZZUTO, GERALD R.

IDOC#: 23721

 The encounter date/time does not match the date/time the encounter information was entered. The encounter was entered on 03/12/2020 at 14:39:32.

Encounter Header

Date*: 03/11/2020 Start Time*: 03:37:52 PM (MT)
 End Date*: 03/12/2020 End Time*: 03:49:19 PM (MT)
 Category: Mental Health
 Type*: MH - Clinician - Assessment/Update Encounter Close Date: 03/12/2020
 Location*: Idaho Maximum Security Institution [IMSI] Encounter Close Time: 03:49:20 PM (MT)
 Setting*: Clinic
 Staff Member*: Hoyle, Amy
 Title: Mental Clinician
 Form Type: MH Assessment

Subjective

Related Health Service Requests

Request Date	Area of Interest	Request Type	Status
No Rows Found			

Subjective Notes

I met with Mr. Pizzuto in the J2 day room. I have placed in on a CMHS1 LOC for end of life support services. He has stage 4 cancer and is not expected to live much longer. He has begun experiencing disorientation and memory loss. He requires regular contact with a clinician.

[Return to Petition Page 3](#)

MH Assessment - Subjective

Type of Assessment:

Initial Assessment Annual Follow-Up General Assessment

Presenting Problem/Reason for Assessment: (List of current symptoms or concerns and the source of information) Current Housing Assignment: J2 Primary Language: English Current Charge and Sentence: Death Is this your first time in prison?

Y N
 If Mr. Pizzuto is approaching the end of his life due to stage 4 cancer and [redacted] ent of Correction? requires clinical support.

If yes, when, where: **1. Are you currently thinking about killing or harming yourself?**

Y N

(If yes, contact the Shift Commander and Follow Policy 315) 2. Are you currently thinking about harming anyone else?

Y N

3. Have you ever considered suicide?

Y N

4. Has anyone close to you ever committed suicide?

Y N

5. Have you ever hurt yourself without the intent of committing suicide?

Y N

MENTAL HEALTH/PSYCHIATRIC HISTORY 6. Have you ever heard things that other people said they could not hear or heard a voice when no one was there?

Y N

If yes, did these voices tell you to hurt yourself or someone else?

Y [redacted] ple said they could not see or saw someone when no one was there?

Y N

Can you describe what you experienced? 8. Have you ever felt things, smelled or tasted things, when there was nothing there?

Y N

Can you [redacted]

Y N

If yes, what?

Y N

10. Family Psychiatric History?: Who; What; Did they receive treatment? 11. Have you ever been hospitalized for psychiatric reasons?

Y N

If yes, [redacted] ?

Y N

If yes, what? 13. Are you currently taking psychiatric medications?

Y N

If yes, what? 14. Have you received any other mental health treatment? (counseling, psychosocial rehabilitation, developmental)

Order changed to BID scheduled; PRN order d/c'd.

TimeStamp: 16 October 2020 13:50:59 (MT) --- User: Laura Stypinski (STYLA01)

NOTES: None

E NOTES: None

STAFF: Epperson, John, MD Medical Doctor

IDOC#: 23721 Inmate Name: PIZZUTO, GERALD R.
ENCOUNTER DATE: 10/01/2020 TIME: 09:09:10 (MT) DURATION: minutes TYPE: Practitioner - Follow up
LOCATION: Idaho Maximum Security Institution [IMSI] SETTING: Clinic

S NOTES: PT w/ PMH DM(insulin dependent) seen in routine f/u at J-Block clinic. He c/o insufficient pain control. States that prev. provider reduced his meds because of hallucinations but thinks that they were reduced to much. Pain in constant predominately in his stomach but felt "all over". Made worse with every activity. Meds help but just not long enough control esp. in the afternoon and evenings. He is requesting that these be adjusted. Pt reports taking pretty good PO. Had a large BM yesterday. Daily urine has large clots. Pt adamantly opposed to having any Foley cath done at this time. Pt is expecting to receive a "Death warrant" at any time. He is not suicidal but doesn't want to take Some of his medications. He does not want his insulin and is aware of the potential for harm to himself. But he is willing to continue with his other medication. He doesn't want his medication dissolved in water and states that he Never checked medicine in the past "despite what They say!". Reports daily activity in cell. Using his wheelchair as walker to ambulate about his cell. No other issues at this time.

O CURR: 08:09:10 TEMP: 97.9 PULSE: 78 RP: 18 BP: 133/70 HT: 5 ft. 10 in. WT: 167 lb BLOOD SUGAR: NA
02 SAT: 95.00% SOURCE: Room Air
NOTES:

Gen: frail male in NAD.

HEENT: ONP dry but otherwise benign, no lesions, no stridor. Neck supple no LA. No JVD.
CV: RRR s/ m, r, g
PULM: CTA B, no wheezing.
ABD: slightly tender to palp on Right side, less so w/ slow compression, +BS. No appreciable masses but sitting in WC for eval.
Ext: no deform, 2+ pulses
Neuro/Psy: AA&Ox3, no ideations or delusions.
Skin: No acute Rash or lesions. Occ. excoriations on forearms but no infxn.

A NOTES:

Hospice/Comfort measures

Pain:
- inadequate control

DM:
- pt adamantly refusing insulin and is aware of negative consequences including death.
- No SSx DKA at this time.

P DRUG PRESCRIPTION: OXYCODONE HCL (IR) TABS 30 Mg Tabs VERBAL BY: Epperson, John, MD
EFFECTIVE DT: 10/01/2020 RT: PO DOSE: 1 STRENGTH: 30 Mg METHOD: Normal Dose
FREQ: BIDPRN FOR: 30 DAYS EXPIRATION DATE: 10/30/2020 REFILLS: 0 STATUS: Discontinued - Other
DRUG COMMENTS:

Why must this drug be used instead of one included on the formulary? ADJUSTMENT OF PREVIOUSLY AUTHORIZED MEDICATION FOR END OF LIFE CANCER PAIN

What formulary drugs have been tried? MULTIPLE

What was outcome? INADEQUATE PAIN RELIEF

DISPENSE #60 (sixty) OXYCODONE 30MG PO BID FOR PAIN (am and noon dosing)

Order changed to BID scheduled, PRN order d/c'd.

TimeStamp: 16 October 2020 13:51:41 (MT) --- User: Laura Stypinski (STYLA01)

NOTES:

Comfort care w/ selective med mgt. per pts request. NO INSULIN but OK to continue w/ prev. meds at this time.

Pain:
- Increase Am and noon Oxy to 30 mg, keep PM and HS at 20 mg.

DM:
- Monitor for SSx DKA and Tx according to pt's wishes (re-address at each visit to determine if pt. willing to change mind.)

E NOTES:

Pt A&A w/ POC that he is self directing. QIA.
TimeStamp: 1 October 2020 09:24:28 (MT) --- User: John Epperson (EPPJO01)

STAFF: Epperson, John, MD Medical Doctor

CHSS037B - Drug Prescription Order

Name: PIZZUTO, GERALD R.

IDOC#: 23721


Ordered Date: 10/01/2020 Time: 04:49:06 PM (MT)
 Encounter Type: Practitioner - Medication Renewal
 Location: Idaho Maximum Security Institution [IMSI] Staff: Epperson, John, MD
 Order Number: 0550703 Rx Number:
 Ordering Practitioner*: Epperson, John, MD Sequence Number: 01

Prescription

Diagnosis Code*: Malignant neoplasm of bladder, unspecified [C67.9]

 Formulary Non-Formulary

Drug Type: OXYCODONE HCL (IR) TABS 20 Mg Tabs

National HIE Code(s)RxNorm: 1049686 - oxyCODONE HCl 20 MG Oral Tablet; 

Effective Date: 10/01/2020

Generic Acceptable Profile Only:

Dosage*: 1

Dosage Form: Tabs

Strength*: 20 Mg

Frequency*: BIDPRN-TWICE DAILY AS NEEDED

for*: 30 days (Total duration)

Estimated Dispense Quantity*: 120.00 Confirm Estimated Dispense Quantity Indicator: Yes No

Route of Administration*: PO-By Mouth

Method*: Normal Dose

Pill Call* AM: Noon: PM: HS:

Keep on Person?*: No

Expiration: 10/30/2020

Drug on hold start:

Drug on hold until:

Order Information

Pharmacy Indicated # Refills: 0

Refills Issued: 0

Received From Pharmacy:

Status*: Discontinued - Other

As of Date*: 10/16/2020

Authorized By*: Epperson, John, MD

Pharmacy Comments**Comments**

Why must this drug be used instead of one included on the formulary? ADJUSTMENT OF PREVIOUSLY AUTHORIZED MEDICATION FOR END OF LIFE CANCER PAIN

What formulary drugs have been tried? MULTIPLE

What was outcome? INADEQUATE PAIN RELIEF

DISPENSE #60(sixty) OXYCODONE 20MG PO BID FOR PAIN (PM and HS dosing)

TimeStamp: 1 October 2020 16:54:09 (MT) --- User: John Epperson (EPPJO01)

Order changed to BID scheduled; PRN order d/c'd.

TimeStamp: 16 October 2020 13:50:59 (MT) --- User: Laura Stypinski (STYLA01)

Medication Administration Record (1 - 26 of 26)

Date	Time	Quantity Administered	Source	Outcome	Comments/Addendums
10/15/2020	18:01 (MT)	0.00	Clinic Stock	Held-Vitals Outside of Parameters	
10/14/2020	21:32 (MT)	0.00	Clinic Stock	Not Requested	
10/14/2020	19:10 (MT)	0.00	Clinic Stock	Not Requested	
10/13/2020	20:57 (MT)	0.00	Clinic Stock	Not Requested	

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 4

**(Third excerpt from Gerald Ross Pizzuto, Jr.'s
medical records)**

Encounter Header

Date*: 12/26/2019 Start Time*: 01:45:08 PM (MT)
 End Date*: 12/26/2019 End Time*:
 Category: Medical Practitioner
 Type*: Practitioner - Chronic Care-Follow-up Encounter Close Date: 12/26/2019
 Location*: Idaho Maximum Security Institution [IMSI] Encounter Close Time: 09:17:11 PM (MT)
 Setting*: Clinic
 Staff Member*: Dawson, April
 Title: Regional Medical Director
 Form Type: Chronic Care Clinic Follow Up

Subjective

Related Health Service Requests

Request Date	Area of Interest	Request Type	Status
No Rows Found			

Subjective Notes

Here for CDP. Patient is now being treated as comfort care given his cancer diagnosis and life expectancy of less than 12 month. He is on oxycodone with good pain relief until last few days. Patient states he has already gotten used to it and has pain again. Describes pain in pelvic area that is burning and like "ants crawling". Has urinary urgency but difficulty urinating when he tries. Passes clumps of material in urine and the urine is usually "pink" from blood. Wants to know why he is still on a heart medicine. He states he feels so much better without all the medications he was taking. Wants to stop the carvedilol. States he uses his Albuterol about 3-4 times per week. States he is satisfied with how he is breathing at present. Reports some constipation but does not want to try any other bowel medication. He feels the Colace works good enough.

[Return to Petition Page 3](#)

Here to clarify POST Form. Current POST form shows DNR and aggressive care. When I explained to him what aggressive care would mean he stated that he did not want that. He would not want dialysis or to be on a ventilator. We review the POST form and he signs a new one selecting comfort care only. He is aware that this means we will not send him to the hospital but will "let nature take its course" which is what he states he wants.

Chronic Care Follow Up - Subjective

List Chronic Diseases: 1.HTN2.Hyperlipidemia3.CAD4.Bladder Cancer5.COPD6.Type 2 Diabetes
Asthma: Number of asthma attacks in last month? Number short acting beta agonist canisters in last month? Number times awakening with asthma symptoms per week?
Seizure Disorder: Number seizures since last visit?
Diabetes Mellitus: Number of hypoglycemic reactions since last visit? 0

Gained Lost

Weight loss/gain: 30CV/**Hypertension:**

Yes No

Yes No

Chest pain? Palpitations?

Yes No

Yes No

SOB? Ankle edema? **HIV/HCV:**

Yes No

Yes No

Nausea/vomiting? Abdominal pain/swelling?

Yes No

Yes No

Diarrhea? Rashes/lesions? **For all diseases since last visit, describe new symptoms:**

Yes No N/A

Patient adherence with medications?

Yes No N/A

with diet?

Yes No N/A

with exercise?

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 5

(Fourth excerpt from Gerald Ross Pizzuto, Jr.'s medical records)

CHSS027C - Health Services Encounter

Name: PIZZUTO, GERALD R.

IDOC#: 23721

Encounter Header

Date*: 03/03/2021 Start Time*: 08:53:20 AM (MT)
 End Date*: 03/03/2021 End Time*: 09:31:49 AM (MT)
 Category: Medical Practitioner
 Type*: Practitioner - Sick Call - Scheduled Encounter Close Date: 03/03/2021
 Location*: Idaho Maximum Security Institution [IMSI] Encounter Close Time: 09:31:49 AM (MT)
 Setting*: Clinic
 Staff Member*: Epperson, John
 Title: Medical Doctor
 Form Type:

Subjective

Related Health Service Requests

Request Date	Area of Interest	Request Type	Status
No Rows Found			

Subjective Notes

30 day follow up

*** Patient evaluated in J Block clinic for his 30 day evaluation. There was a medication mixup and his 5 mg morning dose of OxyContin was actually administered 3 times a day. The patient states that he felt that this provided him much better pain control as his pain is continuing to progress. He feels that it is kind of migrating up his abdomen. He still taking in food and having bowel and bladder function. With specific regard to his urination he feels that the Lasix medication is causing him to pee too much and he does not want to take it anymore. He is requesting to discontinue it. Long discussion was made with the patient with regard to his medical care. He has in the past refused different levels of care. We have reviewed his medications. He is agreed to reduce his Lasix and not discontinue it. Furthermore he is allowed us to check his electrolytes to determine if his adjustment is not adversely affecting other aspects of his care. He is aware that a reduction in Lasix can result in fluid overload and exacerbations of shortness of breath and difficulties with breathing. He has acknowledged this. We also had a discussion with regard to his abdominal pain. At this time it appears that the patient is experiencing increases the pain most likely due to his Malignant bladder cancer. However, as Additional intra-abdominal processes can occur We discussed the need for further workup if it may arise. The patient agreed that if he has an acute worsening pain that he will notify staff either through HSR process or 1 of the security guards so that he can be reevaluated and we can determine if further workup is necessary. We mentioned the possibility of radiographic evaluation and additional studies. The patient Would like to continue with comfort measures at this time. Any changes are noted we can discuss it at that time whether further workup will be performed.

Objective

Vital Signs (1 - 1 of 1)

Time	Temp	Pulse	Resp	Height	Weight	BP Sys	BP Dia	Blood Sugar	BMI	O2	Comments
08:14 (MT)	97.7	84	14	5 10	174 lb	144	90	NA	24.96	97.00	

Objective Notes

GEN: 65-year-old male, NAD

HEENT: Oral-nasopharynx is benign. Airway is patent. Is moving air readily. Patient is essentially edentulous with multiple teeth eroded down to the gumline. He is absent multiple teeth as well. He reports that his teeth do not bother him at this time. No localized swelling or abscess evidence of abscess at this time.

CV: RRR, 2+ pulses

Lungs: CTA B

ABD: Slow palpation demonstrates the abdomen to be soft. He No peritoneal signs at this time. Bowel sounds are present. Patient does admit to some tenderness To palpation.

EXT: No deformities. Patient uses wheelchair for ambulation but is able to stand with some assistance for weight check. Excoriations on bilateral forearms continue to heal nicely.

Assessment

Medical Diagnosis/Complaint

ICD Code	Diagnosis/Complaint
No Rows Found	

Active Allergies/Health Problems/Conditions (1 - 22 of 22)

ID Number	Category	Type	National HIE Code(s)	Diagnosis Code	Status	Status Date	Onset Date
002	Other Diagnosis	Other Diagnosis	SNOMED: 87522002 - Iron deficiency anemia (disorder)	Iron deficiency anemia, unspecified [D50.9]	Assessed	09/20/2016	09/20/2016

ID Number	Category	Type	National HIE Code(s)	Diagnosis Code	Status	Status Date	Onset Date
003	Other Diagnosis	Pt. Specific Chronic Condition	SNOMED: 255108000 - Carcinoma of bladder (disorder)	Malignant neoplasm of bladder, unspecified [C67.9]	Assessed	09/21/2016	09/21/2016
004	Chronic Conditions	Heart Disease	SNOMED: 413838009 - Chronic ischemic heart disease (disorder)	Chronic ischemic heart disease, unspecified [I25.9]	Assessed	09/21/2016	09/21/2016
005	Allergies - Medication	Procainamide			Assessed	09/23/2016	
006	Allergies - Medication	mysoline			Assessed	09/23/2016	09/23/2016
007	Other Diagnosis	Pt. Specific Chronic Condition	SNOMED: 278860009 - Chronic low back pain (finding)	Other intervertebral disc degeneration, lumbar region [M51.36]	Assessed	11/16/2016	11/16/2016
008	Chronic Conditions	Diabetes Type II	SNOMED: 424736006 - Diabetic peripheral neuropathy (disorder)	Type 2 diabetes mellitus with diabetic neuropathy, unspecified [E11.40]	Assessed	12/07/2016	12/07/2016
009	Chronic Conditions	Hypertension	SNOMED: 1201005 - Benign essential hypertension (disorder)	Essential (primary) hypertension [I10]	Assessed	12/07/2016	12/07/2016
010	Chronic Conditions	Dyslipidemia	SNOMED: 55822004 - Hyperlipidemia (disorder)	Hyperlipidemia, unspecified [E78.5]	Assessed	12/07/2016	12/07/2016
011	Chronic Conditions	Chronic Obstructive Pulmonary Disease (COPD)	SNOMED: 13645005 - Chronic obstructive lung disease (disorder)	Chronic obstructive pulmonary disease, unspecified [J44.9]	Assessed	12/07/2016	12/07/2016
012	Other Diagnosis	Other Diagnosis	SNOMED: 156329007 - Seborrheic dermatitis of scalp (disorder)	Seborrheic dermatitis, unspecified [L21.9]	Assessed	12/12/2016	12/12/2016
013	Other Diagnosis	Other Diagnosis	SNOMED: 45326000 - Shoulder pain (finding)	Pain in right shoulder [M25.511]	Assessed	01/09/2017	01/09/2017
014	Other Diagnosis	Other Diagnosis	SNOMED: 403059006 - Onychomycosis of toenails (disorder)	Tinea unguium [B35.1]	Assessed	08/08/2018	08/08/2018
015	Other Diagnosis	Other Diagnosis	SNOMED: 6962006 - Hypertensive retinopathy (disorder)	Hypertensive retinopathy, bilateral [H35.033]	Assessed	10/31/2018	10/31/2018
016	Other Diagnosis	Other Diagnosis	SNOMED: 193570009 - Cataract (disorder)	Age-related nuclear cataract, bilateral [H25.13]	Assessed	10/31/2018	10/31/2018
017	Chronic Conditions	Diabetes Type II	SNOMED: 1481000119100 - Diabetes mellitus type 2 without retinopathy (disorder)	Type 2 diabetes mellitus without complications [E11.9]	Assessed	10/31/2018	10/31/2018
018	Other Diagnosis	Other Diagnosis	SNOMED: 134407002 - Chronic back pain (finding)	Low back pain [M54.5]	Assessed	12/21/2018	12/21/2018
019	Other Diagnosis	Other Diagnosis	SNOMED: 301011002 - Escherichia coli urinary tract infection (disorder)	Urinary tract infection, site not specified [N39.0]	Assessed	06/21/2019	06/21/2019
020	Other Diagnosis	Other Diagnosis	SNOMED: 16331000 - Heartburn (finding)	Heartburn [R12]	Assessed	06/28/2019	06/28/2019
021	Other Diagnosis	Other Diagnosis	SNOMED: 401314000 - Acute non-ST segment elevation myocardial infarction (disorder)	Non-ST elevation (NSTEMI) myocardial infarction [I21.4]	Assessed	08/07/2019	08/07/2019
022	Other Diagnosis	Other Diagnosis	SNOMED: 58230007 - Alteration in bowel elimination: constipation (finding)	Constipation, unspecified [K59.00]	Assessed	10/31/2019	10/31/2019
023	Other Diagnosis	Other Diagnosis	SNOMED: 310495003 - Mild depression (disorder)	Unspecified depressive disorder [F32.9]	Assessed	11/19/2019	11/19/2019

Related Allergies/Health Problems/Conditions

ID Number	Category	Type	National HIE Code(s)	Diagnosis Code	Status	Status Date	Onset Date
No Rows Found							

Assessment Notes

Hospice/comfort measures:

- Patient has malignant bladder cancer

Chronic pain:

- Requiring regular adjustment of analgesics. Based on his experience with recent analgesic adjustment he would prefer an increased dose at this time.

Diabetes/hypertension/COPD/Ischemic heart disease/hyperlipidemia/depression/chronic low back pain:

- Patient continues to direct his medical care refusing some treatments and agreeing to others. He understands the potential deleterious consequences and continues to express his desire to have a natural death over his legal execution.

Plan

Treatment Orders

Category	Type	Frequency	For Days	Specify Comments
No Rows Found				

Active Drug Prescription Orders (1 - 11 of 11)

Prescription/Medication	National HIE Code(s)	Effective Date	Dosage	Frequency	Expiration	Status
OXYCODONE HCL (IR) TABS 5 Mg Tabs		02/04/2021	1	USE AS DIRECTED	03/05/2021	Received from Pharmacy
ESCITALOPRAM OXALATE TABS 5 Mg Tabs	RxNorm: 351249 - escitalopram (as escitalopram oxalate) 5 MG Oral Tablet;	02/03/2021	1	EVERY EVENING	08/31/2021	Received from Pharmacy
OXYCODONE HCL (IR) TABS 30 Mg Tabs	RxNorm: 1049618 - oxyCODONE HCl 30 MG Oral Tablet;	02/09/2021	1	THREE TIMES DAILY	03/10/2021	Received from Pharmacy
OXYCODONE HCL (IR) TABS 30 Mg Tabs	RxNorm: 1049618 - oxyCODONE HCl 30 MG Oral Tablet;	02/07/2021	1	EVERY BEDTIME	03/08/2021	Received from Pharmacy
OXYBUTYNIN CL TBCR 5 Mg Tb24	RxNorm: 863636 - 24 HR Oxybutynin chloride 5 MG Extended Release Oral Tablet;	01/08/2021	3 tab	EVERY DAY	07/06/2021	Received from Pharmacy
FUROSEMIDE TABS 20 Mg Tabs	RxNorm: 310429 - Furosemide 20 MG Oral Tablet;	12/30/2020	1	TWICE DAILY	06/27/2021	Received from Pharmacy
POTASSIUM CL TBCR 10 Meq Tbcr	RxNorm: 628953 - K+ Chloride 10 MEQ Extended Release Oral Tablet; 670031 - K+ Chlor...	12/30/2020	1	EVERY MORNING	06/27/2021	Received from Pharmacy
NITROGLYCERIN SL (25) SUBL 1/150 (0.4Mg) Subl	RxNorm: 198039 - Nitroglycerin 0.4 MG Sublingual Tablet;	12/29/2020	1	USE AS DIRECTED	12/28/2021	Profile Only For Pharmacy. Request Refill When Needed. (HR)
GABAPENTIN TABS 600 Mg Tabs	RxNorm: 310433 - gabapentin 600 MG Oral Tablet;	11/30/2020	2 tablets	THREE TIMES DAILY	05/28/2021	Received from Pharmacy
ALBUTEROL HFA (8.5GM) INHA 90 Mcg Aers	RxNorm: 745679 - 200 ACTUAT Albuterol 0.09 MG/ACTUAT Metered Dose Inhaler; 745752 -...	08/23/2020	1-2 PUFFS	FOUR TIMES DAILY AS NEEDED	08/22/2021	Received from Pharmacy
OMEPRAZOLE CPDR 40 Mg Cpdr	RxNorm: 200329 - Omeprazole 40 MG Delayed Release Oral Capsule; 317451 - Omeprazole...	07/09/2020	1	TWICE DAILY	05/04/2021	Received from Pharmacy

Ordered Drug Prescriptions

Prescription/Medication	National HIE Code(s)	Effective Date	Dosage	Frequency	Expiration	Status
No Rows Found						

Lab Test Orders (1 - 3 of 3)

Lab Test Type	National HIE Code(s)	Priority	Status	Results	Value
URINALYSIS, COMPLETE		Rout (Draw-10days;Rslts-48hrs)	Successfully Sent Electronically to Vendor		
CORIZON DIAGNOSTIC PANEL 2 - CHEM 24,HDL,CBC,T3,T4,TSH	LOINC: 3016-3 - TSH; 3026-2 - Thyroxine(T4); 2085-9 - HDL CHOL., DIRECT; ...	Rout (Draw-10days;Rslts-48hrs)	Ordered		
BNP	LOINC: 30934-4 - BNP;	Rout (Draw-10days;Rslts-48hrs)	Ordered		

X-Ray Orders

X-Ray Body Area	National HIE Code(s)	Priority	Status
No Rows Found			

Consultation Request

Request Type	Service Type	Priority	Status
No Rows Found			

Follow-up Appointments (1 - 3 of 3)

Date	Time	Type	Staff	Location
03/13/2021	08:53 (MT)	Health Services	Generic, Lab Tech	Idaho Maximum Security Institution
03/17/2021	08:53 (MT)	Health Services	Generic, Lab Tech	Idaho Maximum Security Institution
03/17/2021	10:03 (MT)	Health Services	Generic, Lab Tech	Idaho Maximum Security Institution

Patient Transfer Holds

Type	Expiration Date	Status
No Rows Found		

Other Actions/Procedures

Group	Type	Approximate Begin Date	Approximate End Date	Specify Comments
No Rows Found				

Plan Notes**Hospice/comfort measures:**

- Patient has malignant bladder cancer. I suspect there is some level of metastasis that is occurring causing increased pain. We will follow the patient's wishes and provide comfort measures only. However, if he experiences an acute decline that requires further workup he would like the opportunity to reconsider his decision at that juncture.

[Return to Petition Page 3](#)**Chronic pain:**

- Increase OxyContin 5 mg dose to 3 times daily. That will bring his daily OxyContin to 35 mg for the AM, noon, & PM Administrations. His QHS administration will remain at 30 mg daily.

Diabetes/hypertension/COPD/Ischemic heart disease/hyperlipidemia/depression/chronic low back pain:

- Patient continues to direct his medical care refusing some treatments and agreeing to others. He understands the potential deleterious consequences and continues to express his desire to have a natural death over his legal execution.

- Patient requesting to DC his Lasix but agreed to a reduction and follow-up laboratory evaluation to assess potassium and renal function. Stated reason: He just thinks that it causes him to Urinate to often. He is without other signs of infectious process. Patient has had urinary tract infections in the past we will therefore obtain UA to rule out infectious process. No indications for treatment at this time.

MEDICATION DISCONTINUED VIA THIS ENCOUNTER- Medication Name: 'FUROSEMIDE TABS', Order Number: 0583675, Authorized By: Celedon, Jose, NP. Timestamp: 03/03/2021 08:14:26

MEDICATION DISCONTINUED VIA THIS ENCOUNTER- Medication Name: 'OXYCODONE HCL (IR) TABS', Order Number: 0596820, Authorized By: Epperson, John, MD. Timestamp: 03/03/2021 08:18:28

MEDICATION DISCONTINUED VIA THIS ENCOUNTER- Medication Name: 'OXYCODONE HCL (IR) TABS', Order Number: 0595638, Authorized By: Epperson, John, MD. Timestamp: 03/03/2021 08:22:07

MEDICATION DISCONTINUED VIA THIS ENCOUNTER- Medication Name: 'OXYCODONE HCL (IR) TABS', Order Number: 0595636, Authorized By: Epperson, John, MD. Timestamp: 03/03/2021 08:23:25

Patient Education**Patient Education Notes**

Patient acknowledged and agreed to plan of care. Questions were invited and answered.

Health Classification

Medical: Unknown

SMI:

Dental:

Classification and Security Notes

None

Encounter Orders Review

Review Type*: Pending Nurses Order

Review Staff: Wingert, William

Review Date: 03/08/2021

Review Time: 12:05:17 PM (MT)

Review Notes

FU 1 mo
TimeStamp: 8 March 2021 12:06:07 (MT) --- User: William Wingert (WINWI01)

Scanned Documents/Photos

Document Type	Date Scanned	Title	Source	Privacy Level
No Rows Found				

Standard Forms

Type	Staff	Date	Time
No Rows Found			

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 6

(Fifth excerpt from Gerald Ross Pizzuto, Jr.'s medical records)

LEFT KIDNEY: Normal kidney, without mass, cyst, calcification, or hydronephrosis. Retroaortic left renal vein, without obstruction. Ureter is normal in course and caliber.

VASCULAR: Mild atherosclerotic changes, aorta, without aneurysm or dissection.

RETROPERITONEUM: No pertinent abnormality.

COLON: No pertinent abnormality.

SMALL BOWEL: No pertinent abnormality.

MESENTERY: No pertinent abnormality.

PERITONEUM: No free fluid or air.

ABDOMEN/PELVIC WALL: No pertinent abnormality.

PROSTATE/BLADDER: Prostate measures 3.9 x 3.6 x 4.3 cm.

There are multiple mucosal based enhancing intraluminal bladder masses, largest measuring 4.5 x 2.6 cm involving the left posterolateral lumen. This mass is situated near the UV junction, but does not cause ureteral dilatation. A 2.6 x 1.6-cm mass involves the right anterior lateral wall. There is a 10-mm mass involving the anterior left parasagittal wall.

SKELETAL: Disc disease, L5-S1, with posterior end plate spurring encroaching upon the anterior canal. No evidence of metastatic disease.

LYMPHATICS: No evidence of malignant adenopathy.

OPINION:

RIGHT LUNG:

Four pulmonary nodules, concerning for possible metastatic disease, requiring further followup:

4-mm nodule, lateral mid lung (I45)

2 adjacent nodules, posterior right lower lobe (I86 and I88).

Enlarging 7 x 3-mm nodule posterior to a scar at the medial base (I88).

There is an additional area of subpleural scarring and/or atelectasis and a small calcified granuloma in the right lower lobe.

LEFT LUNG: Two small calcified granulomata.

RIGHT KIDNEY: A 13-mm bilobed inferior pole simple cyst.

LEFT KIDNEY: Normal. Retroaortic left renal vein.

BLADDER:

Multiple mucosal based enhancing intraluminal masses.

Largest 4.5 x 2.6-cm involving the left posterior lateral wall, without secondary ureteral dilatation.

Additional 2.6 x 1.6-cm right anterior lateral and 1-cm left anterior parasagittal masses.

LIVER: 13-mm subdiaphragmatic cyst.



Patient:	PIZZUTO, GERALD R		
MR #:	000684088	Hosp. Serv.:	ER - NIA
Visit #:	625900154	Room/Bed:	2516 - 01
Date of Birth:	01/11/1956	Admit:	09/16/2006
EMPI #:	01736725	Disch:	

Job Number: 447608 Version: 0

DISCHARGE SUMMARY

- ADMISSION DIAGNOSES:**
1. **CARDIAC ARREST X TWO.**
 2. **SUSPECTED ACUTE MYOCARDIAL INFARCTION/ISCHEMIA.**
 3. **DIABETES.**
 4. **CHRONIC DEGENERATIVE ARTHRITIS PAIN.**

- DISCHARGE DIAGNOSES:**
1. **ACUTE POSTERIOR WALL NON-ST-ELEVATION MYOCARDIAL INFARCTION WITH SECONDARY VF ARREST X TWO.**
 2. **CRITICAL SINGLE VESSEL CORONARY DISEASE, TOTAL OCCLUSION OF THE OBTUSE MARGINAL TO CIRCUMFLEX WITH INTERMEDIATE DISEASE OF THE LAD.**
 3. **DIABETES.**
 4. **SUSPECTED HYPERLIPIDEMIA.**
 5. **CHRONIC PAIN SYNDROME.**

- PROCEDURES:**
1. **Diagnostic left heart catheterization, coronary angiography, and left ventriculography.**
 2. **Revascularization of a 2 mm circumflex obtuse marginal all performed on September 16.**

HOSPITAL COURSE: The interested reader is directed to the previously dictated notes. Briefly Mr. Pizzuto is a 50-year-old gentleman incarcerated at the state penitentiary who presented to the infirmary with sudden onset of substernal chest discomfort. An AED was placed and apparently he had two syncopal events witnessed with AED discharged, required to convert from VF to sinus. On presentation to the emergency room he was in atrial fibrillation with rapid ventricular response, still complaining of substernal chest discomfort and had nondiagnostic ECG changes consisting of ST segment depression diffusely. He was hemodynamically stable but with ongoing chest discomfort. This examination was otherwise unremarkable with no evidence of congestive heart failure and he was normotensive. At this point because of persistent discomfort and nondiagnostic EKG changes he was taken directly to the cardiac catheterization lab. Catheterization was performed in an uncomplicated fashion revealing a total occlusion of the circumflex marginal branch and so this was successfully stented with a 2.0 x 18 mm MINI VISION. At this

PATIENT: PIZZUTO, GERALD
EMPI: 01736725

Job Number: 447608 Version: 0

DISCHARGE SUMMARY

point he spontaneously converted to sinus rhythm and was maintained in sinus rhythm throughout his hospitalization.

Post interventional course in the CCU was uncomplicated. He did have chronic recurring chest wall discomfort from the cardioversion but no recurrent angina. His EDP was markedly elevated at the time of catheterization but resolved but he did not develop overt congestive heart failure. Because of persistent chest discomfort and mild tachycardia, on the day of discharge we did perform a bedside echocardiogram, which revealed normal LV function, no pericardial effusion, and no significant mitral insufficiency. It was felt that ongoing chest discomfort was chest wall in origin from his defibrillation and there was no evidence of CHF, recurrent ischemia or pre-wall eruption.

DISCHARGE MEDICATIONS: Were to be aspirin 81 daily; Plavix 75 daily; metoprolol 50 mg b.i.d.; lisinopril 10 mg daily; Zocor 80 mg daily; Neurontin 600 mg b.i.d.; Ultram 100 mg t.i.d.; nitroglycerin p.r.n.; Glucophage 500 mg daily; glipizide 2.5 mg b.i.d.

Electronically approved by STEVEN J FONKEN, MD on 10/17/2006 11:57:18

STEVEN J FONKEN, MD

SJF:akd

D: 09/19/2006 10:11:46

T: 09/19/2006 10:24:20

J: 447608

T: 357260

cc:

SAINT ALPHONSUS REGIONAL MEDICAL CENTER

Boise, ID 83706-

A Member of Trinity Health
Livonia, Michigan

Patient Name: **PIZZUTO JR, GERALD R**
MRN: (BIS)-000684088
Date of Birth: 1/11/1956
Admit Date: 7/23/2019
Discharge Date: 7/24/2019
Account Number: 010651921-9203
Patient Type: Inpatient
Attending: Lewis MD,Shaye

Progress Note

DOCUMENT NAME: Progress Notes
ELECTRONICALLY SIGNED BY: Kellis MD,Nathan (7/23/2019 15:44 MDT)

Progress Note - Hospitalist

Patient: **PIZZUTO JR, GERALD R** MRN: (BIS)-000684088 FIN: 010651921-9203
Age: **63 years** Sex: **Male** DOB: **1/11/1956**
Associated Diagnoses: **None**
Author: **Kellis MD, Nathan**

Subjective

Mr. Pizzuto is a 63 year old male, inmate on death row, with history **CAD s/p stenting (LCx 2006, LAD 2015)**, DMII w/neuropathy, PVD s/p rt iliac occlusion, Bladder Cancer s/p resection 2016, HTN, HLD, presents from prison with chest pain, admitted for NSTEMI

Last 24 hours:

- Patient taken this morning for cardiac cath, **received 2 stents to the RCA, nonoverlapping**
- Patient currently in CICU, feeling well, has no acute complaints except that he is having to regurgitate some of his food after eating some dry turkey
- Plan to follow-up with cardiology for any other recommendations, discharge as able tomorrow

Objective

[Return to Petition Page 3](#)

Last Charted Vital Signs

Temperature: 36 (07/23 10:46)
Pulse: 90 (07/23 10:46)
Respiration: 16 (07/23 12:39)
BP: 131/71 (07/23 10:47)
Pulse Ox: 93 (07/23 12:39)
Ox Delivery: Room air
Pain Score: 5 (07/23 14:56)

General: Awake, alert, older male, sitting in bed, no acute distress
HEENT: Pupils equal, mucous membranes moist
Respiratory: Regular, unlabored, no wheezes
Cardiac: S1, S2, regular, no murmurs
Abdomen: Bowel sounds positive, soft, nontender
Extremities: No cyanosis, no edema
Skin: Warm, dry, no lesions

Results Review

Labs - Last 36 hours (Max 2 / lab test)

CHEMISTRY

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 7

(DOR Report)



Offender DOR Report

Offender Number: 23721

Name: PIZZUTO, GERALD ROSS JR

DOR #	Offense Date	Offense	Offense Class	Offense Facility	Sanctions	Amount	Review Results	Appeal Results
111142	04/07/2011	HARASSMENT	CLASS B NONE	IMSI	DETENTION COMMISSARY RESTRICTION	10 day(s) 20 day(s)	AFFIRM	
080321	05/25/2008	ASSAULT	CLASS C NONE	IMSI	OTHER	21 day(s)	AFFIRM	
020813	11/22/2002	DISRESPECT	CLASS B NONE	IMSI				
010317	05/31/2001	POSSESSION	CLASS B NONE	IMSI	LOST	10 day(s)	AFFIRM	
980937	09/21/1998	FLSESTAMNT	LEGACY NONE	IMSI	FORMAL WARNING/WRITTEN REPRIMAND		AFFIRM	
970607	09/17/1997		LEGACY	IMSI				
I09077	09/23/1994	STAFFORDER	LEGACY NONE	IMSI	DETENTION LOST	30 day(s) 20 day(s)	AFFIRM	
I09084	09/15/1994	PARTICIPAT	LEGACY NONE	IMSI	DETENTION	60 day(s)	AFFIRM	
I09060	09/15/1994	FLSESTAMNT	LEGACY NONE	IMSI	LOST	15 day(s)	AFFIRM	
G07045	07/19/1992	DISTRACT	LEGACY NONE	IMSI	FORMAL WARNING/WRITTEN REPRIMAND LOST	 5 day(s)	AFFIRM	
G04027	04/18/1992	STAFFORDER	LEGACY NONE	IMSI	LOST	20 day(s)	AFFIRM	

DOR #	Offense Date	Offense	Offense Class	Offense Facility	Sanctions	Amount	Review Results	Appeal Results
F09036	09/24/1991		LEGACY	IMSI			AFFIRM	
D12026	12/18/1989	USING ABUS	LEGACY NONE	IMSI	FORMAL WARNING/WRITTEN REPRIMAND		AFFIRM	

Total Number Of Records 13

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 8

(Collected Letters from the Religious Community)

[Return to Petition Page 3](#)



The Episcopal Diocese of Idaho

1858 W. Judith Lane
Boise, Idaho 83705
www.episcopalidaho.org
Phone (208) 345-4440 • Fax (208) 345-9735

October 27, 2020

Commission of Pardons & Paroles
3056 Elder Street
Boise, Idaho 83705

Dear Commissioners, Ladies and Gentlemen,

I am the Rt. Rev. Brian Thom, Bishop of the Episcopal Church in Idaho. I write to implore you to grant clemency to Gerald Ross Pizzuto, Jr.

Since 1958, The Episcopal Church has opposed the purpose and decried the spiritual cost of the death penalty on all parties. The Church is clear that the taking of a "human life falls within the providence of God and not within the right of man.." I join with my predecessors in calling for abolishing capital punishment in all cases.

While the death penalty remains a legal consequence in Idaho and other states, I know these points to be true:

- The death penalty is not a deterrent to crime
- The appeal process is vastly more expensive to taxpayers than lifelong incarceration
- The appeal process prolongs the agony of victim's families as they await adjudication

Life without parole satisfies the need to protect society, is sufficient punishment of any crime, and provides the conclusion necessary to promote healing.

Capital punishment serves only as a vehicle for vengeance. When we, either as individuals or as a society, participate in capital vengeance, the convicted are denied any possibility of redemption as a child of God. Those who avenge are emotionally and spiritually stained by the truth that killing people, to prove that killing people is wrong, is morally bankrupt and repugnant to God.

Mr. Pizzuto's medical condition guarantees that he will die in prison. This reality provides an opportunity for all involved to manifest the basic human quality that Mr. Pizzuto did not possess in 1986: mercy. Given that his death is approaching, granting Mr. Pizzuto clemency at this time would be a testimony of prudent adjudicatory oversight and a witness to the soul-affirming gift of mercy.

For everyone's sake, I pray you will approve Mr. Pizzuto's Petition for Clemency.

Faithfully,

The Rt. Rev. Brian Thom
XIII Bishop of Idaho



RECEIVED

FEB - 6 2020

OFFICE OF THE BISHOP

OFFICE OF THE GOVERNOR

January 31, 2020

The Honorable Brad Little
Office of the Governor
State Capitol
PO Box 83720
Boise, ID 83720

Re: Please stay the scheduled execution of Mr. Gerald Pizzuto (IDOC#23721)

Dear Governor Little,

It is my hope that you will consider our request and stop the execution of Mr. Pizzuto due to his imminent death. As you may be aware, he has been diagnosed as terminal due to advanced cancer and is already receiving hospice care within the IDOC.

We respectfully ask that you grant a stay of execution for Mr. Pizzuto and allow him to live out the remainder of his natural life within the Idaho Corrections System. My staff and I are always available upon Mr. Pizzuto's request to minister to his spiritual needs.

I remain sincerely yours in Christ,

A handwritten signature in blue ink that reads "Peter Christensen".

Most Reverend Peter F. Christensen
Bishop of the Diocese of Boise

DIOCESE OF BOISE

1501 S. Federal Way, Suite 400, Boise, Idaho 83705 • 208.342.1311

Idaho Commission of Pardons and Parole,

Grace and peace. I am writing to support clemency for Gerald Ross Pizzuto, Jr.

The United Methodist Church says, “The death penalty denies the power of Christ to redeem, restore, and transform all human beings.” ([Social Principles ¶164.G](#))

As Wesleyans, we believe that God’s grace is ever reaching out to restore our relationship with God and with each other. The death penalty denies the possibility of new life and reconciliation. “We oppose the death penalty (capital punishment) and urge its elimination from all criminal codes.” ([Social Principles ¶164.G](#))

Mr. Pizzuto was sentenced to death by a judge. After his trial, the U.S. Supreme Court ruled that it is unconstitutional for a judge to sentence a defendant to death and that only a jury can do so. If Mr. Pizzuto were prosecuted today, twelve people would have to unanimously agree on a death sentence for one to be handed down.

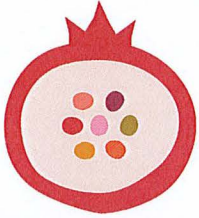
Mr. Pizzuto was placed in hospice care in November 2019 due to bladder cancer. He also has Type 2 diabetes and coronary artery disease, which has led to two heart attacks and the insertion of five stents. Clemency would only allow him to pass away of natural causes in prison, to avoid the spectacle of the State pushing his wheelchair into the death house.

I write to support clemency for Gerald Ross Pizzuto, Jr.

Grace and peace,



Rev. Dr. Duane A. Anders



**AHAVATH
BETH ISRAEL**

Rabbi
Daniel B. Fink

Board of Trustees
Amy Duque
President
James Auw
Vice President
Jesikah Luangaphay
Treasurer
Brad Wolf
Secretary
Becca Metzgar
Teen Representative
Sharon Ledesma
Past President

Desmond Anim-Appiah
James Auw
Julia Davis
Dorothy Geffon
Kurt Gusinow
Suzanne Metzgar
Vicky Stieha
Mark Travis
Arleen Winkler

Executive Director
Tamara Ansotegui

**Lifelong Learning
Director**
Beth Harbison

Office Administrator
Kat Dellamater

**PJ Library Program
Manager**
Joanna Jost

**ShabbatTogether
Coordinator**
Naomi Jankowitz

Facilities Coordinator
Lawrence Shapiro

To Whom It May Concern:

I am writing to express my support for clemency for Gerald Ross Pizzuto, Jr.

I appeal to you as a clergy person, as a rabbi speaking out of the deep values of my Jewish tradition—and as a concerned Idahoan.

In Jewish law, capital punishment effectively ended almost two thousand years ago. And even then, in the Talmud, Rabbi Eleazar ben Azariah taught that a court that executes one person in seventy years is considered bloodthirsty. This general wariness over capital punishment is even more warranted given the imperfect history of any human court system. While I recognize the severity of Mr. Pizzuto's offense, his case remains problematic for several reasons. Neither of the two convicted accomplices was given the death penalty, including the man who shot and killed one of the victims. There is reason to believe that Mr. Pizzuto's lawyers were denied access to significant evidence about those accomplices in this case. And the terms of the issuance of the sentence—by a judge alone—would now be unconstitutional according to American law.

For all of these reasons, I believe it would be both unwise and unjust to execute Mr. Pizzuto.

On top of all this, Mr. Pizzuto is dying of bladder cancer, coronary artery disease and diabetes. Why would the state waste time and resources to execute a man who is terminally ill? This is pure vengeance rather than justice. It makes no sense, at any level, for Idaho to execute a dying man, almost thirty-five years after the crime. It costs us nothing to show Mr. Pizzuto the mercy of a natural death. This man has spent almost his entirely adult life in prison, with no history of violence under incarceration. Let him die there.

I urge you to grant clemency.

In Peace—

Rabbi Daniel Fink

EMPOWERING PEOPLE TO LIVE MEANINGFUL JEWISH LIVES

11 N. Latah Street, Boise, Idaho 83706
(208) 343-6601
www.cabi-boise.org



March 11, 2021

To the members of the Idaho Commission of Pardons and Parole, and whomever it may concern:

I am writing to you today with strong support of the petition for clemency for Mr. Gerald Ross Pizzuto, Jr, and the request to commute Mr. Pizzuto's sentence to life without the possibility of parole.

As I trust you have been made aware, Mr. Pizzuto is currently enduring terminal cancer of the bladder, and has been placed under hospice care. He is already in the final days of his natural life, and it seems abundantly clear that it would be a grave and morally reprehensible course of action to take were the state to go ahead with his execution in light of his current health.

It would even seem to be in the state's own self-interest to avoid the spectacle and publicity involved in executing a man who is already under hospice care and in the final days of his life.

So, I ask you: What does the state stand to lose by granting this commutation? To execute this man, under these circumstances, appears to be a clear disregard for the dignity of human life, and an abdication of the moral responsibility with which you have been entrusted.

Thank you for your consideration. I trust that this request will be taken seriously, and I welcome any further discussion on the subject that you may deem necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Frey". The signature is fluid and cursive, with the first name being more prominent.

Rev. Brian G. Frey
Pastor
Boise Presbyterian Church
brian.frey@boisepres.org
208-272-0229

February 27, 2020

To the members of the Idaho Commission of Pardons and Parole:

My name is Marc Schlegel-Preheim, pastor of Hyde Park Mennonite Fellowship in Boise. I am writing to add my voice to those seeking clemency for Gerald Ross Pizzuto, Jr.

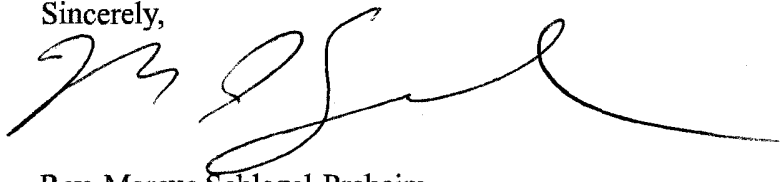
As Mr. Pizzuto is terminally ill, it seems that, despite the original sentence, this would be a time to allow the natural process of death to have its way. Granting Mr. Pizzuto clemency would not take away the reality of an imminent death, only the process of how it would come.

Mr. Pizzuto is facing death - a prospect he has been living with since his conviction and sentencing. And now, that death is coming, but it need not be by the hands of the state - that same reality looms for him as he endures the terrible realities of cancer. While granting clemency would remove an execution, living under the impending reality of a death sentence since 1986 has not left him to go unpunished for the lives he has taken.

Each state execution exists as such an emotionally-charged situation for our community; this is a time when such a reality can be avoided without changing the outcome. As a citizen of Idaho, I hate the thought of us spending the time, energy, and resources to kill a dying man. As a leader of a faith community, I hate idea that we would execute someone who is already at death's door. I would hope we could find the collective will for a small bit of mercy in Mr. Pizzuto's situation.

I know that those on this commision have a difficult job, with much to consider and weigh in a variety of situations. Again, I would ask for you to consider a moment of temporary mercy in the case of Gerald Ross Pizzuto, Jr.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Schlegel-Preheim', written in a cursive style.

Rev. Marcus Schlegel-Preheim

Hyde Park Mennonite Fellowship
1520 N. 12th Street
Boise, Idaho 83702

March 16, 2021

To Whom This May Concern,

My name is Rev. John S. Hergert and I have spent the past 39 years as a pastor in the Lutheran Church in congregations in several states including Idaho where I am continuing to live as a retired pastor. I have also served in elected leadership as a school board member in Washington State for over 13 years. So I think it is safe to say that I know a bit about the workings of government and have sympathy for the task in front of you as you decide the fate of an inmate in our prison system.

I write today on behalf of Gerald Pizzuto and ask that you in the spirit of compassion for an already dying man grant clemency for him so that the state does not execute an inmate in hospice care. I have been made aware of the nature of his crimes and they were terrible and he has spent many years in prison in payment of those crimes. Now as he is dying the state seems to be moving towards executing him. Of all the powers we grant the state the power to take a life is the most severe and should, if administered at all, be done rarely and to make sure, as it is delineated in our US Constitution, it isn't "cruel or unusual." As a person of faith I have to say to kill an already dying man seems very cruel indeed.

Mr. Pizzuto was raised under terrible circumstances. He was even raped by his step father. I cannot imagine the damage that must have done to him. I do not excuse his actions, but I believe it should be taken into account. Our system of government is wonderful, but at times flawed. I believe to kill an already dying man goes against everything I have been taught as a practicing Lutheran pastor, it goes against the very teaching of Jesus that so many of us affirm. Yes, I know there is a separation of church and state, yet still from a moral perspective I believe it is not in the best interests of the state to execute Mr. Pizzuto. I believe we should let him die peacefully under the care of the hospice being provided for him in prison. I do not ask that he be released, but that the state act with the compassion that I suspect Mr. Pizzuto never received in life.

I thank you for the work you do for all of the state of Idaho to keep it a just place for us all.

Sincerely,

A handwritten signature in dark ink, reading "Rev. John S. Hergert". The signature is written in a cursive, flowing style.

Rev. John S. Hergert

To: Idaho Commission of Pardons and Parole
CC: Greg Worthen
From: Rev. Wayne Shipman Lutheran Church of the Good Shepherd, Pocatello, ID
 Emanuel Lutheran Church, Blackfoot, ID

Regarding Clemency for Gerald Ross Pizzuto, Jr.

On behalf of Mr. Pizzuto, I offer my request for clemency, that justice might be restored and served for him, his family, and society.

As a Christian pastor and believer, my understanding of the Holy Scriptures compels me to suggest that the taking of a life, any life, is against what our supreme being, God, desires for his Creation. This would negate the use of capital punishment by any society or government that holds itself to be responsible to the higher power.

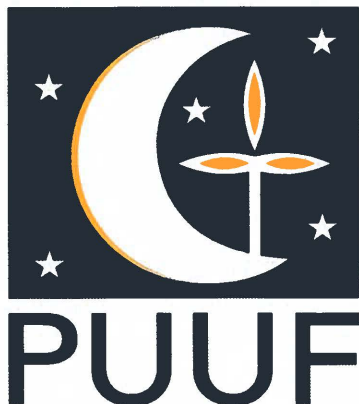
In reviewing Mr. Pizzuto's case history, there are substantive reasons that his punishment has been long and consistent during incarceration, that his current health prognosis is very poor, and that imposing death upon him is inconsistent with mercy shown to others in the last stages of their life.

There is no purpose in imposing the artificial and premature death of Mr. Pizzuto that will serve society, victims, or the State of Idaho. This is not a statement of practicality; there will be no benefit and no completion of duty. Justice is no longer being served.

For these reasons, I request that mercy and clemency be provided to Mr. Pizzuto, that he be allowed palliative care until his natural death, and that he be allowed the dignity of a death afforded to all of God's creatures. May God, who alone has jurisdiction over life and Life Eternal, have mercy upon Mr. Pizzuto.

Respectfully,


Rev. Wayne R Shipman
Pocatello, ID



POCATELLO UNITARIAN UNIVERSALIST FELLOWSHIP

The UU Meeting House
426 W. Lewis Street
Pocatello, ID

Mailing Address
PO Box 4578
Pocatello, ID 83205

Email: info@pocatellouu.org
Website: pocatellouu.org
208-233-2602

Dear Members of the Parole Commission,

I write you today to ask you, please grant clemency to Mr. Gerald Ross Pizzuto, Jr. You have it in your power, and more than this you are blessed with choice: to choose grace and mercy, to err on the side of life, and to allow Mr. Pizzuto to live out his days to their natural end.

The inescapable truth of murder is that a human life has ended in violence by the actions of another. My denomination, Unitarian Universalism, has formally opposed the Death Penalty since 1961. And as an individual, I believe we humans—and all living beings—share a Common Source, and by this we all are connected. It is from this certainty of deep interconnection that another certainty emerges: Life is precious. My own, and yours, and every person's. Murder is the most heinous crime in that it ends precious life. No subsequent death—no execution—restores the life lost, but instead adds to the senseless list of suffering humans sometimes choose to inflict upon others.

Instead of adding to that hollow and false justice of sanctioned killing, you now may choose to honor the connection of life. Please exercise your power, guided by conscience and grounded in loving respect for all creation. Grant this man clemency.

With deepest regards and in peace,

Rev. Jenny Peek

Minister, Pocatello Unitarian Universalist Fellowship
Office: 208-233-2602
Cell (Preferred): 208-380-1084
Email: minister@pocatellouu.org



**Boise
Unitarian
Universalist
Fellowship**

Rev. Sara LaWall, Minister
6200 N Garrett St
Garden City, ID 83714
www.boiseuu.org

September 22, 2020

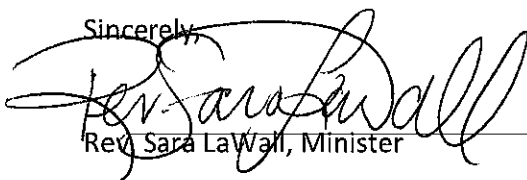
Dear Commissioners,

I am writing in support of clemency for Mr. Gerald Ross Pizzuto, Jr. As a Minister and community leader, my faith compels me to advocate for basic human dignity, justice, and compassion. In the final stages of terminal cancer, Mr. Pizzuto's life is already nearing its end. To execute him now feels extreme and inhumane. The Death Penalty on the whole is one of the most shameful aspects of our current criminal justice system. The government-sanctioned execution of human beings is an inappropriate, inequitable, intolerable penalty. The state should never be the arbiter of death of another human being, regardless of their actions. This kind of punishment flies in the face of a consistent ethic of life and allows an imperfect system to condemn a human being to death.

A system of any kind, as we witness across government, is fallible and makes mistakes. An execution of human life should never be a mistake of the system. In Mr. Pizzuto's case, it appears as though many mistakes occurred during his trial, including the state hiding evidence. Mr. Pizzuto's own abusive childhood and diminished cognitive capacity as a result raise deep concerns about the fairness of his trial and the sentence. The state should not be executing anyone, let alone those who are mentally impaired. Furthermore, the accomplices in the crime, one of whom was the identified shooter, *did not* receive the death penalty because they assisted the state in its case against Mr. Pizzuto. Explain to me how that shows justice being implemented fairly. Learning that a judge imposed this sentence rather than a 12-person jury raises even more concerns. Were Mr. Pizzuto tried today, a jury would have to unanimously agree upon a death sentence. All of these concerns raise problematic questions and point to an outcome like that is wholly unjust and inequitable.

While I do not condone Mr. Pizzuto's violent actions and do support holding him accountable; execution means we, the system and the people, are choosing the basest most evil form of punishment available. Justice has never been about an "eye for an eye" but about accountability and even about opportunity for restoration. When we can practice compassion, even in the most challenging circumstances, we grow our empathy and our commitment to our collective interdependence. My faith reminds me that we are more than the worst thing that we have ever done. I endeavor to apply that to all people in the world. I hope the State will avoid the tragic spectacle of pushing a dying man in a wheelchair into the death house. Allowing Mr. Pizzuto to die of natural causes while remaining in custody offers both a just and compassionate alternative.

Sincerely,



Rev. Sara LaWall, Minister

+

August 28, 2020

To: The Commission on Pardons and Parole:

My name is Henry Krewer and I am an 86 year old former science teacher at Bishop Kelly High School in Boise Idaho. After retiring in 1996 I helped out at the El Ada soup kitchen, the agency for New Americans, the language Lab and St Al's hospital. In 2002 I was one of the founders of Corpus Christi, a day shelter for the homeless of Boise. I continue to be a board member and a volunteer at Corpus to the present day.

I would like to include my name along with other Idahoans in asking for clemency for Gerald Ross Pizzuto, Jr, IDOC #23721. To be honest, I want you to know that for most of my adult life I have been against giving the state the right to take a human life. I also believe that having a human being locked up for what in Gerald's case is 34 years in a 12 by 7 ft. cell for 23 hours a day is cruel and unusual punishment.

But these are not the reasons that I am asking for clemency for Gerald. As you know he has been diagnosed with a terminal disease. This death sentence has no appeals, like the one issued by the state. This disease will kill him. I know that you would describe what you do at the Commission as doing justice. With that in mind, rolling a terminally ill man into the death chamber to execute him for a crime committed 34 years ago is more like revenge than justice, and so unnecessary. So, please grant him the clemency that he needs to die in prison of natural causes rather than subject him and the prison staff to the trauma and stress of an execution. We are better than that.

Respectfully,

Henry Krewer

208 853 9593



September 2, 2020

Dear Idaho Commission of Pardons and Parole

We want to add our names to the list of those requesting clemency for Mr. Gerald Ross Pizzuto, Jr. Idaho Department of Corrections # 23721.

Our Catholic Catechism states that the death penalty is "inadmissible because it is an attack on the inviolability and dignity of the person" (2267). The death penalty violates both the Church's pro-life teaching and the teaching on the inherent dignity of the human person as created in the image and likeness of God.

It has been documented that the death penalty does not deter people, and frequently does not bring closure for murder victims' families but rather interferes with their healing process. As a self-proclaimed "civilized nation", all of us citizens are culpable in dispensing revenge and not true justice.

Mr. Pizzuto has been diagnosed with a terminal disease. Please grant him clemency allowing him to die in prison on his own terms rather than being executed. We pray for you and the prison staff for grace and guidance in all matters related to prisoner executions in Idaho.

Thank you for considering our request.

Respectfully,

Mark T. Masarik
Mark T. Masarik
Tamara R. Masarik
Tamara R. Masarik

2802 N Norman Drive, Boise, ID 83704

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 9

(Declaration of Toni Pizzuto)

JOAN M. FISHER
Idaho State Bar No. 2854
Assistant Federal Defender
Federal Defenders of
the Eastern District of California
801 "I" Street, 3rd Floor
Sacramento, CA 95814
Telephone: 916-498-6666
Facsimile: 916-498-6656
Joan_Fisher@fd.org

ROBERT GOMBINER
WA Bar No. 16059
Federal Defenders of
Western Washington
1601 Fifth Avenue, Suite 700
Seattle WA 98101
Telephone: 206-553-1100
Facsimile: 206-553-0120
Robert_Gombiner@fd.org

CAPITAL HABEAS UNIT
Federal Defender Services of Idaho
317 West Sixth St, Ste. 204
Moscow, ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

GERALD ROSS PIZZUTO, JR.,)	
	)	Case No. CV 05-516-S-BLW
Petitioner,)	
	)	<u>CAPITAL CASE</u>
v.)	
	)	DECLARATION OF TONI
JOHN HARDISON, Warden	)	PIZZUTO
Idaho Maximum Security Institute,)	
)	
Respondent.)	
_____)	

Toni Pizzuto, a person over the age of eighteen (18), competent to testify and mindful of the penalties of perjury, being first duly sworn, deposes and says as follows:

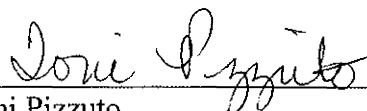
1. I am the younger sister of Gerald Ross Pizzuto, Jr., hereafter referred to as Jerry. Jerry was born on January 11, 1956 and I was born on May 19, 1959. Our parents were Pam Pizzuto and Gerald R. Pizzuto, Sr.;
2. I was too young when we lived with my biological father to remember what that was like, but I do remember the years we lived with our stepfather, Bud Bartholomew;
3. My stepfather hated his Pizzuto stepchildren and he hated Jerry most of all because he had the same name as our biological dad and Jerry looked like our dad too;
4. Bud Bartholomew abused all of his Pizzuto stepchildren. He abused us physically and sexually. He started abusing me sexually when I was five years old. He would come into my bed at night (or Elsie's or Angie's or Jerry's) and tap me on the forehead with his flashlight. Sometimes he would have his hunting knife with him that he had sharpened earlier that day and would hold it to my throat to keep me quiet. He would force me to have intercourse with him, or oral sex, and sometimes anal sex. I can remember when I would go to bed at night I would pray that it wasn't going to be me he abused that night;
5. Bud Bartholomew beat all of us, except for his own children, Richard and Carrie Bartholomew. They were always sent upstairs before we were beaten. He beat us with a horsewhip that was made out of leather but had a metal bar in the middle of it. We would have to pull down our pants and bend over and he would beat all of us on our butts and the backs of our legs until they would bleed;

[Return to Petition Page 5](#)

6. After we were beaten we would bandage each other up so no one would see our scars. Then when we went to school the next day we wouldn't dress down for PE and we would get in trouble for not dressing down. Once when we were at St. Ann's School in Spokane, Washington someone from the school called a few times to try to talk to my mom about why we wouldn't dress for PE but soon after they started calling we moved to Chewelah, Washington;
7. Jerry didn't move with us to Chewelah. He had left home by then. The next time I saw Jerry was in Normal, Illinois. I ran away from home when I was fifteen and went to stay with my dad and stepmom in Normal. I'd been there for about six months when Jerry showed up. He had hitchhiked to Illinois. He and my dad fought a lot so he wasn't allowed to come over to the house but he would stop by my school when it got out and bum cigarettes and visit with me. He stayed in a shelter while he was in Normal and after a couple of months he left Normal and hitchhiked to Seattle, Washington;
8. I didn't see Jerry again until he got out of prison in Michigan. I was living in Choteau, Montana. My parents, Pam and Jerry Pizzuto, had married and were living there. He stayed with them some of the time but they treated him like he was just in the way so some of the time he stayed with me and my daughter. After three months or so he left Montana and hitchhiked to Washington;
9. Whenever Jerry traveled from place to place, he would hitchhike. I never saw him drive a car or a motorcycle and I don't think he knew how. As far as I know he never had a driver's license;

10. When Jerry wasn't in prison he usually stayed with a family member or in a shelter. He never had his own place. When he got married at age seventeen to Pam Merckley he lived in her house until they broke up. He never had the money to get a place of his own;
11. When Jerry was around ten my stepfather Bud forced him to deliver newspapers on his bicycle for a while but that is the only time I know of when Jerry had any kind of job;
12. To my knowledge, Jerry has never had a bank account;
13. There were a lot of things that Jerry couldn't do very well and he would constantly get in trouble from Bud for these things. He couldn't use a hammer; he would miss the nail or bend it but couldn't ever hammer a nail into the wood. He couldn't use a screwdriver or any other household tools. When we were young our stepfather Bud made us all chop wood. Even though all but Renee were younger than Jerry, all of us girls could chop wood just fine but Jerry couldn't do it. The ax would go sideways or he would miss the piece of wood or just nick it and pieces would fly out;
14. Jerry has had a hard life and I think this is why he ended up in prison. But Jerry was a good brother and I will always be there for him.

DATED this 26 day of February, 2009.



Toni Pizzuto

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 10

(Affidavit of Rene Rodewald)

STATE OF CALIFORNIA)
 ss
County of Alameda)

AFFIDAVIT OF RENE RODEWALD

I, Rene Rodewald, a person over eighteen years of age and competent to testify, being duly sworn upon oath, deposes and states as follows:

1. I am a sister of Gerald R. Pizzuto, Jr, [hereafter "Jerry"], formerly known as Rene Pizzuto.

2. During our childhood, I and my siblings suffered from frequent abuse, both physical and sexual, at the hands of our stepfather Bud Bartholomew.

3. My personal experiences of being molested by my stepfather include: being undressed and fondled at the age of seven, having my breasts sucked, having him insert his finger into my vagina and being forced to touch his penis; **being taken out to the woods on a regular basis** and forced to have vaginal and anal intercourse at the age of eight to nine and being given menstrual pads by my father so the blood resulting from his sexual abuse would not show; having my [Return to Petition Page 4](#) stepfather come into my bedroom at night where he would molest me while my sisters were in the same room; being taken on rides alone with my stepfather and **being molested in the car** and forced to perform oral sex on him; being forced to take showers involving molestation with my stepfather on many occasions; being taken to the houses of several of my stepfather's friends, grown single men, and being left there for purposes of molestation or rape. This happened once in Reno, once with a grown man who was supposed to "babysit" us and once when my sister and I were left by our stepfather at a strange man's house overnight and were raped by him.

4. My siblings were also molested by my stepfather. Angie and Elsie were also made to

take showers with him or go in the woods with him where they were also forced to have vaginal and anal intercourse with him.

5. My brother Jerry, the sibling who received the most physical abuse out of all of us, was also sexually abused. He would have to go on rides with Bud and would come home with his face all red from crying. He was also taken into the woods by Bud. Jerry told me that Bud would put his penis in Jerry's butt and squeeze his balls and suck on his penis really hard. One time I walked in on Jerry and Bud in the bathroom. Jerry was sitting in the tub crying and Bud was doing something to Jerry's penis.

6. Jerry would always try to keep our stepfather from taking us out of the house. He tried on many occasions to hit Bud, but Bud would backhand him or knock him down with one slap. Bud would frequently hit Jerry in the head with his fist. Jerry couldn't walk past him without getting kicked or hit in the head. I remember one occasion when Bud was outraged because one of the kids had eaten a piece of pie and no one would fess up to it. So Jerry got taken out to the garage and was beaten for it. He was beaten for a very long time and when it was over, he was unable to walk back into the house from the garage.

7. When we lived in Eureka, CA, I went to the police station and I tried to tell the cops about the abuse that was going on but they still made us go back home. I also remember having to go to court once with my sister Angie, and telling the court about the abuse, but they didn't do anything about it either. I don't remember where we went to court but I believe it was in Spokane or Seattle.

8. Our stepfather would not let us play outside the house with friends, or let us go to anyone else's house. He didn't want us to have friends at all. We also weren't allowed to do any sports or other extra-curricular activities at school.

9. When Jerry was six or seven he flipped off his bike and fell head first into a pile of rocks. He couldn't move and I had to run back to the house and get my mom. I don't remember what town we were living in at that time.

9. During the time of Jerry's trial I lived in Seattle, Washington. At that time I worked at a hospital as a cook. For part of my time there I worked as a prostitute. I was arrested for prostitution many times. I have now been clean for many years. I did take antidepressants for a few years but I no longer take them.

10. No one ever contacted me to see what information I had about Jerry or our childhood. I was never asked to testify at his trial.

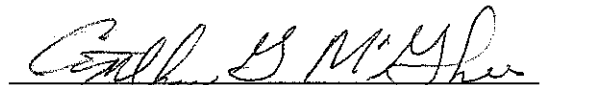
I declare under penalty of perjury that the foregoing is true and correct. Executed at Livermore, California, on April 28, 2006.

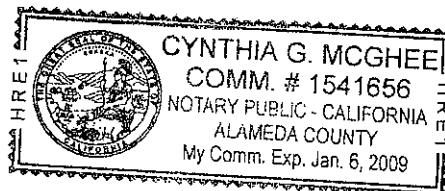
FURTHER YOUR AFFIANT SAYETH NOT.



RENE RODEWALD

SUBSCRIBED AND SWORN before me this 28 day of April, 2006.


NOTARY PUBLIC for the State of California
My commission expires: 1/6/09



Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 11

(Excerpts from Petitioner's Expert Disclosure Under FRCP 26)

1 THE COURT: Overruled, you may answer.

2 A I can remember back my sister, Renee, she is very
3 small, she's always been very small, she doesn't weigh very
4 much now, she never has. Renee was physically abused with what
5 our family all of these years called the horsewhip, that you
6 would use when you are riding to smack a horse, it has a metal
7 rod on the inside of it.

8 Q What does it have on the outside of it?

9 A Leather, it has one strap that comes around your
10 hand like this and the other end is about this long, about that
11 thick with a metal bar and the straps at the end. For years
12 we were beat with that.

[Return to Petition Page 5](#)

13 Q By?

14 A Bud Bartholomew.

15 Q We're going to take the children one at a time
16 as I indicated to you.

17 A Right.

18 Q You said that Renee, a small child, was beaten
19 with this instrument?

20 A Yes.

21 Q How often?

22 A I would say to the best of my recollection,
23 probably every day.

24 Q Did it ever cause any injury to the body that
25 was obvious to the observer?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A Yes.

Q Would you describe what you saw?

A We had -- Renee, as well as all of us, had small cuts about that long, maybe one inch, from the leather straps, on the back of her legs, on her back, on the back of our arms.

Q How many years did these beatings go on from Mr. Bartholomew? [Return to Petition Page 5](#)

A For about ten - twelve year.

Q Did they go on as far as Renee is concerned, did they go on all the years that you lived with Bud Bartholomew?

A Yes.

Q And did she finally leave home?

A Yes, she did.

Q When?

A I believe it was 1970, I'm not sure.

Q It doesn't matter what year, but about how old was she when she left home?

A Seventeen, I believe.

Q And in addition to being beaten, which you did observe, did you also observe any other forms of abuse or did you witness those things or know about them?

A Yes, I did.

Q Please describe what Renee sustained as far as other abuse.

A Renee sustained very severe sexual abuse from my

1 described. I was physically slapped, I was hit with things.
2 Walking across the kitchen with brooms, with anything usually
3 in sight. Physically, we were kicked, we were hit with belts,
4 belt buckles.

5 Q How often did this happen?

6 A I would say at least once a day.

7 Q Were the other children, that is, the Bartholomew
8 children during that year that you and the Bartholomew children
9 stayed with your mother and stepchildren, were they treated in
10 the same manner as the Pizzuto kids?

11 A No, not at all.

12 Q Describe how the Bartholomew kids were treated?

13 A Bud Bartholomew's kids were treated like we
14 weren't even related. They were treated the best. They -- I
15 don't believe my sister to this day has ever had a spanking,
16 Cary Bartholomew, or Richard. They have never known that abuse
17 like that. They were treated with gifts, to go, they were
18 children that could do no wrong, that we were corrupting those
19 children.

20 Q Would you at any time during your stay with
21 Bartholomew, from the time you were a little baby until the
22 time you left home, I think you said about fifteen, were you
23 ever forced by anyone, whether it be your mother or Bartholomew
24 to be in sort of separate quarters from the family?

25 A Yes.

1 Q Alright, describe that?

2 A We lived in Spokane, Washington and I remember we
3 had to eat in separate rooms from Bartholomew's kids. We ate
4 downstairs at a table.

5 Q Would this be in a basement?

6 A Yes, it was.

7 Q And who was forced to eat in the basement and
8 who was allowed to stay upstairs?

9 A Renee Paris was downstairs, Jerry, Elsie, Angie,
10 and myself, and Bartholomew's kids, Richard and Cary were
11 allowed to eat upstairs with their father. [Return to Petition Page 6](#)

12 Q And your mother at this time was where?

13 A At the time we were forced to be eating down-
14 stairs, she was there in the house.

15 Q How long did the separation into classes go on?

16 A It never stopped, not to Bartholomew, it never
17 stopped.

18 Q Alright, you've described your physical abuse:
19 were you sexually abused as well, Toni?

20 A Yes, I was.

21 Q By Bartholomew?

22 A Yes.

23 Q Can you described that or is it too painful?

24 A I would rather not.

25 Q Okay. Now, let's turn to Renee, Renee is the

1 oldest child?

2 A Yes.

3 Q Who was the next oldest child?

4 A Jerry

5 Q Alright. We're going to talk about Jerry in the
6 same fashion we've talked about Renee. Jerry is three years
7 older than you?

8 A Yes.

9 Q Describe if you observed his abuse by Mr. Bartho-
10 lomew, physically first.

11 A Physically, personally I saw that for years, I
12 saw Jerry get it worse than any of the kids. It was for no
13 reason, for things that Bartholomew's son had done and had
14 admitted to when asked.

15 Q Did Bartholomew make remarks that you overheard
16 regarding why Jerry took the brunt of the punishment?

17 A Because he was also Gerald Ross Pizzuto. Bud
18 Bartholomew hates my real father.

19 Q Do you know that because you've heard that from
20 him?

21 A I heard that all my life, I mean, that's all he
22 told us, he told us all that, that's why we weren't allowed to
23 use the name Pizzuto, we were not allowed to call him Jerry
24 because he said it reminded him of his father.

25 Q You implied by your testimony a moment ago that

1 Jerry Pizzuto received the brunt of the abuse.

2 A Yes.

3 Q Is that a fair statement to say that he received
4 the brunt of it?

5 A Yes.

6 Q More than any of the other children?

7 A I believe so.

8 Q And at what age do you remember him receiving this
9 abuse?

10 A Just a little boy, I said he was three years
11 older than me, probably five years old.

12 Q Now, describe what you can remember how Jerry was
13 abused; was he hit with things? Instruments?

14 A He was hit with belts, the horsewhip, sticks,
15 anything.

16 Q Was he ever kicked at all?

17 A Yes, severely. My step father used to wear
18 cowboy boots and he loved to kick. [Return to Petition Page 5](#)

19 Q Did he ever hurt Jerry to the point where he
20 needed attention or care from doctors?

21 A Yes.

22 Q How often did that happen? [Return to Petition Page 4](#)

23 A Severely like that, maybe once a week to where
24 he should have had medical care, but he didn't get it.

25 Q Do you know whether or not he ever did receive

1 medical care?

2 A I don't know.

3 Q Did you ever see any injuries on your brother
4 Jerry's back or body --

5 A Yes, I did.

6 Q -- or body that you can describe to the Court?

7 A I saw cuts on his back, along with bruises, skin
8 missing off his back. Like all of us kids had at one time, his
9 back bleeding where he couldn't lay on his back in bed.

10 Q Do you know what instrument caused this?

11 A Belts and that horsewhip that I told you about.

12 Q And how often did this happen, that he was abused
13 so badly that he was physically injured?

14 A I would say probably once a week, they would
15 barely get closed up, the kids used to bandage each other up
16 so nobody would see.

17 Q Do you know whether or not your home, that is,
18 your mother and Bartholomew's home was ever investigated by
19 the Health and Welfare as a result of these beatings.

20 A Yes, they were.

21 Q Do you remember when and where?

22 A I believe it was in Snohomish, Washington, and
23 I don't remember the year.

24 Q Do you know whether or not they were investigated
25 more than once?

1 A Yes, they were, they were brought up on several
2 occasions.

3 Q Do you know whether or not the schools ever
4 called the attention of the Health and Welfare to your family?

5 A Yes, they did, on several occasions.

6 Q Still referring to Jerry, your brother, how long
7 did these beatings continue?

8 A The whole time he was in the house or ever lived
9 around Bud Bartholomew, until the day he left.

10 Q Do you know how old he was when he left?

11 A Thirteen.

12 Q The first time he tried to get back to see his
13 real father, when he ran away, twelve or thirteen. Was he
14 caught?

15 A Yes.

16 Q Was he punished for running?

17 A Yes.

18 Q By whom?

19 A Bartholomew.

20 Q Do you remember what he did.

21 A He beat him.

22 Q Do you remember him beating Jerry Pizzuto to the
23 point where Jerry was either unconcious or couldn't move?

24 A Yes.

25 Q On more than one occasion?

1 A Yes, especially when he took off.
2 Q Did he leave again, that is, Jerry leave again?
3 A Yes.
4 Q Do you recall when?
5 A I don't remember.
6 Q Is it not true that he was constantly running
7 away from Bartholomew?
8 A Yes, I don't remember exactly what dates he did,
9 but he was constantly trying to get out of there.
10 Q Do you remember if he was ever picked up by juve-
11 nile authorities because he was a runaway?
12 A Yes, he was.
13 Q Did he spend time in a juvenile home or a foster
14 home of some kind?
15 A Yes.
16 Q Do you know how old he was when he finally left
17 the Bartholomew home forever?
18 A I would say maybe thirteen, maybe fourteen.
19 Q You indicated earlier in your testimony that he
20 lived for a year with your natural father?
21 A Yes, he did.
22 Q How old would he have been then?
23 A I was seven, he was probably ten.
24 Q Why did he return to the Bartholomew home?
25 A That was the reason they went, they were only

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A And my mother.

Q Were you sexually abused by Bartholomew?

A Yes.

Q When did that begin?

A When I was about four, I guess, five when I realized right there what was going on.

Q How long did that go on?

A Until I was thirteen.

Q Did you observe the other children in the family getting the same type of treatment?

A Yes.

Q Did you observe it personally, that is, see acts on the part of Bartholomew upon your sisters?

A Yes, he used to bring his business friends home and let them do it too. That's why he would get two sometimes, one for him and one for his friend. [Return to Petition Page 4](#)

Q Were you sometimes part -- taken as part of the two out of the room?

A Yes, he would take pictures of us on his tow-dolly and he would show his friends and let them decide who they wanted. He would make you wear a bathing suit and stuff it with socks so you would look like a real lady.

Q This happened to your other sisters?

A Yes.

Q Did it happen to Jerry?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A Oh, yeah.

Q Describe what you observed in Jerry?

A Well, there was a point when I was about five that I kind of went into what you would call shock, he tried to come and get me to take me to the store and I wouldn't go, I just did not want to be touched anymore, and he accused Jerry of doing it and Jerry never touched us because that it had gotten out and he had accused Jerry, Jerry wouldn't admit to it so he started in on Jerry. He said that he could do those things to him, too. Jerry, sometimes he would beat him so bad that sometimes the sexual abuse that he received, Mom used to tell us because he had infections, that's why he would bleed down there, that's why he was bruised down there. Little boys aren't supposed to wet the bed, you're not supposed to do those things, that's why Bud was touching him there, to help him stop wetting the bed. You can't imagine some of the things that man did to us, I don't think anyone could.

Q Well, we can't imagine them unless you tell us; can you tell us?

A Some of it. He used to force us into the shower with him, he used to force us to take rides in the car with him. He tried when I was very young to physically have sex with me, they threw that out of Court, they said there was no way. I know I don't have children today because of it. I fought cancer nine years because of it.

1 Q The purpose of your being here today is to add
2 what you might know to that scenario; do you know the step-father
3 of these children?

4 A Yes, I do.

5 Q Mr. Bartholomew is his name?

6 A Yes, I do know Bud Bartholomew.

7 Q Have you had contact over the years, as these
8 children grew up with the family, that being your sister Pam
9 and her husband, Bud Bartholomew?

10 A Yes, I have.

11 Q Have you had occasions to spend time with that
12 family?

13 A Yes, I have; I've stayed with them and visited
14 with the family.

15 Q And your contact with the family, have you seen
16 cases where you felt the children of the Pizzuto family were
17 abused in any manner?

18 A Yes, I've seen it, I saw Jerry physically. When
19 Jerry, I think he was five, wasn't in school, but we were out
20 I was visiting my sister and we were out in the yard and he
21 was walking really bowlegged and I said: "Jerry, what happened
22 to you. what's the matter with your legs?" And he couldn't
23 talk very well, but he might have been younger and he goes:
24 "bee sting, bee sting." And I said: "what bee sting?" And I
25 took his shorts down and I looked at him and his testicles were

1 black and blue and they were swollen, and the end of his penis
2 was bloody.

Return to Petition Page 4

3 Q Did you question him about it further?

4 A Yes, and I said: "what do you mean bee sting,
5 Jerry?" And he said: "bee did it, bee did it." And I said:
6 "a bee can't do that to you, Jerry; who did it?" And he said:
7 "no, no don't tell, don't tell, don't tell, Aunt Kibby, don't
8 tell." And I did, I told my sister and she said: "oh, that's
9 impossible, he got stung by a bee." And I said: "no, he
10 didn't, look at him." And we looked, and she said: "well,
11 maybe it was from the belt wrapping around his testicles when
12 Bud gave him a beating." And I said: "it looks like he was
13 molested."

14 Q Did your sister Pam. seem to show any sorrow
15 at this event?

16 A She did, mainly she showed fear and shame and
17 she kind of got angry at me for even mentioning it.

18 Q Did you see any other evidence or incidence that
19 would be abusive to the children?

20 A Yes; the incident I'm talking about, the first
21 one was when Jerry was small and I was visiting, if you for-
22 give me, I need to tell about this. I was visiting them, my
23 husband was looking for work and I had no money and my sister
24 had invited me to stay there. Well, that incidence had
25 occurred and I knew it was time for me to go, but I couldn't

1 get ahold of my husband. And it was during the night, and Bud
2 was just like an animal, just raging, and so I was in the room
3 and I heard all of the little kids in there, they were spending
4 the night and they were giggling and I could hear them giggle
5 and Bud came in and he said: "if you make another noise I will
6 beat you, I will beat all of you." And I had four children,
7 but I had only three then, my two girls and my son were in
8 there. Well, immediately the Pizzuto kids were dead silent,
9 but my son kept giggling and the hair just stood up on end when
10 I heard it and he went in there and he started to beat all of
11 the kids, especially my son and the little ones were screaming.
12 And I went in there and I grabbed the belt out of Bud's hand
13 and I took it and I began to hit him with the belt, and I said:
14 Bud, don't you ever touch my kids again." And I grabbed my
15 kids and I had a Labrador, a beautiful dog and I had forgotten
16 it, I grabbed my kids and I left and I went down to the police
17 station and I told them what had happened and that I needed to
18 get a way home. They offered me money to help me get home
19 because I left everything I had there in fear of myself. But
20 I remembered, I had forgotten my dog and I went back after the
21 dog and Bud had shot it. And so I left and I went home and
22 I called the authorities and they moved and I never heard of
23 those kids for years and we tried to find them and we couldn't.
24 And then we found them again in Spokane. When I went up there
25 the kids had been told that we hated them, that my mother hated

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 12

(Declaration of Angelinna Pizzuto)

JOAN M. FISHER
Idaho State Bar No. 2854
Assistant Federal Defender
Federal Defenders of
the Eastern District of California
801 "I" Street, 3rd Floor
Sacramento, CA 95814
Telephone: 916-498-6666
Facsimile: 916-498-6656
Joan_Fisher@fd.org

ROBERT GOMBINER
WA Bar No. 16059
Federal Defenders of
Western Washington
1601 Fifth Avenue, Suite 700
Seattle WA 98101
Telephone: 206-553-1100
Facsimile: 206-553-0120
Robert_Gombiner@fd.org

CAPITAL HABEAS UNIT
Federal Defender Services of Idaho
317 West Sixth St, Ste. 204
Moscow, ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

GERALD ROSS PIZZUTO, JR.)	
	)	Case No. CV 05-516-S-BLW
Petitioner)	
	)	<u>CAPITAL CASE</u>
v.)	
	)	DECLARATION OF ANGELINNA
JOHN HARDISON, Warden	)	PIZZUTO
Idaho Maximum Security Institute,)	
)	
Respondent.)	
_____)	

Angelinna Pizzuto, a person over the age of eighteen (18), competent to testify and mindful of the penalties of perjury, being first duly sworn, deposes and says as follows:

1. I am the younger sister of Gerald Ross Pizzuto, Jr., hereafter referred to as Jerry. Jerry was born on January 11, 1956 and I was born on February 22, 1958. Our parents were Pam Pizzuto and Gerald R. Pizzuto, Sr.;
2. We were really poor when we were children. When we lived with our mom and dad we didn't have very much money because my dad couldn't keep the same job for very long. My mom left my dad in 1960 and married our stepfather, Bud Bartholomew in 1961. We were still poor then because Bud never had a job. Sometimes my mother worked but she didn't make very much money;
3. Jerry and I grew up in a household where abuse was common. Our stepfather, Bud Bartholomew, abused us physically and sexually. Jerry and I got abused more than the other kids and Jerry had it the worst of all. Our stepfather would whip us with a horsewhip on a regular basis. He would also hit us with his fists. He would hit Jerry around the head all the time, even if Jerry hadn't done anything wrong; [Return to Petition Page 4](#)
4. Bud Bartholomew abused us sexually by forcing us to have intercourse, anal sex and oral sex with him. He also had men over and would let them have sex with us for ten or twenty dollars, depending on what they wanted to do. Bud would take nude photos of us - sometimes alone, sometimes in sexual positions with each other; [Return to Petition Page 4](#)
5. I can remember Jerry having seizures when we were little. Sometimes he would just stare into space and drool. Sometimes he would shake and I would hold him still while my sister Elsie would put a spoon into his mouth to hold his tongue down;

6. Jerry didn't play games as a child. We would sometimes play battleship on paper but Jerry never played that with us because he couldn't comprehend how the game worked, even though we tried to teach him how to play many times. He also had trouble with games at school. He couldn't play football or even tetherball because he didn't understand how to play;
7. Jerry was always the most immature of all our siblings even though he was the second oldest among us. When Jerry was eleven years old he acted like our stepbrother Richard Bartholomew who was six years younger than Jerry. My mother told me that Jerry didn't start talking until he was around twenty-nine months old. He couldn't talk very well and for many years he had a really bad stutter. He couldn't pronounce words correctly. He also couldn't read very well. Jerry and our sister Renee were both slow;
8. Jerry had trouble with potty training. He wet the bed as late as age nine and according to my mom, he wasn't potty trained until he was five years old; [Return to Petition Page 9](#)
9. Jerry was flunked at least once in grade school. He was in the sixth grade for the 1968-69 school year at St. Ann's School in Spokane and also in sixth grade at Spokane's Hamblen Elementary School during the 1969-70 school year. Elsie and I did almost all of his schoolwork for him but he still did really bad in school;
10. When Jerry was around thirteen years old he had a bicycle accident where he hit his head on a rock and cracked it open. He had to go to the hospital in Spokane and he was in the hospital for a few days;

11. Jerry dropped out of school after finishing ninth grade at age sixteen at a continuation school in Eureka , California. He went out to Illinois to live with our dad, Gerald Pizzuto, Senior, in Normal, Illinois. My dad tried to teach him how to do bodywork on cars, like pulling out bent fenders but Jerry couldn't learn how to do it. He enlisted in the army and never came back home.

DATED this 25 day of February, 2009.


Angelinna Pizzuto

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 13

(Declaration of Elsie Pizzuto-Rado)

JOAN M. FISHER
Idaho State Bar No. 2854
Assistant Federal Defender
Federal Defenders of
the Eastern District of California
801 "T" Street, 3rd Floor
Sacramento, CA 95814
Telephone: 916-498-6666
Facsimile: 916-498-6656
Joan_Fisher@fd.org

ROBERT GOMBINER
WA Bar No. 16059
Federal Defenders of
Western Washington
1601 Fifth Avenue, Suite 700
Seattle WA 98101
Telephone: 206-553-1100
Facsimile: 206-553-0120
Robert_Gombiner@fd.org

CAPITAL HABEAS UNIT
Federal Defender Services of Idaho
317 West Sixth St, Ste. 204
Moscow, ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

GERALD ROSS PIZZUTO, JR.)	
	)	Case No. CV 05-516-S-BLW
Petitioner)	
	)	<u>CAPITAL CASE</u>
v.)	
	)	DECLARATION OF ELSIE
JOHN HARDISON, Warden	)	PIZZUTO-RADO
Idaho Maximum Security Institute,)	
)	
Respondent.)	
_____)	

Elsie Pizzuto-Rado, a person over the age of eighteen (18), competent to testify and mindful of the penalties of perjury, being first duly sworn, deposes and says as follows:

1. I am the sister of Gerald Ross Pizzuto, Jr., hereafter referred to as Jerry. Jerry was born on January 11, 1956 and I was born eleven months later on December 16, 1956. Our parents were Pam Pizzuto and Gerald R. Pizzuto, Sr.;
2. Our other siblings include Renee Parris, our half-sister from our mother's first marriage to David Parris, born on November 21, 1954, Angelinna "Angie" Pizzuto, born on February 22, 1958, and Toni Pizzuto, born on May 18, 1959. We also had two half-siblings from my mother's marriage to Bud Bartholomew in 1961: Richard Bartholomew, born on November 27, 1961 and Carrie Bartholomew, born on December 17, 1965;
3. During my childhood we were very poor. From 1956 through 1960 we lived with our mother and father. Our father, Gerald, Sr. worked a lot. He sometimes had two or three jobs at a time and would frequently go out of town for jobs. He never made much money though;
4. In 1961 my mother married Bud Bartholomew. Our family was still very poor. Bud didn't work at all. My mother worked at diners and restaurants but she made even less than my father had. We were poor the whole time I lived with my family;
5. Bud Bartholomew abused me and my siblings throughout our childhood. He abused us both physically and sexually. He would sometimes use his fists, but more often he would line us up and hit us with a horsewhip. He would go down the line taking turns slapping us with the whip;

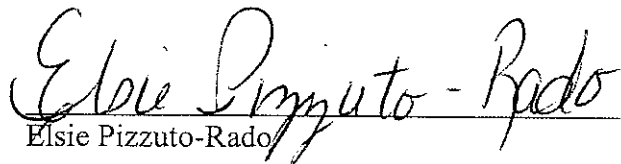
6. Jerry and Angie were abused the most out of all the Pizzuto siblings. Bud would beat Jerry until he was unconscious and then tell me to take care of Jerry. If Bud was looking for someone to beat, Jerry would put himself in Bud's path so he would get beaten instead of his sisters. Jerry was beaten the most out of all of us. Angie was beaten a lot too. I remember once Angie fell out of a second story window and Bud and my mom wouldn't take her to the hospital because she had bruises on her face from a recent beating by Bud;
7. Bud Bartholomew also abused us sexually. He forced each of us to have sexual relations with him including intercourse, oral sex and anal sex. He would invite men over and let them have sex with us too - intercourse, oral and anal sex. He also took nude photos and videos of us, positioning us in sexual poses. He did this when he had people over and would take the photos and videos in front of his friends;
8. When Jerry was in fifth grade, Bud threw him out of the house and told him he couldn't come back. Jerry stayed across the street in a field for days. He slept there on the ground. Eventually he was able to come back to the house;
9. My mother and Bud would go out of town a lot and I was the one who was left in charge of the other kids. Even though Renee and Jerry were older than I was, neither of them were capable of taking care of anything. My mother and Bud would leave for weeks at a time. We would have to go to the little convenience store close to our house and buy food with food stamps. When we would walk anywhere, I would hold Jerry's hand and Angie would hold Renee's hand and we would be in charge of them because they couldn't be trusted to walk on their own. They didn't know how to walk safely in the street and avoid cars or how to look both ways before crossing the street;
- [Return to Petition Page 4](#)
- [Return to Petition Page 4](#)

10. I often did things for Jerry that he just couldn't learn how to do. It took him a long time to learn to tie his shoes so I did that for him. When we were in grade school I often did his homework for him. Most of the time we were in the same class because Jerry had been held back. I'd do my homework first and then I would do Jerry's. Jerry couldn't even look things up in the dictionary and copy meanings when we had vocabulary homework. Either Angie or I would do that for him; [Return to Petition Page 9](#)
11. Even when he got older there were many thing Jerry couldn't do. He never got the concept of money. Anytime we went to the store Angie or I would have to pay and get change because Jerry didn't know how to handle money. He didn't bathe or clean his nails or things like that unless we told him too; [Return to Petition Page 10](#)
12. Jerry didn't know how to take care of himself very well. There were small things like not knowing to test your food to see if it was too hot or not, and not blowing on it to cool it down. And there were bigger things like being really careless on a bike. Jerry wasn't careful at all when riding a bike. Sometimes he would just fall off but once he hit his head on a rock and was hurt pretty badly. He had to go to Deaconess Hospital in Spokane and he was in the hospital for a few days;
13. When we lived in Spokane we lived in a really bad part of town. This is the only time I can remember Jerry ever having a friend. There was a boy who lived across the street and Jerry and he would play together if Bud and my mom were out of town;

[Return to Petition Page 9](#)

14. Jerry didn't have this friend for very long because we moved away. We moved around a lot during our childhoods. We lived in different residences in lots of different towns including: Mount Vernon, Colville, Maple Falls, Snohomish, Mead, Chewelah, and Spokane in Washington and Reno, Nevada;
15. When I was fifteen I went to the police station in Chewelah, Washington and told them I wasn't going back home. I was in foster care for awhile and then ran away. I never went back there.

DATED this 23 day of February, 2009.


Elsie Pizzuto-Rado

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 14

(Excerpt from testimony of Kismet Winslow)

1 **Q.** What do you mean by "potential"?
 2 **A.** Well, you get a lot of people who,
 3 given the circumstances of their lives, do not
 4 realize intellectually who they could be. And
 5 going back again to the theory of the case at the
 6 time, and what was really striking me was the
 7 tremendous amount of damage that had been done to
 8 this person's development just by the
 9 circumstances in which he was raised, so that was
 10 where I was operating from at that time.

11 **Q.** And, in fact, an IQ score, as I
 12 understand it, is actually a measurement of
 13 potential intelligence --

14 **A.** It's a measure --

15 **Q.** -- correct?

16 **A.** It's a measure of current functioning.

17 **Q.** Current functioning?

18 **A.** Mm-hmm.

19 **Q.** Okay. How is that opposed to adaptive
 20 functioning?

21 **A.** Well, you use a little bit different
 22 measures when you -- I mean, most of what people
 23 are doing is adaptive functioning right now is
 24 practical, day-to-day behaviors, rather than a
 25 test that takes a sample of different intellectual

1 hearing?

2 And particularly, you testified that,
 3 "He showed more intelligence in his conversation,
 4 his choice of words. And very frequently,
 5 individuals who come out of a background similar
 6 to that of Mr. Pizzuto's, with the interrupted
 7 education, a family in which there is very little
 8 intellectual interchange, the testing would be
 9 spuriously low, especially on the verbal scale."

10 **A.** Yeah. And there again, we're talking
 11 about the distinction between what he potentially
 12 can do and what he is, in fact, doing on the test
 13 itself.

14 **Q.** So am I understanding you correct, that
 15 the score of 72 that you ascertained from the
 16 WAIS-R was actually, in your opinion at the time
 17 at least, low?

18 **A.** The native intelligence, the potential,
 19 I thought possibly could be higher, yes.

20 **Q.** And what did you mean by "native
 21 intelligence"?

22 **A.** What his -- that's -- we're using the
 23 word "potential" again there.

24 MR. ANDERSON: That's all I have,
 25 Your Honor. Thank you.

1 capacities.

2 **Q.** Okay. So adaptive functioning measures
 3 what you're currently doing, and IQ measures what
 4 you're capable of doing; fair statement?

5 **A.** No. Well, if we're -- we've got to get
 6 "capable" and "potential" separated here. IQ
 7 measures what one can do intellectually at that
 8 point; what they have learned in various different
 9 areas --

10 **Q.** Okay.

11 **A.** -- and how they can use it.

12 **Q.** And if I can figure out how to operate
 13 this, I believe --

14 MR. ANDERSON: Sorry, Your Honor. If I can
 15 get my exhibit list.

16 BY MR. ANDERSON:

17 **Q.** Exhibit 2035, page 180, you were asked
 18 by Judge Reinhardt about borderline intellectual
 19 functioning; correct?

20 **A.** Mm-hmm.

21 **Q.** That's a yes?

22 **A.** Yes.

23 **Q.** Sorry.

24 Would you explain what it was you meant
 25 here when you were testifying at the sentencing

1 THE COURT: Redirect?

2 MS. HAMPTON: No, Your Honor.

3 Thank you very much.

4 THE COURT: All right. You may step down.
 5 Thank you.

6 Call your next witness.

7 MS. WARD: Your Honor, petitioner calls
 8 Kismet Winslow.

9 THE COURT: Perhaps -- do you have someone
 10 who can summon them?

11 MS. HAMPTON: Yes, your Honor.

12 THE COURT: All right.

13 Would you please approach the clerk to
 14 be sworn.

15 KISMET ADARE WINSLOW,
 16 having been first duly sworn to tell the whole
 17 truth, testified as follows:

18 THE CLERK: Please state your complete name
 19 and spell your name for the record.

20 THE WITNESS: My first name is Kismet,
 21 K-I-S-M-E-T. My middle name is Adare, A-D-A-R-E.
 22 My last name is Winslow, W-I-N-S-L-O-W.

23 THE COURT: All right. Ms. Ward, you may
 24 examine the witness.

25 MS. WARD: Thank you.

DIRECT EXAMINATION

1 BY MS. WARD:

2 **Q.** Ms. Winslow, will you tell the court
3 where you currently live.

4 **A.** I live in Gold Beach, Oregon.

5 **Q.** And you own a business?

6 **A.** Yes.

7 **Q.** Will you tell the court a little bit
8 about that, please.

9 **A.** I'm a denturist, and I take
10 impressions, making dentures for the public. And
11 I have a degree in advanced oral pathology.

12 **Q.** And what is your relationship to
13 Mr. Pizzuto?

14 **A.** I'm his aunt.

15 **Q.** How long have you known Jerry?

16 **A.** Since he was born.

17 **Q.** I guess we'll start there. What do you
18 remember about Jerry's birth?

19 **A.** It -- my sister said of all the kids,
20 he was more traumatic than most.

21 MR. ANDERSON: Objection, Your Honor.
22 Hearsay.

23 THE WITNESS: Well, I wasn't --

24 THE COURT: Just a moment.

1 **A.** I would go to their house.

2 **Q.** Now, you have your own children; right?

3 **A.** Yes, I do.

4 **Q.** Will you just tell us a little bit
5 about their ages in relationship to Jerry.

6 **A.** Okay. I have to think. My oldest
7 daughter was born May 15th. I think she is
8 Jerry's age, 50- -- I think she is 54. And she is
9 a -- do you want me to tell you what they do?

10 **Q.** No, just their names and --

11 **A.** Okay. I had a son, who is deceased,
12 and he was younger than Jerry. And then I have a
13 daughter that's with me today, and she is 50, just
14 turning 50. And then I have another daughter who
15 is 10 years -- she is just turning 40.

16 **Q.** Your oldest daughter that is
17 approximately the same age as Jerry, what is her
18 name?

19 **A.** Andrea Lynnette Winslow.

20 **Q.** Could you describe Jerry's physical
21 appearance when he was a child?

22 **A.** Yeah. He -- he looked like he was
23 failure -- had a failure to thrive. He -- I
24 remembered what -- do you want me to go into
25 detail?

1 THE WITNESS: -- at the hospital.

2 THE COURT: Just a moment. Just a moment.

3 If there is an objection, I have to rule on it
4 before you answer.

5 THE WITNESS: Oh, I'm sorry.

6 THE COURT: Sustained. I mean, it could
7 be -- I'll sustain the objection.

8 BY MS. WARD:

9 **Q.** Ms. Winslow, when was Jerry born?

10 **A.** I don't know. I mean, I know, and I
11 don't know. I don't carry dates in my head. I'm
12 really a busy person.

13 **Q.** Was Jerry born premature?

14 **A.** Yeah.

15 **Q.** How often -- [Return to Petition Page 8](#)

16 **A.** But -- okay. Go ahead.

17 **Q.** How often did you see Jerry when he was
18 young?

19 **A.** At least once or twice a year, maybe
20 more.

21 **Q.** Where did you see him?

22 **A.** Oh, I saw him in different places:
23 Montana, Washington, when they moved.

24 **Q.** Would you see him at his house, or
25 would his family come to your house?

1 **Q.** Well, what was Jerry's weight?

2 **A.** He was undernourished, skinny.

3 **Q.** What did he look like in comparison to
4 other children his age?

5 **A.** Failure to thrive, and I don't think he
6 was as bright as the rest. All I -- mostly, he
7 didn't -- the other kids wouldn't play with him
8 because he couldn't keep up with them. And he
9 mostly sat on my lap.

10 **Q.** Describe Jerry's walk.

11 **A.** He kind of walked swaying, swaying,
12 like he would walk, and then he would roll around
13 and talk to you. And then sometimes he would
14 (indicating), like that, too.

15 **Q.** How was his gait?

16 **A.** Abnormal, if that's what you want. I
17 don't know how to explain it. It's like if you
18 were disoriented and dizzy or something, you know.

19 THE COURT: Did you say how is his gait?

20 MS. WARD: Gait.

21 THE COURT: G-a-i-t?

22 MS. WARD: Yes.

23 THE WITNESS: Yeah.

24 THE COURT: All right.

25 THE WITNESS: His walk.

1 BY MS. WARD:

2 **Q.** How was Jerry clothed?

3 **A.** He had normal clothing, but --

4 MR. ANDERSON: Your Honor --

5 THE WITNESS: -- usually --

6 THE COURT: -- can we get some foundation on
7 this?

8 Just a moment.

9 THE WITNESS: -- usually --

10 THE COURT: Just a moment.

11 THE WITNESS: Oh, I'm sorry. Please correct
12 me.

13 THE COURT: As to time frame?

14 MR. ANDERSON: Yes, Your Honor.

15 THE COURT: The witness has testified that
16 she saw him once or twice a year. Probably the
17 time frames, whether or not it was when
18 Mr. Pizzuto was five, six, seven, eight, or at
19 least a range of years, would be appropriate. So
20 I'll sustain the objection.

21 BY MS. WARD:

22 **Q.** Ms. Winslow, when Jerry was walking
23 with the gait that you've described, approximately
24 how old was Jerry?

25 **A.** Six, seven.

1 **A.** I think around five, six.

2 **Q.** And up until what age did you still
3 observe the runny nose and mucus?

4 **A.** Well, if you could just bear with me,
5 that's hard to answer because his sister, Elsie,
6 would follow him around with a washcloth and
7 always, you know, wipe his face. So it was 10,
8 11.

9 [Return to Petition Page 10](#)

10 **Q.** Will you describe Jerry's mannerisms?

11 **A.** I feel bad that I'm here in front of
12 Jerry saying this, but he didn't talk clearly,
13 "Hello, Aunt Kibby" (indicating vocally), like
14 that. And then, when he wanted something he, like
15 this (indicating), pull on your clothes. He
16 didn't have clear speech.

17 **Q.** And how old was Jerry?

18 **A.** Forever. When I saw him in Brookings,
19 he still had a speech, kind of a slow speech
20 impediment. He was a full-grown man.

21 **Q.** How did Jerry speak in stressful
22 situations?

23 **A.** High pitched, like (indicating). But
24 his life was always stress. It never was calm.

25 **Q.** How would Jerry use his hands to
communicate?

1 **Q.** And how long -- up until what age did

2 Jerry continue to walk with that same gait?

3 **A.** At least 12, 13. I don't think he ever
4 stopped walking that way, truthfully. He had
5 motor movement problems.

6 **Q.** How about Jerry's cleanliness; we'll
7 start with whatever age you first remember and --

8 **A.** Well, Jerry's personal cleanliness was,
9 he wet himself, it seemed like --

10 MR. ANDERSON: Objection, foundation.

11 THE WITNESS: Okay.

12 THE COURT: Sustained.

13 BY MS. WARD:

14 **Q.** At what age did Jerry wet himself?

15 **A.** Six, seven.

16 **Q.** Up until what age, do you remember
17 Jerry wetting his pants?

18 **A.** I think he -- I remember him still
19 wetting the bed at 12.

20 **Q.** How was Jerry's hygiene? And please
21 state what age.

22 **A.** Okay. At age four, five, he always had
23 dirt on his face and a runny nose. And he ate
24 dirt.

25 **Q.** At what age did Jerry eat dirt?

1 **A.** With pinching, pointer finger and
2 thumb, like that, or pull your clothes
3 (indicating). [Return to Petition Page 8](#)

4 **Q.** When you visited the Pizzuto house, how
5 did you observe Jerry interacting with his own
6 siblings?

7 **A.** He always --

8 MR. ANDERSON: Objection, foundation.

9 THE COURT: Sustained.

10 THE WITNESS: Could you ask it again?

11 BY MS. WARD:

12 **Q.** We'll take a specific time. Were there
13 times that you observed Jerry interacting with his
14 siblings at the Pizzuto house?

15 **A.** Yes.

16 **Q.** And when were those times?

17 THE COURT: How old was he at that time?

18 THE WITNESS: Clear up until like, I think
19 10, 11. His sisters were his caregivers.

20 MR. ANDERSON: Objection, Your Honor,
21 unresponsive.

22 THE WITNESS: Can I answer better?

23 THE COURT: No, just a moment. Sustained.
24 It was nonresponsive.

25 I think what would be helpful, as you

1 describe what you observed and various
2 characteristics, if you just put a general time
3 frame in terms of Mr. Pizzuto's age, as best you
4 can, like between ages three and six; or if it was
5 a consistent pattern, you can so indicate.

6 But that's the objection, is just
7 trying to --

8 THE WITNESS: The consistent pattern for me?

9 THE COURT: Well, from your observations.

10 THE WITNESS: Okay.

11 THE COURT: We're only talking about your
12 observations at this point --

13 THE WITNESS: Yes.

14 THE COURT: -- not what someone told you --

15 THE WITNESS: Yes.

16 THE COURT: -- but only what you observed.

17 THE WITNESS: Yes.

18 THE COURT: All right. Let's go ahead and
19 put a question back before the witness.

20 BY MS. WARD:

21 **Q.** Ms. Winslow, what did you observe --
22 how did you observe -- what did you observe about
23 Jerry's interactions with his siblings?

24 **A.** His interactions were --

25 MR. ANDERSON: Objection, foundation,

1 Your Honor.

2 THE COURT: Well, I'm going to allow the
3 witness to answer. But again ask her to --

4 THE WITNESS: Shall I say --

5 THE COURT: -- give us a time frame as you
6 answer the question.

7 THE WITNESS: Okay. From age one --

8 THE COURT: And if it didn't -- excuse me.

9 And if it did not vary over time, you can so
10 indicate that, as well.

11 THE WITNESS: Okay. To a degree, his
12 interactions with his siblings were not there.
13 His interactions were that of a child that needed
14 care. They didn't play or have -- form a group or
15 whatever. They just mainly cared for him, and
16 even cut his food and fed him and, you know.

17 BY MS. WARD:

18 **Q.** How else did Jerry's sisters help him
19 at, say, the age of six?

20 **A.** I remember his oldest sister saying,
21 "Get Jerry. Oh my God. He's out in the street
22 and he's not dressed. He's out in the traffic.
23 Get him."

24 Because he was not responsible for
25 where he went --

1 MR. ANDERSON: Objection, nonresponsive.

2 THE WITNESS: I'm sorry.

3 THE COURT: Just a moment. Well, I think in
4 a general way it is responsive. I think the
5 original question had to do with the way he had
6 interacted with his siblings. So I'll allow it.

7 Go ahead and continue your response.

8 THE WITNESS: Okay. Well, the thing that
9 stood out to me is they watched him so close, and
10 they would get in trouble for not watching him,
11 because he would open the door and wander out into
12 the street, into the cold, undressed.

13 BY MS. WARD:

14 **Q.** Will you tell the court about other
15 memories you have of Jerry's sisters helping him
16 at the age of six, or nine, or whatever age?

17 **A.** Okay. My memories were, number one, he
18 wet his pants. Number two, I do not know why, but
19 he ate ants; therefore, the dirt on his face. He
20 ate bugs. And they would hold him down and open
21 his mouth and dig them out of his mouth. And that
22 stands out.

23 **Q.** Will you describe the way your own
24 children interacted with Jerry?

25 **A.** They did not interact with him. Jerry

1 sat on my lap or sat by himself -- I remember
2 clearly -- on a swing, and freeze, like this
3 (indicating) -- and --

4 **Q.** How old was Jerry when he was sitting
5 on the swing, freezing?

6 **A.** Eight, or less or more.

7 **Q.** And how old was Jerry when he would
8 crawl into your lap?

9 **A.** Forever; you know, from one to no
10 matter what age he was. He always like -- I was
11 his favorite aunt. He liked to sit in my lap, or
12 next to me, because my kids didn't play with him.
13 He was alone.

14 **Q.** Other than eating bugs, how was Jerry
15 different than your own children?

16 **A.** My children were happy, gregarious.
17 Jerry was just not there. He was too within
18 himself. My kids were open, playing. He was
19 not -- he was a person unto himself, because he
20 couldn't communicate with my children.

21 MS. WARD: Thank you. I think that's all
22 the questions.

23 THE WITNESS: I'm sorry I messed up.

24 THE COURT: You're fine.

25 Mr. Anderson.

1 **A. I can't keep up with that. They**
2 **divorced, went back together several times. So I**
3 **don't really remember that clearly.**

4 **Q.** Can you give me any indication as to
5 how old Jerry was when they divorced?

6 **A. I would say probably five, six. I'm**
7 **trying to remember, so this --**

8 **Q.** Five or six?

9 **A. -- is not clear. You know, the family**
10 **was in turmoil. They --**

11 **Q.** You answered my question. That's fine.

12 **A. Thank you, sir.**

13 **Q.** Okay. Thanks.

14 When -- prior to the divorce, Jerry,
15 Sr., had some problems with Jerry, Jr.; correct?

16 **A. Like --**

17 **Q.** Well, he would call him --

18 **A. -- juvenile problems?**

19 **Q.** -- he would call him a little bastard.

20 Do you remember that?

21 **A. He called everything a little bastard.**

22 **Q.** Did he call Jerry a little bastard?

23 **A. I -- I think so. I don't remember,**
24 **because he called everything a little bastard -- a**
25 **dog or a puppy or, you know.**

1 **Q.** Did Jerry, Sr. -- was there any
2 physical abuse from Jerry, Sr., upon Jerry, Jr.?

3 **A. Not that I remember. If you want to**
4 **know physical abuse, go to his stepfather.**

5 **Q.** We'll get there.

6 **A. Okay.**

7 **Q.** How about beatings from Jerry, Sr., as
8 far as the other children?

9 **A. I -- I don't think Jerry beat his**
10 **children, to be honest with you. I don't. If he**
11 **called them a little bastard, maybe. I don't**
12 **remember any of the kids ever complaining how**
13 **their real father beat them. As a matter of fact,**
14 **their real father rescued them.**

15 **Q.** Okay. And "real father" being Jerry,
16 Sr.?

17 **A. Jerry Pizzuto, Sr.**

18 **Q.** Jerry worked a lot; Jerry, Sr.?

19 **A. He worked a lot?**

20 **Q.** Did he?

21 **A. Well, of course.**

22 **Q.** Okay.

23 **A. You have to work to live.**

24 **Q.** He was gone a lot?

25 **A. What?**

1 **Q.** He was gone a lot because of his work?

2 **A. That, I don't know. I thought he**
3 **relatively was a welder and he worked with cars**
4 **and put the windows back in, you know, hid them**
5 **in. So that wouldn't take him too far away from**
6 **his house, would it?**

7 **Q.** Okay. Now you mentioned Jerry's
8 stepfather. That's Bud Bartholomew; correct?

9 **A. Right.**

10 **Q.** It's fair to say that he's a fairly --
11 or you perceive him as being a fairly evil man?

12 **A. I think that he is more than fairly**
13 **evil. I think he is so evil we can't explain how**
14 **evil he is.**

15 **Q.** And you were aware of the -- became
16 aware of the physical and sexual abuse that the
17 children, particularly Jerry, Jr., suffered from
18 the hands of Bud.

19 **A. Can I relate an incident to you?**

20 **Q.** Just yes or no: Are you familiar with
21 that? You became aware of it.

22 **A. Yes, I am.**

23 **Q.** How old was Jerry, Jr., when you first
24 found out he was being physically abused by Bud?

25 **A. He was six --**

1 **Q.** Six?

2 **A. -- when he told me; younger.**

3 **Q.** Okay. Did you actually see Bud beating
4 on Jerry?

5 **A. I saw Bud take a two-by-four and hit**
6 **Jerry in the back of the head, and hit him. And I**
7 **got in a fight, and I laid him back, and he had a**
8 **belt. And I remember it wrapping around his eyes.**

9 **Q.** Who is "he," that had a belt?

10 **A. Bud Bartholomew.**

11 **Q.** Okay.

12 **A. And he wanted to hit my children one**
13 **time, at a stay.**

14 **Q.** Okay. Let's hang on just a minute.
15 We'll get to it. Okay?

16 **A. Okay.**

17 **Q.** All right. When did you become aware
18 that Jerry -- and when I'm referring to Jerry now,
19 I'm talking about Jerry, Jr. --

20 **A. Young Jerry.**

21 **Q.** -- was being sexually abused by Bud?

22 **A. I was aware when he was six years old,**
23 **because he came and told me.**

24 **Q.** Jerry came and told you?

25 **A. But this is -- can I say how he told**

1 me?

2 **Q.** I just want to make sure it was Jerry
3 that told you.

4 **A.** Young Jerry came and says, "Aunt Kibby,
5 bee sting. Bee sting."

6 **I** said, "You have a bee sting."

7 **And** he took -- he showed me. His
8 testicles were huge. I said, "You got stung by a
9 bee?"

10 **And** he, "Yeah. Yeah. Yeah."

11 **And** I said, "How could a bee do that to
12 you?"

13 **And** he said -- and he started crying,
14 and he said, "Bud did that."

15 **Q.** And Jerry was about six years old, you
16 think --

17 **A.** Yes. [Return to Petition Page 4](#)

18 **Q.** -- at that time?

19 **A.** "Bee sting." He kept saying "bee
20 sting."

21 **Q.** Okay. And you found out that that
22 wasn't a bee sting.

23 **A.** Absolutely. Because --

24 **Q.** What did you do --

25 **A.** -- I questioned it --

1 **Q.** I'm sorry?

2 **A.** Because I questioned it with every
3 member of that family.

4 **Q.** And what did you do as a result of that
5 incident?

6 **A.** I told my sister, and I --

7 **Q.** Your sister being Pam --

8 **A.** Yes.

9 **Q.** -- Jerry's mom.

10 **A.** And I wanted to take the kids home.

11 **And** she said that she would try to take
12 care of it. **But** Bud, when she did, held a knife
13 to her throat. And she was in such fear.

14 **Q.** Now --

15 **A.** And, yes, I did tell authorities. She
16 told authorities. **But** those children were so
17 afraid --

18 **Q.** Okay. That's fine.

19 **A.** -- they wouldn't --

20 **Q.** You've answered --

21 **THE COURT:** Just a moment. Just a moment.

22 **BY MR. ANDERSON:**

23 **Q.** You've answered my question.

24 **A.** Thank you.

25 **Q.** Jerry wasn't in school at the time of

1 this bee sting incident, was he?

2 **A.** Let me think. I think it was in the
3 summer, because usually we went out in the summer.

4 **Q.** Usually you were there at the summer?

5 **A.** Mm-hmm.

6 **Q.** Okay.

7 **THE COURT:** Counsel, if you would clarify
8 the question. Are you meaning that he was under
9 six, and therefore would not have been in school,
10 or are you talking only about --

11 **MR. ANDERSON:** And I was going to clarify
12 it, Your Honor.

13 **THE COURT:** All right.

14 **THE WITNESS:** Well, you go to kindergarten,
15 too.

16 **THE COURT:** Just a moment. Let counsel ask
17 questions, and if you will just answer the
18 questions he asks, it will help us go through this
19 much --

20 **THE WITNESS:** I'm sorry. I don't --

21 **THE COURT:** -- much better.

22 **MR. ANDERSON:** Hang on just a moment,
23 Your Honor.

24 **THE COURT:** Counsel, we're going to take a
25 break at about a quarter after, just a short

1 break. Since we're going to recess at 11:30, it
2 will be only a 10-minute break.

3 **MR. ANDERSON:** Thank you, Your Honor.

4 **THE WITNESS:** See, some of this is --

5 **MR. ANDERSON:** It's --

6 **THE COURT:** Just a moment. Just listen to
7 counsel's question, and answer that.

8 **THE WITNESS:** Yes, sir.

9 **THE COURT:** It will help us get through this
10 much more easily and appropriately.

11 **BY MR. ANDERSON:**

12 **Q.** Now, Ms. Winslow, you testified at
13 Jerry's sentencing hearing; correct?

14 **A.** Yes.

15 **Q.** That would have been in 1986; correct?

16 **A.** I'm assuming it's correct. I'm not
17 really good with dates or times.

18 **Q.** I understand that.

19 **And** you testified at that time that
20 Jerry was five years old when that incident
21 happened; correct?

22 **A.** Go for it. I'm 71, so if one year is
23 off, that's good for me, you know.

24 **Q.** And I can appreciate that.

25 **A.** Yeah.

1 **A.** Oh, I would think up to eight. But I
2 just remember him getting beat for wetting the bed
3 and wetting his pants and stuff.

4 **Q.** Okay. Let's focus on one thing at a
5 time.

6 **A.** Okay.

7 **Q.** You said up to age eight, his sisters
8 helped him get dressed.

9 **A.** Or more. Your Honor, I remember he wet
10 his beds for years and years.

11 **Q.** Okay. How --

12 **A.** I mean, Your Lawyer [sic].

13 THE COURT: Just listen to counsel's
14 question and --

15 THE WITNESS: All right.

16 THE COURT: -- answer it, if you would.

17 BY MR. ANDERSON:

18 **Q.** How old was he when he started wetting
19 the bed?

20 **A.** You probably should ask how old was he
21 when he stopped wetting the bed. I don't know. I
22 just remember him wetting the bed forever.

23 **Q.** And was this an every-night occurrence?

24 **A.** Yeah.

25 **Q.** Every single night, he would wet the

1 bed?

2 **A.** Okay. May I relate an incident?

3 **Q.** I just want to know: Did he wet the
4 bed every single night?

5 THE COURT: Just answer yes or no.

6 THE WITNESS: Yes. But I wasn't there every
7 night to know that. But I --

8 THE COURT: The question is, within your
9 knowledge --

10 THE WITNESS: Within my knowledge and
11 talking to my sister, yes. He was really --
12 couldn't not wet the bed.

13 BY MR. ANDERSON:

14 **Q.** Do you know if he had a medical problem
15 that created this?

16 Do you know, yes or no?

17 Do you know if --

18 **A.** No.

19 **Q.** -- if it was a medical problem?

20 **A.** No, I do not know.

21 **Q.** Did he wet his pants during the day?

22 **A.** Yes. Definitely.

23 **Q.** Did you see him wet his pants?

24 **A.** Oh, yes. [Return to Petition Page 10](#)

25 **Q.** And do you know if he had a medical

1 problem that created that?

2 **A.** No, I don't know if he did or not.

3 **Q.** And at what age did he stop wetting his
4 pants during the day?

5 **A.** I don't know.

6 **Q.** Under the age of 10; over the age of
7 10?

8 **A.** Probably under the age of 10, I hope.
9 You know, like I say, I'm not there every day to
10 know. But he is diabetic, so --

11 **Q.** That's fine.

12 Now, at the sentencing hearing, you
13 said that his sisters were able to survive because
14 they had Jerry for their champion. Do you
15 remember stating that?

16 **A.** He did fight Bud, yes. Because he was
17 stupid. Nobody fought Bud if they had a brain.

18 **Q.** Ms. Winslow, just answer my question --

19 **A.** Okay.

20 **Q.** -- okay? Please.

21 **A.** Oh, here we go. Thank you.

22 **Q.** Okay. This is some of your testimony
23 from the sentencing hearing. It's page 98 of
24 Exhibit --

25 **A.** Uhm --

1 THE COURT: Wait until a question is asked.

2 MR. ANDERSON: I think it's 134, Your Honor.
3 I'm sorry. It is the sentencing transcript.

4 THE COURT: What is the exhibit number?

5 MR. ANDERSON: If I could have just a
6 moment.

7 THE COURT: Is it 2134?

8 MR. ANDERSON: I'm sorry, Judge. Here we
9 go. 2035. I'm sorry, Your Honor.

10 THE COURT: All right.

11 BY MR. ANDERSON:

12 **Q.** Now, Ms. Winslow, if you'll look at
13 that page, and starting on page -- excuse
14 me -- line 7 or 8, "That's why the girls were able
15 to survive, because they had Jerry for their
16 champion."

17 So Jerry was able to do things for his
18 sisters; correct?

19 **A.** No. He fought when he saw them being
20 beat.

21 **Q.** He would put himself --

22 **A.** In their stead--

23 **Q.** -- between them -- let --

24 THE COURT: Just a moment. Listen to
25 counsel's question, and then you can answer.

1 BY MR. ANDERSON:

2 **Q.** He would put himself between Bud and
3 his sisters to protect them; correct?

4 **A.** Yes. He always did.

5 **Q.** And then he got beat more severely for
6 it.

7 **A.** With -- yes.

8 **Q.** By Bud.

9 **A.** Mm-hmm.

10 **Q.** Let's talk again about the newspapers.

11 And I'm sorry to --

12 **A.** That's --

13 **Q.** -- rehash some things.

14 **A.** Okay. Go ahead.

15 **Q.** You don't have any recollection of
16 seeing him deliver newspapers.

17 **A.** Well --

18 **Q.** That's something you just heard about;
19 is that correct?

20 **A.** I think so, yes. I don't know if he
21 delivered the papers. I know you're going to say
22 that I did know it, but --

23 **Q.** That's --

24 **A.** -- that's a long time ago.

25 **Q.** That's fine.

1 Now, this incident regarding Jerry's

2 testicles being -- from the bee sting, his
3 testicles were basically black; is that your
4 recollection?

5 **A.** Yeah.

[Return to Petition Page 4](#)

6 **Q.** Yes?

7 **A.** Yeah. And bright red and swollen,
8 whatever injuries are.

9 **Q.** All right. And then there was another
10 incident when the -- when the Pizzutos were living
11 in Spokane, where Bud beat the kids. Do you
12 remember that incident?

13 And you left because of that incident.

14 Do you remember that?

15 **A.** Yes.

16 **Q.** And you didn't see the family for quite
17 a period of time after that incident; correct?

18 **A.** That's correct.

19 **Q.** A number of years, you didn't see the
20 family; correct?

21 **A.** I called her on the phone.

22 **Q.** No. My question --

23 **A.** Oh.

24 **Q.** -- was, a number of years, you didn't
25 see the family.

1 **A.** Some years, I -- yes. I mean, I'm
2 not --

3 **Q.** And this --

4 **A.** -- totally agreeing --

5 **Q.** -- would have been before 1967;
6 correct?

7 **A.** I don't know the date.

8 **Q.** Well, do you remember how old Jerry was
9 when this incident happened?

10 **A.** I'm trying to remember. I think he was
11 about eight.

12 **Q.** About eight?

13 **A.** Yeah. I don't know. I tell you, with
14 dates, and that's --

15 **Q.** And I understand you've talked about
16 that.

17 And you couldn't find the family for a
18 while?

19 **A.** That's right.

20 **Q.** Again, for a number of years during the
21 course of Jerry's youth, you didn't know where
22 they were.

23 **A.** Are you --

24 **Q.** Is that correct?

25 **A.** No, not all the way. I was called on

1 the phone. Sometimes my sister would come,
2 escape. But I know it's going to say here I
3 didn't see them. But there were times I did see
4 her during the years, you know. So --

5 **Q.** But they would --

6 **A.** -- they were nomads.

7 **Q.** They were nomads. And you had to track
8 them down.

9 **A.** Yes.

10 **Q.** Okay. And then, there was an
11 incident --

12 THE COURT: Counsel, is this a good breaking
13 point?

14 MR. ANDERSON: If I could have just
15 five minutes, Your Honor, it would be.

16 THE COURT: Okay.

17 BY MR. ANDERSON:

18 **Q.** And then there was an incident in
19 Spokane where you went into the bedroom and the
20 kids were being abused, including your own
21 children, by Bud.

22 **A.** Yes.

23 **Q.** And that would have been, what, 1967?

24 **A.** If you say it, it is. Because, like I
25 said, I am not -- I'm not going to say a date

1 after hearing about this, that I didn't do more to
2 help Jerry."

3 Is that correct?

4 **A. That's very correct.**

5 **Q.** So they just dropped out of sight at
6 times. Yes?

7 **A. Yes.**

8 **Q.** "They" being the Pizzutos, Jerry and
9 his family.

10 **A. Yes.**

11 **Q.** And you wanted to do everything you
12 could to help them.

13 **A. Yes.**

14 **Q.** And you felt guilty about not having
15 done more.

16 **A. Right.**

17 **Q.** In fact, you, at the sentencing
18 hearing, referred to him as your son.

19 MR. ANDERSON: Page 94 of the sentencing
20 transcript, Your Honor.

21 THE WITNESS: That's true. I think he could
22 have changed.

23 BY MR. ANDERSON:

24 **Q.** Well, what I'm interested in is that
25 you weren't afraid to call him your son.

1 **A. No.**

2 **Q.** And you're still not afraid to call him
3 your son today.

4 **A. I'm not afraid to call him my son. I
5 am not -- that being --**

6 **Q.** You answered my question.

7 **A. Okay.**

8 MR. ANDERSON: Thank you.

9 That's all I have, Your Honor.

10 THE COURT: Redirect?

11 MS. WARD: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. WARD:

14 **Q.** Ms. Winslow, you've testified to your
15 memories of Jerry as a child and specific things
16 that you remember, but you've also testified that
17 you're not certain of the exact year; it could be
18 off by a year or two.

19 **A. That's right; or events, you know.**

20 **Q.** But you're certain of the actual events
21 that you observed?

22 **A. Yes, I am.**

23 **Q.** When Jerry ran away, who was Pam living
24 with at the time?

25 **A. He has run away more than once, so I**

1 **think he probably was living with Bud or Jerry.**

2 **Q.** Do you remember there being times where
3 Jerry ran away when he was living with Bud?

4 **A. My sister called, "He has run away
5 again."**

6 **Q.** When you were describing Jerry's
7 sisters' taking care of him, how old was Jerry at
8 that time, to the best of your memory?

9 **A. To the best of my memory -- I somehow
10 keep saying six, but they always looked out after
11 him.**

12 **Q.** You also described Jerry as being slow.
13 What do you mean by that?

14 **A. He was slow. He was afraid and
15 terrified of a lot of things. He couldn't
16 interact with my children. And I felt bad for him
17 because his IQ wasn't, I knew wasn't --**

18 MR. ANDERSON: Objection, Your Honor.
19 Nonresponsive and foundation.

20 THE WITNESS: Sorry.

21 THE COURT: Well, I think it was responsive,
22 but it's --

23 THE WITNESS: Well, he --

24 THE COURT: Just a moment. Just try not to
25 say anything until I'm done.

1 THE WITNESS: Okay.

2 THE COURT: Counsel, would you rephrase the
3 question? I think it provided too much of a
4 narrative, which allowed her to wander into some
5 areas that probably would have been inappropriate.
6 So let's rephrase the question.

7 BY MS. WARD:

8 **Q.** Ms. Winslow, do you have examples of
9 how Jerry was slow?

10 **A. Yes, I have examples.**

11 **Q.** And what are those?

12 **A. When the books were -- the kids, my
13 kids read books, he didn't. He would ask people
14 to read them to him.**

15 **My kids were smart enough to wipe their
16 nose. He wasn't. At six, my kids always wiped
17 their nose.**

18 **And my kids didn't eat dirt and they
19 didn't eat bugs. And if they -- I just don't
20 remember my kids doing that, and Jerry did. He
21 did a lot of inappropriate things.**

22 **Q.** What about Jerry makes the runny nose
23 stand out in your mind?

24 **A. Because -- because -- it stands out in
25 my mind so clearly because he would sit and watch,**

1 and with the runny nose, stare at the hole. The
2 ants would come out. And he would eat the dirt
3 and it would stick to the snot on his face.

4 Q. Now, Ms. Winslow, you knew Jerry, you
5 said, for his entire life.

6 A. Yeah. [Return to Petition Page 8](#)

7 Q. After the times that you no longer saw
8 Jerry regularly, how did you get information about
9 Jerry?

10 A. At times my sister would call me in
11 desperation and ask for money, and then she would
12 tell me.

13 MS. WARD: Thank you, Ms. Winslow.

14 No further questions, Your Honor.

15 THE COURT: Mr. Anderson, any recross?

16 MR. ANDERSON: Very quickly, Your Honor.

17 RE-CROSS-EXAMINATION

18 BY MR. ANDERSON:

19 Q. Ms. Winslow, as I understand it, "slow"
20 in your mind is his being terrified and afraid.

21 A. You're wrong. Slow, in Jerry's mind,
22 was --

23 Q. No. I'm asking your mind. And as I
24 understood your answer just a minute ago, you said
25 that an example of slow was because he was

1 terrified and afraid. Is that correct?

2 A. Not -- no. I -- I would like to say
3 something, but I guess I can't.

4 Q. So that was incorrect. Okay.

5 A. He was --

6 Q. That's fine.

7 A. -- retarded for many things.

8 MR. ANDERSON: Your Honor, I'm going to ask
9 that that be stricken.

10 THE WITNESS: Okay. I'm sorry. I'll strike
11 it.

12 THE COURT: Just a moment. Well, obviously,
13 the witness is not --

14 THE WITNESS: I'm sorry.

15 THE COURT: No, there is nothing to be sorry
16 about.

17 The witness is not qualified,
18 obviously, as an expert, but I think she can make
19 comments of that sort as a lay witness under
20 Rule 701.

21 Unfortunately, the word has taken on
22 a -- well, an extremely negative connotation and
23 is used, in kind of the common parlance,
24 inappropriately. But if the witness is using it
25 as just a way of describing her perceptions of him

1 as a child, I'll allow it.

2 Proceed.

3 MR. ANDERSON: Thank you.

4 BY MR. ANDERSON:

5 Q. Ms. Winslow, Jerry did ask to be read
6 to, though?

7 THE COURT: Just yes or no.

8 THE WITNESS: Yes.

9 BY MR. ANDERSON:

10 Q. And at the age that he wasn't reading
11 books, that would have been about age six?

12 A. Can I go on to a narrative?

13 Q. No. Was that about age six?

14 THE COURT: Just so we're clear, Ms. Ward
15 will give you a chance, if need be, to follow up.

16 THE WITNESS: Okay.

17 THE COURT: Just listen carefully.

18 THE WITNESS: That was one of the ages, yes.

19 BY MR. ANDERSON:

20 Q. And at the most, Ms. Winslow, you saw
21 him one or two times a year -- "him" being Jerry.

22 A. (Indicating).

23 Q. That's a --

24 A. Yes.

25 Q. -- yes? Okay.

1 MR. ANDERSON: Thank you, Your Honor.

2 THE COURT: Anything else, Ms. Ward?

3 MS. WARD: Just one question, Your Honor.

4 THE COURT: Yes.

5 RE-REDIRECT EXAMINATION

6 BY MS. WARD:

7 Q. Ms. Winslow, what other ages was Jerry
8 read to?

9 A. Jerry, at eight, seven, nine, ten. He
10 didn't pick books up and read them. He liked his
11 sisters or other people to read to him.

12 MS. WARD: Thank you.

13 THE COURT: You may step down. You are
14 excused.

15 THE WITNESS: Thank you.

16 THE COURT: Thank you.

17 The petitioner may call its next
18 witness.

19 MS. WARD: Your Honor, petitioner calls
20 Monique Eska.

21 THE COURT: What is the name again?

22 MS. WARD: Monique Eska.

23 THE COURT: Ms. Eska, would you please step
24 here before the clerk and be sworn.

25 MONIQUE LEE ANN ESKA,

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 15

(Audio transcription of interview with Elsie Pizzuto)

In Re:)
Elsie Pizzuto Interview)
_____)

TRANSCRIPTION OF EXAMINATION
CONDUCTED BY GREG WORTHEN
NOVEMBER 3, 2019
OROFINO, IDAHO

TRANSCRIBED BY:
KAMRA TOALSON, CSR No. 756
Notary Public

1 (Beginning of audio file 3.)

2 BY MR. WORTHEN:

3 Q. ...about that. And so you're a year -- about
4 a year or --

5 A. Eleven months younger than Jerry.

6 Q. Okay. You were talking about knowing at an
7 early age that you had to protect your siblings and
8 yourself, I assume.

9 A. Yes.

10 Q. Yeah. Tell me about what was happening
11 with -- especially with Jerry, but anything with Jerry
12 and...

13 A. Well, there were many of us, and my parents
14 considered me the most capable, so I was generally put
15 in charge of anything and everything from cooking for
16 the family to cleaning to babysitting the children to
17 watching them to all kinds of tasks, and it never ended
18 until the day I left. My job was to take care of them.

19 And so my first reason that at four years old
20 I felt I have to protect them was my stepfather was new
21 to the household and had asked all of us to learn to tie
22 our shoes.

23 Q. Uh-huh.

24 A. And so my sister Renee, who's a year older
25 than Jerry, couldn't do it. She just was not capable.

1 So I tied her shoes and was going to tie Jerry's shoes,
2 and he saw me do it and pretty much backhanded Jerry
3 across the room in front of my mother, and my mother
4 just didn't do anything about it. [Return to Petition Page 4](#)

5 And at four I thought -- I just remember that
6 very vivid memory. So my job was to protect them and to
7 do that. I felt like I was raised on alert all the
8 time. [Return to Petition Page 5](#)

9 Q. Okay. [Return to Petition Page 7](#)

10 A. And it didn't matter what time day or night,
11 so...

12 Q. So you always had to be ready to protect --

13 A. Yes.

14 Q. -- yourself or them?

15 A. Ready to protect myself and them. And, again,
16 I felt my job was to protect them --

17 Q. Okay.

18 A. -- you know.

19 Q. They still got hurt?

20 A. Yeah, they did. Yes, they did.

21 Q. What was that like for you?

22 A. I bore a lot of guilt from that, because at
23 such a young age I took it so serious that I thought I
24 did something wrong, maybe something I shouldn't have
25 done, maybe something I should have done, and therefore

1 I couldn't keep all of them safe at the same time.
2 There were too many chickens in the nest, you know.

3 Q. Lucky if you keep somebody safe.

4 A. And so he would preoccupy the main part of the
5 group and drag one or two off and then bring them back
6 in various stages of abuse, even to the point that when
7 I was in sixth grade he delivered Jerry to me, and he
8 had been beaten basically from head to toe, and he was
9 convulsing, and told me to clean him up.

10 So my sister and I put him in the bathtub and
11 put cold water on him. And we didn't have enough
12 bandaids, so we tore an old sheet and wrapped him like a
13 mummy. That's just one. That's just a day in the life.
14 So, you know... [Return to Petition Page 4](#) [Return to Petition Page 5](#)

15 Q. And that was not unusual?

16 A. Not at all.

17 Q. Okay. I mean, maybe the extent.

18 A. No. I don't know that people can really
19 understand that, you know, the daily, daily emotional
20 torture, physical abuse, sexual abuse. He was just a
21 horrible predator and a really evil man, I feel, you
22 know.

[Return to Petition Page 6](#)

23 Q. Uh-huh.

24 A. I saw it with clarity then just as much as I
25 do now.

1 Q. Uh-huh.

2 A. But I'm okay from it, you know. Not of it,
3 but from it.

4 Q. What do you mean?

5 A. I mean, like it was -- it was just really,
6 really horrible to even be able to sleep and go to
7 school. I felt school was the only escape for me where
8 I could go be somebody, just be me and not have all that
9 responsibility.

10 Q. Uh-huh.

11 A. Yeah.

12 Q. Did you do well at school?

13 A. I did. I did fairly well.

14 Q. Okay.

15 A. You know. I did better in high school than I
16 did grade school. But my parents, a lot of times, kept
17 me home to manage the kids, the babies, that weren't in
18 school.

19 Q. Uh-huh.

20 A. So...

21 Q. Okay. How did Jerry do in school?

22 A. He didn't -- he didn't do well at all. He
23 didn't do well at all. He always had poor grades and
24 had real serious attention problems. You know, he was
25 always acting up and acting out and fighting, you know.

1 I think that at a certain age Jerry thought
2 perhaps our father was -- because he was Italian might
3 have been somehow glorified as mafia in Jerry's mind,
4 even though it's not true. Jerry would be in the state
5 of mind that he had at that time, and even before, that
6 he didn't see things right in the first place. And so
7 Jerry, I believe, was sort of emulating that stigma,
8 that image, that he thought he had to be a tough guy,
9 you know.

10 So there's a lot of conflict for him. He --
11 when I would have to task him or any of the other kids
12 out, you always paired him with someone else. For a
13 long time I paired him with Angelina. But Angelina is
14 pretty sneaky and just as deviant as Jerry. So
15 unfortunately that backfired a couple of times, and it
16 meant just more management on my part. Because if
17 anything under my guidance, anything was broken,
18 missing, whatever, not only did they get hell, but I got
19 double hell because of it.

20 So when I say I'm better now for it, maybe not
21 for it or maybe not of it, but I just know that that was
22 just a pure living hell that most people cannot even
23 imagine.

24 Q. Uh-huh.

25 A. If you've ever read or seen the movie Sybil,

1 that was nothing compared to what we saw every day, day
2 in and day out, day in and day out, day in and day out,
3 day in and day out for years.

4 Q. Uh-huh.

5 A. And each one of us just reached a point of
6 maximum breakage and walked out the door, so...

7 Q. Uh-huh.

8 A. You know.

9 Q. Uh-huh. It's interesting. Certainly one of
10 the concepts I have is that when you grow up in that
11 environment, for a while, anyway, it seems normal --

12 A. Oh, it never did to me.

13 Q. -- because you don't know -- okay.

14 A. I realize that most kids that I went to school
15 with didn't have bruises and weren't afraid. And, you
16 know, we had a different relationship where I really was
17 like the mother, you know.

18 Q. Uh-huh.

19 A. And so we learned and were told to keep our
20 mouths shut, you know.

21 Q. Uh-huh.

22 A. So you didn't -- you didn't integrate really
23 well, because you knew you weren't going to be staying
24 for one thing.

25 Q. Uh-huh.

1 A. My parents moved and moved and moved and moved
2 and moved and used different last names. So yes.

3 Q. Why were they doing that; do you know? [Return to Petition Page 6](#)

4 A. You know, in hindsight I believe they were
5 either in trouble with the law or maybe -- the
6 stepfather, he was -- he was a shyster kind of guy, and
7 he probably owed people money or -- that's the only
8 thing I can assume now, is, why would you do that, you
9 know? Unless you're hiding, you're running, you know.

10 And that was pretty frequent. And so we'd go
11 from one school to the next. My job was to register
12 everyone. We were all -- had to memorize the last
13 names.

14 "We didn't go to that last school. No. No.
15 We came from somewhere else."

16 Of course, they never had records, never had
17 records. Would send home notes, you know, notes to my
18 mom. And never respond, never respond. So, you know...

19 Then we'd move. Then we'd go somewhere again,
20 you know, so...

21 Q. From an early --

22 A. It was just a real panicky situation that
23 wouldn't go away.

24 Q. And from an early age, I'm guessing. I'm just
25 looking.

1 A. Yeah, for as long as I can remember.

2 Q. Okay. What on earth was wrong with Bud?

3 A. Everything. He was a pedophile. He was a
4 very, very demented man. And he was brilliant,
5 brilliant. Like I'm not going to guess his I.Q., but he
6 was like a master manipulator. All different types of
7 people believed him. All -- he was just that kind of
8 guy. But we were terrified of him.

9 Q. So what was that like? I mean, you're growing
10 up in a house with a monster.

11 A. Yeah. You dreaded coming home.

12 Q. And people liked the monster.

13 A. Yeah.

14 Q. Including --

15 A. It was a betrayal. It was a big betrayal, for
16 real, when you're a child, because you have nowhere to
17 go with that, you know, especially in those days. You
18 didn't talk about things like that then, you know.

19 Q. Uh-huh.

20 A. They didn't have open discussion for kids.
21 They didn't -- you know, none of that was there; none of
22 the internet, none of the -- you know, I've often --
23 well, not often, but I've wondered how did he never get
24 caught.

25 Q. Yeah.

1 A. How did he never get caught?

2 Q. Wow.

3 A. You know.

4 Q. And that's got to go towards your feeling of
5 self worth. I mean, that --

6 A. Yeah, it did for many years.

7 Q. Okay.

8 A. It really did. And --

9 Q. I mean, for all of you.

10 A. Oh, yeah. In fact, for me, because I was like
11 the mother, it was really hard for me, because I -- I --
12 I feel like it was easier for me to understand that that
13 was him and that was "hurt mom" being unable. Okay. I
14 felt that she was mentally ill just as bad as he was.

15 Q. Uh-huh.

16 A. They didn't understand that. None of them got
17 it. None of them got to that part.

18 Q. Uh-huh.

19 A. So, for me, from the time I was 15 and I left
20 home, I was like, okay, I'm done. You know, this is
21 never going to change.

22 And my biggest pain after that was worrying
23 about them and then starting to realize that I needed
24 help. And so I went to a lot of counseling, read a lot
25 of self-help.

1 Q. Uh-huh.

2 A. And I've always believed in God. And so in
3 retrospect, I think that God put me in that household,
4 you know. It made me very young and very aware, because
5 that's where I was needed most.

6 Q. Huh.

7 A. And I believe that the Lord knew that I was
8 going to get -- that I'd be okay, that I'd get through
9 it. You know, I'd be rewarded later in my life.

10 Q. Okay.

11 A. And so I felt like when I left home that I was
12 never going to let that ruin the rest of my life. That
13 was my first thing I thought, that I'm tough enough I
14 can do this. But it's not like that. It's very, very
15 difficult to overcome, you know, so many decades of
16 stuff, you know.

17 Q. Uh-huh.

18 A. And just the torture for me is watching my
19 siblings being abused, you know, just being the one to
20 have to bandaid them, to -- there was never anybody for
21 me, ever. I didn't cry in front of my brothers and
22 sisters. I didn't let them see that. I read them
23 stories. I sang to them. I did anything I could to try
24 and love them.

25 Q. Okay.

1 A. You know, I've stayed out of jail. That's a
2 conscious effort on my part, you know. And I'm lucky
3 that I have the intellect to understand those kind of
4 things.

5 Q. Uh-huh.

6 A. I don't believe my sister Angelina does. I
7 don't believe my brother Jerry does. I don't believe my
8 sister Tony does.

9 Q. Uh-huh.

10 A. They're not bad people. They don't have that
11 ability. That's -- I think it's a physiological thing.

12 Q. Okay.

13 A. I really do. I liken it to a dozen eggs. You
14 can go to the grocery store, and you can look at those
15 eggs, and they're perfect, every one of them, and
16 sometimes you get them home and one or two are cracked.
17 They might have even come from the same chicken, but you
18 don't know, you know. I think it's just a weakness in
19 the shell, genetics, something.

20 Q. Uh-huh.

21 A. I tend to believe it has more to do with that.

22 Q. Okay.

23 A. That I was lucky enough to have a couple of
24 good eggs in my head to get me through, you know.
25 Yeah, for real.

1 Q. Do you think also -- if I'm hearing you right,
2 and correct me obviously if I'm wrong -- you were
3 recognized by your parent, by Bud and by your mom, as
4 somebody they would give a little bit of a pass to
5 because you were taking --

6 A. Right.

7 Q. You were --

8 A. Right.

9 Q. -- the designated one --

10 A. The only pass, right, is because I was busy
11 covering for them doing everything that they should have
12 been doing.

13 Q. Uh-huh.

14 A. You know.

15 Q. Uh-huh.

16 A. So, yeah.

17 Q. Okay. So that insulated you a little bit?

18 A. Somewhat but not -- not completely. No.

19 Q. No. And --

20 A. I went through everything they went through
21 and the beatings and the abuse, the sex abuse.

22 Q. Uh-huh.

23 A. You know, he was so manipulative and cunning
24 and so just deviant, his words. You know, people like
25 that, I believe they hone that over their life.

1 Q. Uh-huh.

2 A. And they -- they already must have some type
3 of ability for that, because he was just so manipulative
4 of everyone.

5 Q. Jerry -- you mentioned something about, you
6 know, Jerry. You didn't use the word "invented" but
7 this whole thing about the mafia --

8 A. Yes, I believe that.

9 Q. -- and being a tough guy.

10 A. Yeah, because when he was young he used to
11 think -- he was like, "When I grow up I'm going to be a
12 Don. Do you know what a Don is?"

13 Q. Uh-huh.

14 A. "Do you know what they do? Or maybe you're
15 going to be the guy that does the shooting. You're the
16 bad guy. You go out there, and you take care of
17 business."

18 You know, we're like, "No, this is not how it
19 is." He's not mafia. Yes, our lineage is somewhat
20 Italian.

21 But, you know, again, when you're speaking to
22 somebody that isn't going to be swayed because they
23 can't see the path before them, then okay.

24 Q. Uh-huh.

25 A. You know, but he did fantasize that. And he

1 wanted to be a boxer to impress our dad. Having not
2 grown up with him, he wanted to -- he built like this
3 imaginary thing of what he thought his father was.

4 Q. Huh.

5 A. First time I met him, and was pretty much sure
6 the same day that Jerry met him, he knocked on the door,
7 and I answered the door and didn't -- I -- he asked if
8 Pamela was there, my mother. And I said, "Yes. What's
9 your name?" And he said, "Jerry." And I said, "Okay.
10 Just a minute."

11 Shut the door in his face and said, "Mom,
12 somebody's here to see you." I didn't know who he was.
13 None of us knew who he was.

14 Q. Uh-huh.

15 A. And two days later she sent us with him to
16 move to Iowa. Perfect stranger, I mean, and he was not
17 anywhere capable of performing father duties in any way.

18 Q. Huh.

19 A. He just wasn't. And I saw that, too.

20 Q. Wow.

21 A. And even now he told -- you know, I stood up
22 to him a couple of different times and just had to --
23 you know, I was in fifth grade. And I'm like, "You and
24 I need to go to the store. And you need to give me your
25 money. And I've got a list this big. And nobody else

1 can go. And guess what, buddy. You're going to do this
2 every week."

3 Q. Wow.

4 A. He didn't know how to cook. The wife didn't
5 know how to cook.

6 Q. Uh-huh.

7 A. And then you've got four kids all of a sudden,
8 so, you know...

9 There, because I was the responsible one, I
10 knew what needed to be done. Did the same thing there.

11 Q. And you were in the fifth grade?

12 A. Yep.

13 Q. Wow.

14 A. I remember cooking and, honestly, literally,
15 standing in a chair with my mother doing remote-control
16 orders from the living room and being afraid that I was
17 going to fall and get hurt, you know, and get burned.

18 But that was one of my jobs; chief cook,
19 bottle washer, babysitter. You name it. "You're
20 staying home. We're going to go do something today.
21 You're going to stay with the babies."

22 Q. Wow.

23 A. I mean, I didn't go to kindergarten. You
24 know, I was lucky because my stepfather made us read
25 before we went to school, as much as he could. He

1 couldn't teach Jerry. Angie couldn't learn but a few
2 words. He taught me. He tried to teach Renee, and that
3 didn't work.

4 Q. Uh-huh.

5 A. So mostly he honed in on teaching me --

6 Q. Okay.

7 A. -- reading everything. And that's how I was
8 able to read to them, you know --

9 Q. Okay.

10 A. -- for comfort. But, yeah, he was just a
11 psycho-crazy man.

12 Q. Do you have any idea how that may have
13 affected Jerry and his future?

14 A. Oh, I know how it would have, because that man
15 would hit you for nothing. And I mean nothing. Drag us
16 all out to the barn, going to go hook up the milk
17 machines on the cows. We gotta help.

18 We'd go out there with him, and the next thing
19 you know, he grabs one of those tall metal milk cans
20 from back in the day and swung it around and dropped
21 Jerry until he was unconscious and then turned around
22 and was swinging it at my sisters and I. So we -- they
23 take off running. I try and get Jerry. He grabs me,
24 ties me up, and then takes and drags Jerry off.

25 Daily stuff. So it affected you. It affected

1 your sleep. It affected your attitude. I mean, holy
2 crap.

3 We would leave school, come home, and from a
4 night of beating, him beating us, and bruises in our
5 faces and things like this, we'd go to school the next
6 morning, and you'd come home from school, "Get in the
7 car. We're leaving."

8 Everything you knew was gone. All you had was
9 the clothes on your back. And you were going off
10 somewhere else, and the whole time you were being
11 drilled on what your new last names were.

12 Q. Wow.

[Return to Petition Page 6](#)

13 A. Yeah.

14 Q. How often would something like that happen?

15 A. Oh, Jesus.

16 Q. And would it always be new last names, or
17 sometimes it would --

18 A. Sometimes it was the same.

19 Q. Okay.

20 A. But a lot of last names. But just the
21 physical assault, abuse, was basically every day.

22 Q. Right.

23 A. Every day. He seemed to get big pleasure
24 lining us all up. And starting, he'd beat you with the
25 horsewhip once. Whack. Then through the group twice,

1 15, 16, 25. You're dropping on the floor unconscious at
2 that point.

[Return to Petition Page 5](#)

3 Q. Huh.

4 A. Those are the kind of things that we lived
5 through.

6 Q. Okay. On a daily --

7 A. Honest to God, I don't know how I'm able to
8 sit and just talk about it and not be so -- you know,
9 but because I pray, I really truly believe that I've
10 been -- some of that is just gone, you know. I mean, I
11 remember every bit of it.

12 Q. Uh-huh.

13 A. But I don't have to live with it.

14 Q. It's an interesting thing, because we know
15 like in posttraumatic stress disorder what happens is
16 you relive it.

17 A. Yeah.

18 Q. And that's part of --

19 A. That's -- you know, it's odd, because my
20 siblings are there. They still, still want to speak
21 about it every single day. And Mr. Bartholomew did hit
22 us in the head a lot with a two-by-four, with whatever
23 he could grab, slap you, pull over the car and backhand
24 everybody, you know. And, I mean, Mom is sitting right

25 there. [Return to Petition Page 4](#)

[Return to Petition Page 7](#)

1 So you didn't argue with him. You didn't --
2 you know, all I could do was try and outsmart him, you
3 know.

4 Q. Did it work?

5 A. Not always.

6 Q. No?

7 A. No.

8 Q. No.

9 A. But for my life and my choices I'm -- you
10 know, I'm not -- I'm not happy that that happened. And
11 you just -- you accept that that was your life. And it
12 doesn't mean that that has to be your future.

13 Q. Okay.

14 A. You know.

15 Q. Okay.

16 A. I mean, and that was really it for me, is like
17 can I -- am I going to carry these rocks around with me
18 forever? Am I going to have nightmares forever?

19 Q. Right.

20 A. You know, am I just going to just find peace?
21 And I found peace, and I'm lucky that I did.

22 Q. Okay. And I do want to talk to you about
23 that.

24 I worry about this, because I have a battery
25 in there right now.

1 A. Okay.

2 Q. Is there a place I can --

3 A. We can take a break, if you'd like.

4 Q. -- plug it in?

5 A. Because I can bring that yappy dog in, but
6 she's going to be all over you.

7 (End of audio file 3.)

8 (Beginning of audio file 4.)

9 Q. Obviously we're talking about Jerry.

10 When's the last time you saw him?

11 A. 2010 at the evidentiary hearing.

12 Q. Okay. So you saw him in court?

13 A. Yeah.

14 Q. Okay.

15 A. I didn't get a chance to visit with him then,
16 but...

17 Q. Did you get --

18 A. Some.

19 Q. -- any kind of a hug or...

20 A. No.

21 Q. So just you saw him --

22 A. No, he was in chains and the dogs, so...

23 Q. And you testified.

24 A. Yes.

25 Q. And you had mentioned before, you know, you've

1 gone over a lot of this stuff.

2 A. Yes.

3 Q. Clearly that was directed at the mental
4 retardation stuff and some of the things that -- what he
5 was like as a child.

6 A. He didn't have a chance.

7 Q. Why do you think that?

8 A. Because it was just torture every day.

9 Q. Okay.

10 A. You know, I watched this movie with Marlon
11 Brando, and it was, you know, Vietnam. And they're
12 going off this river, and he goes crazy. And I can't
13 remember what it was called. But in the end they find
14 him, and he's just babbling to himself, and all he can
15 say is, "The horror. The horror."

16 Q. Uh-huh.

17 A. You know, and so I look at my brothers and
18 sisters, and I feel like they've been through horror
19 that most people couldn't survive.

20 Q. Okay. [Return to Petition Page 7](#)

21 A. In everything I've read, you can be abused
22 once and be traumatized for the rest of your life.

23 Q. Of course.

24 A. Well, how about you pile that up about a
25 thousandfold, you know.

1 Q. Okay.

2 A. 365 days a year. I'm thankful it only lasted
3 that long, because there's been thousands of days since
4 then that are good.

5 Q. Okay. So how long was that that you guys were
6 stuck with Bartholomew?

7 A. Probably from the time that I was three or
8 four to the time that I left home at 15.

9 Q. You left home at 15?

10 A. Uh-huh.

11 Q. That must have taken a lot.

12 A. Well, it was just a threshold thing, you know.
13 I couldn't do it anymore. And at the time I was working
14 and supporting myself anyway, so it was -- and had a --
15 not a family friend but a friend who had a family that
16 sort of took me in and helped.

17 Q. Was Jerry still at home?

18 A. No.

19 Q. Okay.

20 A. Not back then.

21 Q. Okay.

22 A. Jerry left when he was in sixth grade.

23 Q. Do you know where he went? Or...

24 A. He went, first, to Morning Star Boy's Ranch in
25 Spokane. And then from there he went with my dad. And

1 that was, I'm going to say, '68 or '69. Maybe a little
2 bit after that. But yeah.

3 Q. Okay. Do you know what it was like for him
4 with your dad?

5 A. No, I don't, because I didn't know my dad
6 really at all. And Jerry was the only one that went,
7 and so the rest of us were still at home.

8 Q. You mentioned this thing about the whole mafia
9 thing and, you know, the --

10 A. Yeah, how he fantasized in his mind about
11 that, I believe.

12 Q. Going to be a tough guy.

13 A. Uh-huh.

14 Q. Do you think that a lot of that had to do with
15 the fact that he was so abused?

16 A. Yes, I do.

17 Q. Okay.

18 A. I absolutely do.

19 Q. Okay. So he's creating something in his mind
20 about --

21 A. I believe, yes.

22 Q. -- who he's going to be?

23 A. Yes, who he's going to be and then the
24 fantasy. And because he's not able to discern, you
25 know, it's just -- his view of our dad before he really

1 knew him was that he was this Italian tough guy that,
2 you know, was an awesome kind of thing, so...

3 Q. Okay. Was he ever able to fight back against
4 Bud?

5 A. I'm sure physically he would have tried, yeah.

6 Q. Did you ever see it?

7 A. He sequestered.

8 Q. Okay.

9 A. He sequestered the victim basically and then
10 came back with pretty much a lifeless body that was
11 alive but not moving, and so...

12 Q. Uh-huh. So you guys would be one place, for
13 example, and then he takes Jerry?

14 A. Something would happen. Not just Jerry. He
15 would do things between -- you know, we'd move to a new
16 place, and then maybe one night he would abuse Angelina,
17 and she'd be all beat up. And the next day we'd go to
18 school, and that would start people talking, you know.
19 And then a couple of days later they'd notice it was
20 Jerry. And then a couple days later, you know -- - or
21 however much time. That's not completely accurate, but
22 that's the idea.

23 Then they'd pull one of us aside. And then,
24 of course, we were so terrified of him that, of course,
25 we told Mom. And then, boom, we'd be gone.

1 Q. Okay.

2 A. We'd be gone.

3 Q. Because questions were being raised --

4 A. Sure.

5 Q. -- about your --

6 A. Yeah, at school.

7 Q. Okay.

8 A. And that was it, you know.

9 Q. Okay.

10 A. And so, again, you didn't make close friends.

11 You didn't do that because you knew you were going to be
12 gone.

[Return to Petition Page 6](#)

13 Q. Okay. I also assume that you were afraid that
14 people would find out?

15 A. Well, you know, people didn't believe it. My
16 mother one time --

17 (Speaking to the dog:)

18 Daisy.

19 (Examination continues.)

20 My mother one time took us to a doctor. I was
21 in the second grade. It was a male, and he examined all
22 of us girls and said, "Nothing's wrong with them." And
23 my mother was standing there, "But they're saying this."
24 And he turned to me and Renee and said, "You are just
25 nasty little girls to be saying those kind of things."

1 So you don't say anything, and you hope nobody
2 knows, but you grow up thinking that everybody knows.

3 Q. Uh-huh. Uh-huh.

4 A. But you have a stigma because of it, you know.

5 Q. Uh-huh.

6 A. So you don't tell a lot of people.

7 Q. Right. Okay. What I was getting at, I think,
8 with -- like with Bartholomew is, Jerry never carried
9 his lifeless -- Bartholomew's lifeless body --

10 A. No.

11 Q. -- back?

12 A. No.

13 Q. Okay. So you never saw any indication that he
14 wasn't able --

15 A. Angie. I saw Angie stabbing at him. I saw
16 Angie put rat poison in a cup of coffee and give it to
17 him.

18 Q. Huh.

19 A. Angie tried.

20 Q. Uh-huh. Okay.

21 A. She was very defiant. If he was lining us up
22 for beatings, she'd say, "I did it. You're not going to
23 hurt me. You're not going to make me cry."

24 Q. Huh.

25 A. Beat the snot out of her until she was

1 unconscious, and not one tear would roll off. Not one.

2 Q. Wow.

3 A. But Angie went away in her mind, and that's
4 the way I feel about Jerry and my sister Tony.

5 Q. That they were --

6 A. And right away --

7 Q. Okay.

8 A. -- they were gone. They snapped a long time
9 ago. And I used to think that. I used to think more
10 that it was the environment and everything that we went
11 through and all that for so long.

12 You hear about veterans that go off to war.

13 Well, we were veterans when we were ten years old.

14 Q. Uh-huh.

[Return to Petition Page 7](#)

15 A. You know.

16 Q. Uh-huh.

17 A. So it kept happening until you really
18 physically get to leave. So I -- I thought about that
19 for years, you know, and how that impacts each one of
20 them now 20, 30 years later, 40 years later still.

21 (Speaking to the dog:)

22 Daisy, no. Come here. Get over here.

23 Q. Go over there. No, I'm not going to help you
24 out. No.

25 (Examination continues.)

1 Yeah. No, you had a rough life, obviously.

2 (Speaking to the dog:)

3 A. Get over here.

4 (Examination continues.)

5 Q. A very rough life.

6 (Speaking to the dog:)

7 A. Sit down.

8 (Examination continues.)

9 Bud liked to pick on Angie and Jerry. Bud
10 liked to sequester them and harm them the most.

11 Q. Do you know why?

12 A. I always thought for Angie because -- and he
13 would say it, that Angie and Jerry looked more like our
14 dad. And he hated our dad.

15 (Speaking to the dog:)

16 Stop.

17 (Examination continues.)

18 We were not allowed to say his name. You were
19 not allowed to acknowledge the last name or anything
20 like that.

21 Q. Wow.

22 A. So...

23 Q. And I would imagine Jerry being named after
24 his dad, that can't help.

25 A. After him, yeah. Again, he didn't have a

1 chance.

2 (Speaking to the dog:)

3 Stop. No. You go to your spot. Go on. No.

4 Q. I'm not your spot.

5 A. Daisy, get over here.

6 Q. Go -- there you go.

7 A. Lay down. Stay. I'm going to have to get a
8 squirt bottle.

9 (Examination continues.)

10 Q. You mentioned he would -- let's keep it on --
11 let's talk about Jerry.

12 So he brings Jerry's lifeless body back one of
13 these times?

14 A. Yeah.

15 Q. The time that you guys had to bandage him up?
16 Is there any talk going on about what's going on there?
17 Or was it --

18 A. It was between us kids, because my mom's gone.
19 She worked two jobs most of the time and was gone.

20 Q. Okay.

21 A. And so Bud would abuse, and then he would
22 bring the kid back. Or they kept running in by
23 themselves, if they were able. They'd be pretty beat
24 up.

25 Q. Uh-huh.

1 A. And he'd leave.

2 Q. Okay.

3 A. And then he'd go to get her, take her to
4 dinner, and they'd be gone for hours.

5 Q. Uh-huh. How would -- I mean, would you talk
6 to Jerry about what had happened? Or was it just
7 something that you guys --

8 A. We knew what it was.

9 Q. Okay.

10 A. We knew what it was.

11 Q. So you're not talking to him. You're not --

12 A. No. We're just telling him it's okay.

13 Q. Okay.

14 A. "You're going to be okay. It's going to be
15 okay."

16 Q. Okay.

17 A. You know. I don't know -- the only thing I
18 knew to do, and I don't even know how I knew it, was
19 we'd put like -- all we could find was like Vaseline to
20 put over open wounds and across your back and the back
21 of your legs.

22 Q. Uh-huh.

23 A. And put that on there and then hold the sheet,
24 tear it up, and try to wrap it, because it's -- you
25 know, it's all -- I don't know where that came from,

1 but, you know, "We're going to mummy you, Jerry. It's
2 going to be all right. Really."

3 Q. Okay. Would he be crying?

4 A. Yeah.

5 Q. Okay.

6 A. Yeah. We all -- you know, we'd just hold him.
7 I'd hold him.

8 Q. The Evel Knievel stunt.

9 A. Yeah.

10 Q. What do you remember about that?

11 A. I remember we may have done it in Spokane, but
12 not on the east side, on south hill. And I just
13 remember him and commotion going on and the neighbor
14 coming to the door or something and going out. And he's
15 like kind of sitting down. And this guy was a doctor.

16 Q. Uh-huh.

17 A. And he was like, "Get ahold of your parents."
18 So I got ahold of Mom, and she came home. And Jerry --
19 I don't -- I don't recall taking him to the hospital. I
20 just remember her like, you know, kind of looking at him
21 and saying, "Well, he's going to be all right."

22 But then he had a real problem seeing. He
23 couldn't see well. I mean, he was fine before that.
24 But it seems like afterwards, at some point she did take
25 him in.

1 And I just know that when Bud would go too far
2 like that, he'd stay gone. You know, he'd come home at
3 night, but he'd stay gone. He'd check out basically.

4 Q. Uh-huh.

5 A. And so...

6 Q. What do you mean Bud would go --

7 A. I mean, if he -- if he were to hurt one of us
8 or something bad would happen, if it had anything to do
9 with him or he thought it would draw attention, then he
10 would just be gone for hours and hours.

11 Q. So even though Jerry had like crashed his
12 bike --

13 A. Yeah. Yeah.

14 Q. -- he would stay gone?

15 A. They didn't take us to the hospital when we
16 got hurt. One time Angie fell off a second floor
17 outside the window. Dropped.

18 They came home. She was crying. I had to
19 call them. You know, "Come get her. There's something
20 wrong. She fell."

21 They didn't take her to the hospital that day,
22 but they did the next day, because she couldn't get out
23 of bed.

24 Q. Wow.

25 A. Yeah.

1 Q. Okay. Jerry crashing his bike...

2 A. He used cardboard and -- what do you call
3 them? A sawhorse.

4 Q. Really?

5 A. Yeah.

6 Q. Okay. How injured was he; do you recall?

7 A. I just remember he had a big goose egg on the
8 front of his head.

9 Q. Okay.

10 A. I remember him crying. And it's really -- it
11 was really big, you know.

12 Q. Okay.

13 A. And just the doctor scared me more than
14 anything, you know. Because he was bleeding. "Call
15 your parents. Call your parents."

16 Q. Okay. So the doctor was worried?

17 A. Yeah, it was the doctor. I thought it was, I
18 want to say, Nishimura (phonetic) or something.
19 Nakamarra (phonetic), something like that.

20 Q. Uh-huh.

21 A. Ishimura (phonetic). Something.

22 Q. Okay.

23 A. But he -- I don't know if he was next door or
24 maybe two houses away.

25 Q. On that same block?

1 A. Yeah, on the same street.

2 Q. Okay. Uh-huh.

3 A. Yeah.

4 Q. Yeah.

5 A. Jerry was always doing daredevil stuff like
6 that, even when he was younger.

7 Prior to that, we lived in Eureka, California,
8 and we had like the forest behind where we lived.

9 Q. Uh-huh.

10 A. And so we'd go back there and be swinging off
11 of ropes on the redwoods and crashing and rolling. I
12 mean, we all did it. We all did stupid stuff like that.
13 But Jerry was like -- he's going to be the one, you
14 know. He's going to be the one to go so far he's going
15 to hit that tree, you know.

16 Q. Oh, wow.

17 A. Yeah.

18 Q. Okay. You said the goose egg. And Jerry was
19 bleeding?

20 A. Bleeding, yeah.

21 Q. Okay. Did he change after that? Was he
22 different?

23 A. You know, it wasn't too long after that where
24 he was gone. But I know this. One of my cousins came
25 to stay with us a little bit after that, and he was into

1 drugs.

2 Q. Uh-huh.

3 A. And I remember shortly after that Jerry told
4 me that this guy, our cousin, had shot him up with a
5 needle with crystal methedrine. We didn't know what
6 that was. And I was like, "What?"

7 Jerry started going -- and he was like in 7th
8 grade. He started just leaving and going downtown and
9 not coming back and, you know, just being gone.

10 Q. Uh-huh.

11 A. And so there were changes, but I don't know if
12 it was attributable to that or if it was just the age.
13 The scenery that was going on at that time, everything
14 was love, peace, and, you know, that kind of stuff, and
15 psychedelic drugs.

16 Q. Uh-huh.

17 A. And yeah. No, my mom had thought he had gone
18 evil because he was listening to Cream in his room, you
19 know, and Iron Butterfly kind of stuff.

20 Q. Right.

21 A. So okay. Yeah. And she also thought he
22 hallucinated with marijuana. So, you know...

23 Q. Uh-huh.

24 A. But, yeah, Jerry started acting out after
25 that. Then again, I can't be sure.

1 Q. Okay.

2 A. But not of what it was attributed to. He did
3 be gone a lot after that and was getting in trouble.

4 Q. Okay.

5 A. And my mom and stepdad were going to find him.

6 Q. Uh-huh.

7 A. And issues were happening, you know.

8 Q. Was he different around you?

9 A. You know, he -- he was always pretty quiet
10 around me.

11 Q. Uh-huh.

12 A. He knew that I was in charge. And one word
13 from me and he was going to be in big trouble kind of
14 stuff, you know. So he pretty much would just not say a
15 lot, you know. He was racist.

16 Q. Uh-huh.

17 A. Even like in fifth grade, fourth grade, we
18 moved to a place where it was black and white, you know,
19 east of Spocompton, okay. For real. And that's what it
20 was like back in that day.

21 Q. Uh-huh.

22 A. I remember him being real aggressive. But I
23 remember the first day we went to school, us girls got
24 shoved around on the playground by black girls.

25 Q. Uh-huh.

1 A. So it was on for everybody, you know. But
2 Jerry seemed to like to fight. And we lived on a street
3 where our neighbors were gypsies.

4 Q. Uh-huh.

5 A. And then on the street going towards
6 Saint Ann's, the school, there were blacks like two
7 blocks away.

8 Q. Uh-huh.

9 A. So our neighborhood was from here to here.
10 Jerry would often be waiting on the fringe, on the edge,
11 trying to start shit. Yeah.

12 Q. Wow.

13 A. He and another neighbor boy that lived across
14 the street would do that kind of stuff.

15 Q. Okay.

16 A. I remember him being sneaky and having to
17 watch him and having to watch Angie, and they would get
18 in trouble and do stuff. And I'd be like, "Really?"
19 you know. Because, again, I would be in trouble for it.

20 Q. Uh-huh.

21 A. So whatever it was.

22 Q. Uh-huh. I always wonder about something like
23 that where somebody is being abused so severely at home
24 and needs to take it out on somebody else. I mean,
25 there's a pecking order.

1 A. Oh, yeah. There was. In fact, I used to hit
2 my brothers and sisters.

3 Q. Uh-huh.

4 A. I'm not proud of that.

5 Q. Uh-huh.

6 A. But I did to get them to do what I wanted them
7 to do. Because if they didn't do it, then I was going
8 to get the shit beat out of me, you know.

9 Q. Uh-huh.

10 A. And my husband and I were talking about this a
11 couple of years ago. And I said, you know, you'd learn
12 to hit. You learn to hit if you're hit. You learn to
13 kick if, you know, you're kicked.

14 And so I told him my -- it was a hard
15 realization for me. It made moments in my life to just
16 turn a page and be over it, you know, and those kind of
17 things, and realizing, you know, and accepting that
18 you're not bad, you know.

19 Q. Uh-huh.

20 A. But times were really extraordinary.

21 Q. Well, I only do know that abusive -- people
22 who were abused because --

23 A. Intent. Yeah, it's intent.

24 Q. They can, yeah.

25 Did you see Jerry when he went to prison in

1 Michigan?

2 A. No.

3 Q. Okay. Did you -- because I know he got in
4 some trouble in Washington.

5 A. You know, he got in trouble in Washington, but
6 I was living in Alaska by then.

7 Q. Okay.

8 A. I mean, he got in trouble in Michigan. It was
9 shortly after he had stayed with my dad and then left
10 there with his girlfriend, and off he went. And I'm in
11 Alaska. And the next thing I hear, he's in prison, you
12 know. Wow.

13 Q. Okay.

14 A. Then I -- it's peculiar, because I was in
15 Seattle. I had a surgery, and I was going to fly home
16 to Juneau, and I got stopped at the airport with the FBI
17 holding me up me and not letting me get on my flight yet
18 because they were looking for Jerry.

19 Q. Oh, wow.

20 A. And I was like, "I have no -- I haven't seen
21 him since 1974." And they -- you know, at first they
22 didn't believe me. And I was like, "Hey, I'm not here
23 for him."

24 And apparently he was in Seattle, and I was at
25 Swedish Hospital or Virginia Mason, one of the two.

1 Q. Uh-huh.

2 A. Yeah. And, honestly, I'm like, "What? I
3 haven't seen him. And I really don't know where he is.
4 Honestly, you know."

5 Q. Okay.

6 A. He has my address, because I had written to
7 him when he was in prison. And, you know...

8 Q. Uh-huh.

9 A. But, no, never saw any of that. Luckily I was
10 away from -- way away from the fool by then.

11 (Speaking to the dog:)

12 No. Hey, no. Go. Go to your spot.

13 She's like, "I'm going to get in that chair."

14 Yeah.

15 (Examination continues.)

16 Q. What about after he went to prison here in
17 Idaho?

18 A. I didn't see him until 2008.

19 Q. Really?

20 A. Yeah, from '74 to 2008.

21 Q. Okay.

22 A. I mean, when I moved to Alaska, I pretty much
23 got the hell away from my family.

24 Q. As far as you could.

25 A. Because I thought they was all crazy.

1 Q. Right.

2 A. The only chance I was ever going to get was
3 try and work it out with myself, you know.

4 Q. Uh-huh.

5 A. And I had been married and left my husband and
6 took my four-year-old and went to Alaska. Never
7 regretted it.

8 Q. You saw him in 2008?

9 A. Yep.

10 Q. Okay. What was that like? That was --

11 A. It was really difficult for me.

12 Q. Court was far more recent than that.

13 A. Pardon me?

14 Q. Court was more recent.

15 A. Court? No, court was in 2010.

16 Q. Right.

17 A. That was an evidentiary hearing, because
18 that's when we had moved up here. Just barely.

19 Q. Okay. So 2008.

20 A. Was the first time since 1974.

21 Q. Okay. What was that like?

22 A. Really difficult.

23 Q. Why?

24 A. Oh, man, it just brings -- it brought
25 everything back.

1 Q. Uh-huh.

2 A. You know, I look -- when I first saw him I
3 thought, I would not recognize him if he knocked on my
4 door. It took me a long time to -- I just kept looking
5 at him thinking, is this Jerry, really? It sounds like
6 him. But, you know, then I think he took his glasses
7 off or something and then gave me -- looked at me, and
8 then it hit me, you know. And I had a really difficult
9 time.

10 Q. Huh.

11 A. It was very hard. And I had maintained my
12 composure while I was there. But the minute I got
13 outside I just went bananas.

14 Q. Oh, wow.

15 A. And my husband didn't -- he's not -- he's a
16 corrections officer himself, and he just can't grasp
17 that. I mean, he wasn't then and never had been, you
18 know, prior to that. So we wound getting into a little
19 pissing match ourselves, a little discussion, where I
20 got out of the car and decided I was going to walk a
21 little bit and have a few cigarettes whether he liked it
22 or not. Because he doesn't smoke.

23 Q. Uh-huh.

24 A. And so it was very, very, very torturous.

25 Q. Wow.

1 A. Because of the questions that were asked.
2 And, you know, you have to -- they just ask such
3 intimately personal stuff. But I felt it was important,
4 you know. And I've never lied about my past. I just
5 feel it's --

6 Q. Uh-huh.

7 A. It's really private, you know. Most people
8 think that, oh, well, if you were abused you must be a
9 child abuser yourself, you know.

10 I mean, they really do think that. There's
11 always a stigma between --

12 Q. Uh-huh.

13 A. -- behind things like that.

14 And so it was just -- the first time seeing
15 Jerry in that many years was really difficult.

16 Q. Okay.

17 A. Because the time prior to that when I had seen
18 him was in Illinois. Normal -- Bloomington-Normal,
19 Illinois in 1974. And he was packing a .38 special and
20 hanging out with some ex-convicts.

21 Q. Huh.

22 A. And it was like, "Jerry, what are you doing?
23 What are you doing?"

24 Well, here he was a perpetual tough guy, okay?

25 So when I left Illinois, shortly after that he

1 wound up in Michigan.

2 Q. Okay. Okay.

3 A. I was never party to any of the proceedings
4 that went on in Idaho, as far as his court, his trial,
5 any of that kind of stuff.

6 Q. Uh-huh.

7 A. I was out of it.

8 Q. Nobody ever talked to you about what your
9 childhood was like?

10 A. Not until before the evidentiary hearing.

11 Q. Probably --

12 A. I mean, other than in personal counseling,
13 that sort of thing, no.

14 Q. Uh-huh. Okay. So nobody -- like none of his
15 trial people talked to you about what it was like for
16 him?

17 A. They told me what I would expect. And we
18 talked a little bit about -- this was with -- what were
19 their names? The two. Weinstein and I want to say
20 Sitton or Sutton. Dr. Joseph, I want to say, Sitton.

21 They interviewed me down there for a couple of
22 days at different times.

23 Q. For the evidentiary hearing?

24 A. Right.

25 Q. Right. Not for trial.

1 A. No.

2 Q. Okay.

3 A. No, none of that.

4 Q. Okay.

5 A. No.

6 Q. Okay.

7 A. He had long been sentenced.

8 Q. Right.

9 A. In fact, I really -- I just was out of it.

10 Q. Uh-huh.

11 A. I was in Alaska.

12 Q. Uh-huh.

13 A. And I wasn't interested in coming down to see
14 the spectacle. And I'm not the --

15 Q. Right.

16 A. I don't want to be a part of it. Thank you
17 very much.

18 Q. No.

19 A. I had enough harassment just being in Alaska
20 with people that knew.

21 Q. Wow.

22 A. You know, the state troopers there, for
23 example. My ex-husband and I went in there. And this
24 was -- jeez, it had to be almost 30 years ago. He had a
25 boat, and we had to get new tags for his boat. And we

1 went in there. And, you know, we were married. And the
2 one state trooper said, in front of me and him, "Do you
3 know who you are married to? Do you know that her
4 brother is a death row murderer?" in front of everyone,
5 you know. And I'm like, wow, that's nice.

6 So my husband said, "Well, absolutely I know
7 her, and I know her brother. Mainly if you're as smart
8 as you think you are, you probably shouldn't say that
9 kind of stuff around her."

10 Q. Uh-huh.

11 A. You know.

12 Q. Huh, nuts.

13 A. And the guy was like, "Oh, no. Is that a
14 threat?" You know, and it was like, oh, yeah, really.

15 And then when I worked at the Department of
16 Labor up there, a gentleman that worked in
17 cybersecurity -- I came down the hallway one time -- or
18 came down the stairway, and he cornered me and told me,
19 "I know who your F'ing brother is. And you know what?
20 You'd better watch your shit, bitch." And I was like,
21 "And who are you?"

22 Q. Right.

23 A. You know, really.

24 Q. Man.

25 A. You know, I've never said I'm not my brother's

1 keeper, okay?

2 Q. Right.

3 A. Because I was.

4 Q. Uh-huh. Yeah. When you saw Jerry in 2008, do
5 you remember what you talked about, or...

6 A. You know, Jerry, he likes to talk about things
7 like he's a tough guy. Like, he brags. Like, it's
8 always the same kind of banter. He did say something to
9 me that I thought was peculiar, because I -- on a
10 personal level, for a long time I couldn't understand
11 how we could be raised in the same egg carton and he'd
12 be that way and I'm not.

13 Q. Uh-huh.

14 A. I knew he didn't have the smarts that I do,
15 but I didn't think that he had that, you know. The rest
16 of my family didn't believe he did it, but I just knew.
17 I just thought, yeah, he did.

18 Q. Uh-huh.

19 A. He's the kind of man that if something
20 happened there, he just went (makes sound). Gone, you
21 know.

22 Q. Yeah.

23 A. And so that's hard to try and justify that.
24 But I pray for him. And, you know, there's nothing I
25 can do.

1 Q. Okay.

2 A. Nothing.

3 Q. Uh-huh. You said there was something that he
4 said that --

5 A. He said that -- in fact, when I had seen him
6 in 2008 on the first day, my husband said something --
7 something along the line, and I don't know, like a claim
8 like, Are you sorry? Or something. Or he didn't say
9 those words.

10 But he said, "Well, what are you thinking?
11 You know, how long have you been here? And, wow, what
12 do you think of that?"

13 And when we were getting ready to leave, sort
14 of had a little bit of a conversation like that, and
15 then he said, "You don't know how bad I wish I could go
16 out that door with you."

17 He said, "I have regrets in my life." And I
18 said, "We all do, Jerry. You know, we all do."

19 Q. Uh-huh.

20 A. And I kept it together, you know, until we
21 went outside.

22 Q. Okay. So he was --

23 A. I wanted to scream. I mean, I just wanted to
24 just explode for a minute or two, you know, but you
25 don't.

1 Q. How so? What do you mean?

2 A. Just the hurt. Seeing Jerry like that. So it
3 made me feel like -- again, he did not have a chance.
4 No matter what he did, it wasn't right.

5 Mr. Bartholomew was on him. No matter rank,
6 no matter how hard, no matter what, he never had a
7 chance to ever just even learn to believe in himself or
8 to find out who he was, you know.

9 Q. Uh-huh.

10 A. And so seeing him, I just felt all this
11 terrible anger, because he never got help. We never got
12 help. Okay, you know, I survived. He didn't.

13 I don't -- and, honestly, he's probably the
14 worst affected. And Angelina, too, you know. Angelina
15 has been a hair away from being in prison herself.

16 Q. Uh-huh.

17 A. And her behaviors and her understandings, and
18 I don't -- I really don't communicate with her.

19 Q. Uh-huh.

20 A. You know, he said he has regrets, and I
21 thought that's pretty profound. And I thought, okay.
22 And, you know, I told my husband at the time it bothered
23 me for so long for so many years when I was a young
24 woman that they all turned out all screwed up, and I
25 thought it was my fault, part of it, you know.

1 Q. Right.

2 A. Because I didn't do something right.

3 Q. Uh-huh.

4 A. So, well...

5 Q. Uh-huh.

6 A. And then seeing Jerry brought back all those
7 years. I didn't write. I didn't call. I didn't want
8 to go see him. I didn't want to -- you know, I just
9 don't want to be part of the drama in the family.

10 Q. Uh-huh.

11 A. I disagree with almost every family member; my
12 father, my mother, all of it, you know. I never
13 attacked my mother over it. I confronted her and asked
14 her to say two words, "I'm sorry."

15 Q. Uh-huh.

16 A. Couldn't do that. Swore me off 30 years ago.
17 Whatever, you know.

18 Q. Wow.

19 A. And because she did, he did.

20 Q. Uh-huh.

21 A. So she died two or three years ago, three
22 years ago, and now we're getting to know each other.

23 Q. Uh-huh.

24 A. You know. And, again, I didn't like him when
25 I was a kid. You know, I feel that's none of my duty,

1 because I don't owe him anything, you know. But it's a
2 decent thing to do --

3 Q. Right.

4 A. -- to try and help him, so...

5 Q. Right.

6 A. Jerry I couldn't help.

7 Q. Right.

8 A. Seeing Jerry like that made me feel rage
9 against Bud, rage against all those times when somebody
10 should have believed and somebody should have stepped up
11 and helped us.

12 Q. Uh-huh.

13 A. It's not like we didn't ask for it, because we
14 did.

15 Q. Uh-huh.

16 A. It's just nobody believed you when you were a
17 child, you know.

[Return to Petition Page 7](#)

18 Q. Right.

19 A. You just --

20 Q. Wow.

21 A. You're stigmatized.

22 Q. Yeah. Back in the day, especially. Yeah.

23 A. Can we take a little break?

24 Q. Of course.

25 A. Can we take a little break? I'd love to have

1 a cigarette.

2 Q. Okay.

3 A. I'm sorry. You know...

4 (End of audio file 4.)

5 (Beginning of audio file 5.)

6 Q. When we took that break -- and it always
7 happens. I turn the camera off, and then you start
8 talking about --

9 A. And something else will come up.

10 Q. -- something I want to hear.

11 So you mentioned when you saw Jerry you
12 noticed that he had not grown.

13 A. He hadn't grown emotionally at all.

14 Q. Okay.

15 A. To me, he was like a sixth-grader. He
16 frequently talks about writing things, you know, or he's
17 a tough guy, he's a leader, he's --

18 Q. Uh-huh.

19 A. You know, it's the same kind of thing that
20 he's been saying all along. And I haven't seen him in
21 so many years that it struck me.

22 Q. Really?

23 A. Yeah. Yeah. And, again, I would not have
24 recognized him he looked so very different to me, you
25 know.

1 Q. How so? Physically aged?

2 A. His --

3 Q. Or...

4 A. His -- well, he never -- he used to be really
5 thin.

6 Q. Yeah.

7 A. Really thin. And he was quite a bit heavier.

8 Q. Uh-huh.

9 A. His face was real puffy. He didn't look puffy
10 at all. Had big square glasses on. And just, honestly,
11 if he would have knocked on my door I wouldn't have
12 known who he was.

13 Q. Okay.

14 A. The last time I saw him I believe he was maybe
15 18. Maybe 19 even.

16 Q. Uh-huh.

17 A. You know.

18 Q. Okay. And then when you saw him --

19 A. When I saw him, the last time I saw him, I was
20 moving from Illinois --

21 Q. Uh-huh.

22 A. -- to Idaho. And the last time I saw him he
23 had a .38 special tucked in right here, a pistol.

24 Q. Okay.

25 A. And I said, "What are you doing?"

1 Q. Uh-huh.

2 A. You know, he was hanging out with these guys,
3 a couple of guys he wanted me to date. And I was like,
4 "I don't date inmates, okay? Or people who just got out
5 of prison, Jerry. You shouldn't even be around them."

6 Q. Right.

7 A. But in that time, in Illinois, if you were 18,
8 there were bars that went all night long until 5:00 in
9 the morning.

10 Q. Uh-huh.

11 A. So he was hanging out with these guys.

12 Q. Okay.

13 A. You know, I don't know what he was using. I
14 suspect he was high, because most of the time he was
15 slow speech, you know.

16 Q. Okay.

17 A. But always bragging, always being the tough
18 guy, always being that guy, you know.

19 Q. Uh-huh.

20 A. And then to not see him for so many years --

21 Q. Right.

22 A. -- and then to see him, he was still kind of
23 doing that.

24 Q. Uh-huh.

25 A. You know, the tough guy in prison, you know.

1 Q. Right.

2 A. "I've been here a really long time. I know my
3 way around here better than everybody else."

4 Q. Uh-huh.

5 A. And, you know, even my husband said, "Elsie,
6 what happened to him that he -- you know, that he sounds
7 like a child?"

8 He does. He does for us, you know.

9 Q. Uh-huh. Okay.

10 A. It was really hard to see him, hard to see
11 that that's what happened to him over all those years.

12 Q. Uh-huh.

13 A. I felt guilt because I hadn't seen him, you
14 know. I almost didn't go because it was just -- I knew
15 it was going to be a cascade of pain for me, you know.

16 Q. Sure.

17 A. But I thought how many more chances am I going
18 to get, you know.

19 Q. Uh-huh.

20 A. Something could happen tomorrow. I could die.
21 He could die, you know.

22 Q. Right.

23 A. So I saw him.

24 Q. Okay. Do you talk to him much?

25 A. Not a lot. Probably once every three or four

1 months he'll call.

2 Q. Okay.

3 A. But it's the same kind of banter from him, you
4 know. He -- he told me once -- he was the most serious
5 I've heard him be in the last year or so. He said, "I
6 might get a date."

7 And I thought, well, maybe. "Are you sure
8 about that?" And he's like, "Well, I think it's coming
9 up."

10 Q. An execution?

11 A. You know, yeah, a date.

12 Q. Okay.

13 A. And then he told me how he's been in pain,
14 physical pain, that he has cancer and that it burns.

15 Q. Uh-huh.

16 A. But he cycles. He'll speak about something
17 and kind of touch on everything he wants to say maybe,
18 and then it sort of starts over again. And then maybe
19 it's a little more expounded than it was before.

20 Q. Uh-huh.

21 A. So, you know, I hear -- I hear the same Jerry.

22 Q. Okay. So he may talk about things that are
23 going on at that moment?

24 A. Right.

25 Q. But then he's right back into --

1 A. He's right back into saying, "You know, one of
2 my cell guys down here," so and so, you know, "we made
3 tacos" or whatever, you know, and things like that.

4 And he tells me that he's diabetic, but it
5 doesn't sound like he's eating right. I've tried to
6 talk to him about diabetes, and I don't think he gets
7 it.

8 (Dog whining.)

9 Is she interrupting you or your sound?

10 (Speaking to the dog:)

11 Q. You're going to knock it over.

12 A. Daisy.

13 Q. No. And you're definitely messing with the
14 sound.

15 A. Daisy, come here. Sit down. You stop.
16 You're being bad. Bad girl.

17 (Examination continues.)

18 I notice that Angie, you know, is very much
19 the same way.

20 Q. Yeah.

21 A. When she left home she was probably in eighth
22 grade. And she right away started doing drugs, right
23 away ran away, right away started hanging out with, you
24 know, men that were 20 years older than her.

25 And with Angie it was all about being the

1 pretty princess, you know, and "I can get any man I
2 want" and all this kind of bologna. You know, no -- no
3 talk about let's get a job, let's have a life, let's buy
4 a house, let's -- none of that. None of that.

5 Q. Uh-huh.

6 A. You know, I just can't tolerate dealing with
7 Angie because she's just full of crap.

8 Q. Uh-huh.

9 A. When I talk to her it's just you never know,
10 you know.

11 Q. Right. Okay.

12 A. And that's just where I'll leave that.

13 Q. Okay. What do you think -- so we don't know
14 if eventually we'll have to try talking to or pleading
15 for Jerry's life, literally.

16 What do you think people who are going to make
17 that final decision about whether or not to show him
18 some mercy?

19 A. What do I think about that?

20 Q. What do you think they should know?

21 A. They should know that he -- he never, ever had
22 a chance, most of his childhood feeling beat down,
23 emotionally abused, called names.

24 (Speaking to the dog:)

25 Get over here --

1 (Examination continues.)

2 Jerry had a Teddy bear that he got for
3 Christmas. And one of his jobs was to burn garbage in
4 the burn barrel.

5 And so my dad raped him. And Jerry was angry
6 and crying, and Bud told him, "Go burn the garbage."
7 And he started -- he went out to get it going and lit
8 the barrel. And Bud came out and had his Teddy bear in
9 his hand, his big Teddy bear, and was screaming at Jerry
10 and threw it in the fire. "You son of a bitch. You
11 like this? You love your Teddy bear? (Makes sound).
12 Watch it burn." You know. [Return to Petition Page 6](#)

13 Jerry never had a chance in any way.

14 Q. Uh-huh.

15 A. He wasn't able. And if there was ever a
16 glimmer -- there was never a glimmer, because it was
17 extinguished.

18 Q. Uh-huh.

19 A. You know, it's torturous to live like that.

20 And I don't know. I wasn't there when he did
21 what he did. Do I believe it? Yeah. Yeah.

22 I think that you go -- if you are not right
23 and you're pushed hard enough, you can short out.

24 I'm not going to make an excuse for him,
25 because, clearly, I don't feel he should be out in

1 public.

2 Q. Uh-huh.

3 A. He's not -- he's not the kind of guy I'd want
4 staying at my house.

5 Q. Uh-huh.

6 A. If he knocked on my door and I didn't know
7 him, I wouldn't let him in, you know.

8 Q. Uh-huh.

9 A. He's always, always, always, from every day of
10 his life, from the time my mom left my dad, his dad,
11 he's always been just tortured and abused by him --

12 Q. Wow.

13 A. -- until he could literally -- he got in
14 trouble enough that he got taken out, you know.

15 Q. Uh-huh.

16 A. Then that turned out to be worse.

17 Q. Uh-huh.

18 A. Just as bad, if not worse, you know.

19 Q. Right.

20 A. I just don't think he was ever able to get it.
21 I don't think it would ever connect.

22 Q. Uh-huh.

23 A. You know.

24 Q. Uh-huh. Okay.

25 A. I'm not going to go into the God thing,

1 because not everyone believes in that, you know.

2 Q. Uh-huh.

3 A. Prior to meeting Dr. Weinstein and the other
4 pathologist, whatever they were, they used to think that
5 it was the environment, that everything that he went
6 through made him snap, made it that had to be.

7 But in speaking with them and reading about it
8 in the last ten years --

9 Q. Uh-huh.

10 A. -- I really think that Jerry's brain -- he was
11 born with a problem.

12 Q. Uh-huh.

13 A. And certainly environment can impact that.

14 Q. Uh-huh.

15 A. But I don't think he ever had a chance.

16 And we -- they all fell through the cracks. They didn't
17 test kids then like they do now.

18 Q. Right.

19 A. I've had my own children and grandchildren
20 that we adopted, they do all kind of emotional
21 evaluations and things.

22 Q. Uh-huh.

23 A. And they see stuff that nobody else does, you
24 know.

25 Q. Right.

1 A. I just don't think that he ever had a chance.

2 Q. Okay.

3 A. You know, we didn't have parents, per se.

4 For years, my brothers and sisters would send
5 me Mother's Day cards.

6 Q. Wow.

7 A. Uh-huh.

8 Q. Wow.

9 A. You know. I've had to look at them as my
10 children for many years.

11 Q. Uh-huh.

12 A. One of the reasons that I stayed in Alaska and
13 stayed out of all of it --

14 Q. Uh-huh.

15 A. -- I realized that once I got away from it all
16 that that gave me a chance. I wasn't having to have it
17 all around me all the time. I didn't want to live like
18 that. You know, I didn't want to feel all that pain.

19 Q. Right.

20 A. I was able to get counseling. I realized that
21 I had all this crap that I had to get through, you know.

22 Q. Uh-huh.

23 A. I don't think anybody -- I think maybe some
24 people might have noticed something's not right here.
25 You know.

1 Q. Uh-huh.

2 A. But nobody stepped up.

3 Q. Right.

4 A. And people didn't then. It's the elephant in
5 the room, you know.

6 Q. Uh-huh.

7 A. It's just -- and, you know, my -- my -- I know
8 that my mother, the guilt just killed her.

9 Q. Yeah.

10 A. My father, he -- he doesn't deal with it well
11 either.

12 Q. Sure.

13 A. You know, because he was the absent parent.

14 Q. Right. Okay.

15 A. You know. This is why we have to stay
16 families and take care of our children and do the right
17 thing, because when you don't then you're left to your
18 own devices.

19 And if you've been raised by a crazy man, what
20 are you going to know if you're already cracked? What
21 are you going to know?

22 He's an old -- I mean...

23 Q. Uh-huh.

24 A. I couldn't help them.

25 Q. Right. Right. This is going to sound perhaps

1 like an odd question. But if they do execute Jerry, can
2 you imagine that? Or what kind of impact do you think
3 that might have on you?

4 A. I'm going to take it as a blessing when his
5 life ends.

6 Q. Sure.

7 A. I'd much rather it be natural causes. I'm
8 hoping that out of all that bad something good can come
9 to his soul.

10 Q. Okay.

11 A. I've had a lot of years to think about it, you
12 know. For many years I was a proponent of the death
13 penalty because I felt an eye for an eye.

14 Q. Uh-huh.

15 A. You know. And I always thought it would be a
16 sign just to be like my stepdad, you know, for being so
17 evil. But then it turns out it's my brother.

18 In fact, in Alaska I was asked on film one
19 time by a reporter when Alaska was considering the death
20 penalty.

21 Q. Uh-huh.

22 A. And I was like, absolutely, an eye for an eye.

23 Q. Huh.

24 A. Okay?

25 Q. Uh-huh.

1 A. Then we roll forward 20 years, and I've had a
2 lot of time to think about it. I'm not sorry I said
3 that.

4 Q. Right.

5 A. But I have a deeper understanding of it now,
6 more of an emotional -- I really, again, believe he
7 has -- I think it's going to be shown that he has
8 physiological problems in the makeup of his brain.

9 Q. Uh-huh.

10 A. I did a lot of housing, public housing for
11 rent management and management, seeing all kind of bad
12 behavior, you know.

13 Q. Uh-huh.

14 A. And all kind of good behavior. And it's just
15 been witnessed to me that either they're capable, or
16 you're not. And you get -- and even the most incapable
17 person can do pretty well with lots of guidance, lots of
18 interaction and a community around them, okay? But if
19 you don't get that ever, then you're like a void, you
20 know.

21 Q. Right.

22 A. I mean, unfortunately my sister Angie, she
23 lives in a world of pain, emotional pain, and may reason
24 suffering. My sister Tonya, she does, too. I'm pretty
25 sure Jerry probably does, too, that he remembers, you

1 know.

2 Q. Uh-huh.

3 A. If four kids, if it matters, if kids had to be
4 tortured like that, if that would give him a chance,
5 then save his life.

6 Q. Yeah.

7 A. I just wish that I could convey how really
8 terrible it was. We're not talking about, oh, my dad
9 spanked me last night and maybe hit me once too many
10 times.

11 Q. Uh-huh.

12 A. It just was an onslaught.

13 Q. Day after day.

14 A. Day after day, night after night. You could
15 be asleep in your bed and be yanked out by your hair in
16 the middle of the night and drug off and raped.

17 Q. Wow.

18 A. And maybe he had a friend there, okay?
19 So then you have to get up the next day and go
20 to school and act like everything is fine.

21 Q. Right.

22 A. And you're just a kid trying to get a life,
23 you know. Trying to live.

24 Q. Right. And this was happening to Jerry, as
25 well?

1 A. Yes, it was. In particular, he and Angelina.

2 Q. Okay. Have you talked to Jerry?

3 A. (No verbal response.) [Return to Petition Page 7](#)

4 Q. I talked -- do you know Amal?

5 A. No, I've never met Amal.

6 Q. You heard the --

7 A. I've heard of Amal before.

8 Q. What have you heard?

9 A. I've heard that he's his spiritual advisor
10 person.

11 Q. Uh-huh.

12 A. So I don't know much about him --

13 Q. Okay.

14 A. -- other than that.

15 Q. So have you talked to Jerry about the
16 spiritual side, about --

17 A. No. No.

18 Q. Okay.

19 A. I don't know that I could explain to him how I
20 feel. For me, when I was around, it was like I felt
21 like I was holding my breath.

22 Q. Uh-huh.

23 A. You know, it was affecting me that way.

24 Q. Uh-huh.

25 A. It was really hard.

1 Q. Uh-huh.

2 A. And for days after that it was very -- my
3 husband even said, "Maybe we should go talk to somebody,
4 because you're (unintelligible)."

5 Q. Wow.

6 A. But it brings it back, you know.

7 Q. Uh-huh.

8 A. And you can push it away, and you can live
9 with it or -- you know, you don't have to be in it.
10 Just seeing them, you know, my siblings, does that to
11 me. I'm almost like I have to be on guard a little bit.

12 Q. Right.

13 A. Because it's -- it was so very bad that it
14 just -- even a glimmer of it, I don't want it anymore,
15 you know.

16 Q. Uh-huh.

17 A. I'm just not going to -- I'm not going to let
18 it hurt me anymore than it needs to.

19 Q. So seeing them can put you back into that?
20 You're the four-year-old mother.

21 A. It doesn't -- you know, it's kind of like --
22 you know, I have a friend that's a military officer, and
23 he thinks that the only people in the world -- and yet
24 this man has a master's in psychology, and I think he's
25 an idiot. But he says, "The only people in the world

1 that can have PTSD are soldiers." I said, "Well, you a
2 dumb ass."

3 Q. Yeah.

4 A. Posttraumatic stress.

5 Same room. You know what I did?

6 I said, "You don't think being raped can give
7 you that?"

8 "Absolutely not. You're a soldier, or you're
9 not a soldier. You'll only"...

10 And so I became infuriated with him, shoved
11 him up against the wall and grabbed him in the groin,
12 and said, "How does it feel?"

13 Q. Wow.

14 A. I thought he was going to freak out.

15 But I said, "Okay, you've just been minorly
16 assaulted."

17 Q. Uh-huh.

18 A. "I bet you won't forget that. Now try
19 something 100,000 times more severe every day. Every
20 day. And you tell me that's not PTSD. You're an
21 idiot."

22 That was my opinion.

23 Q. Yeah.

24 A. Yeah. You know, so that's the -- that's a
25 really difficult thing to overcome. But I really

1 believe in talk therapy.

2 Q. Uh-huh.

3 A. Because the more you say it, the more you get
4 it out. And it like -- every time I'd feel, when I
5 started talking about it, that I was giving it back. So
6 that just took that burden off of me so that I could be
7 who I needed to be, you know.

8 Q. Uh-huh.

9 A. And there's times when it takes me right back.
10 You know, I'll wake up after -- like after seeing Jerry
11 this last time, I dreamed things that I forgot that were
12 terrible.

13 Q. Uh-huh.

14 A. You know, horrible things that --

15 Q. Uh-huh.

16 A. Wake up in the middle of the night screaming,
17 and my husband is trying to calm me down, and I can't
18 tell him what I dreamed about.

19 Q. Uh-huh.

20 A. Because I don't want him to think of me that
21 way, you know.

22 Q. Uh-huh.

23 A. I don't want him to have to even hear that.

24 Q. Yeah.

25 A. So if it does that to me, I can't imagine.

1 When he does die, I'm going to just believe
2 that. And I truly believe that we're all part of a
3 plan. Good, bad, or indifferent.

4 Q. Yeah.

5 A. And I think that being -- everything that we
6 do ripples into other people's lives.

7 Q. Uh-huh.

8 A. And so we have a huge responsibility of those
9 that can be aware of that, you know, to try and have
10 kindness and forgiveness and those kind of things for
11 other people.

12 Q. Uh-huh.

13 A. And for yourself, which is even harder, I
14 think.

15 Q. Yeah.

16 A. You know.

17 Q. Yeah.

18 A. I often wondered the person that he killed, I
19 guess, did he look like Mr. Bartholomew?

20 Q. I don't know.

21 A. Was that a trigger?

22 I never wanted to look, and I never wanted to
23 read about it, and I never wanted to know. I still
24 don't even read the papers with it now.

25 Q. Sure.

1 A. My husband knows, because he works for Idaho
2 Corrections.

3 Q. Okay.

4 A. Yeah. So, yeah, and he was all concerned
5 about me going to Boise. And I just said, "You know
6 what? I don't even know why you would have to tell
7 them, because you're not going. It's intimately
8 private."

9 Q. Right.

10 A. "And I don't see how it can affect your job."

11 Q. Right.

12 A. When he first started there, you have to admit
13 that you have a family member. You know, it asks you
14 those kind of questions.

15 Q. Of course.

16 A. It's procedure. So okay.

17 Q. Yeah.

18 A. I don't know. But even he is a little --
19 feels shame about it, you know. And it's not him, of
20 course.

21 Q. Right.

22 A. Not me either. But there it is.

23 Q. Yeah.

24 A. One day I hope that the story can be told for
25 kids, because I think a lot of kids go through that kind

1 of stuff. Probably more than we realize.

2 Q. Yeah, a lot more.

3 A. Part of what helped me was when I was in high
4 school I met a couple of schoolmates and found out that
5 they were going through stuff similar.

6 Q. Uh-huh.

7 A. That really helped me realize that I had to
8 talk about it.

9 Q. Okay.

10 A. You know, that I had to find help, because if
11 I didn't, at any time I could have turned into a drug
12 addict, alcoholic.

13 Q. Uh-huh.

14 A. I could have killed myself. And when I was 16
15 I tried to kill myself. I seriously -- you know,
16 because of living there and all that crap. And it
17 just -- each one of us at different times, you know. So
18 I thank God I didn't.

19 Q. Yeah.

20 A. I'll tell you what. It gives you insight into
21 other people in some respects maybe. Maybe that's
22 taking credit where I shouldn't. But I can -- I feel
23 like because I've been through all that kind of stuff I
24 have a lot of compassion for other people.

25 Q. Uh-huh.

1 A. And I understand situations very quickly where
2 feelings and those kind of things are involved. And
3 it's fine. Because over the years, my kids' friends
4 have all come to me, you know. I'm like their counselor
5 mom, you know.

6 Q. Yeah.

7 A. And my grandkids' friends, too. And now the
8 neighbor kids, you know. So it's good, because I'm
9 giving back some of that healing, you know.

10 Q. Uh-huh.

11 A. And it helps me to, so...

12 Q. That's great.

13 A. Yeah.

14 Q. Good. I can't think of anything else to press
15 you on and drag you through.

16 A. You took it easy on me.

17 Q. It's an interesting part of the job.

18 Let me turn this off.

19 (End of audio file 5.)

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

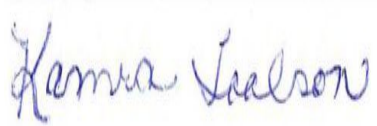
I, KAMRA TOALSON, CSR No. 756, Certified
Shorthand Reporter, certify:

That the audio recording of the proceedings were
transcribed by me or under my direction.

That the foregoing is a true and correct
transcription of all testimony given, to the best of my
ability.

I further certify that I am not a relative or
employee of any attorney or party, nor am I financially
interested in the action.

In witness whereof, I set my hand and seal this
16th day of December, 2019.



KAMRA TOALSON, CSR NO. 756
Notary Public
Post Office Box 2636
Boise, Idaho 83701-2636

My commission expires May 23, 2024

A	<p>age (5) 2:7:3;23;6:1;8:24;36:12</p> <p>aged (1) 54:1</p> <p>aggressive (1) 37:22</p> <p>ago (6) 28:9;39:11;46:24;51:16, 21,22</p> <p>ahold (2) 32:17,18</p> <p>airport (1) 40:16</p> <p>Alaska (9) 40:6,11;41:22;42:6;46:11, 19;63:12;65:18,19</p> <p>alcoholic (1) 74:12</p> <p>alert (1) 3:7</p> <p>alive (1) 25:11</p> <p>allowed (2) 29:18,19</p> <p>almost (4) 46:24;51:11;56:14;69:11</p> <p>along (2) 49:7;53:20</p> <p>always (22) 3:12;5:23,25;6:12;11:2; 18:16;20:5;29:12;35:5;37:9; 38:22;44:11;48:8;53:6; 55:17,17,18;61:9,9,11; 65:15</p> <p>Amal (3) 68:4,5,7</p> <p>Angelina (7) 6:13,13;12:6;25:16;50:14, 14;68:1</p> <p>anger (1) 50:11</p> <p>Angie (15) 17:1;27:15,15,16,19;28:3; 29:9,12,13;33:16;38:17; 58:18,25;59:7;66:22</p> <p>angry (1) 60:5</p> <p>Ann's (1) 38:6</p> <p>answered (1) 15:7</p> <p>anymore (3) 23:13;69:14,18</p> <p>apparently (1) 40:24</p> <p>argue (1) 20:1</p> <p>around (12) 17:20,21;20:17;37:8,10, 24;47:9;55:5;56:3;63:17; 66:18;68:20</p> <p>aside (1) 25:23</p>	<p>asleep (1) 67:15</p> <p>ass (1) 70:2</p> <p>assault (1) 18:21</p> <p>assaulted (1) 70:16</p> <p>assume (3) 2:8;8:8;26:13</p> <p>attacked (1) 51:13</p> <p>attention (2) 5:24;33:9</p> <p>attitude (1) 18:1</p> <p>attributable (1) 36:12</p> <p>attributed (1) 37:2</p> <p>audio (6) 2:1;21:7,8;53:4,5;75:19</p> <p>aware (2) 11:4;72:9</p> <p>away (15) 8:23;28:3,6;34:24;38:7; 41:10,10,23;50:15;58:22,23, 23,23;63:15;69:8</p> <p>awesome (1) 25:2</p>	<p>bandaids (1) 4:12</p> <p>banter (2) 48:8;57:3</p> <p>barely (1) 42:18</p> <p>barn (1) 17:16</p> <p>barrel (2) 60:4,8</p> <p>bars (1) 55:8</p> <p>Bartholomew (5) 19:21;23:6;27:8;50:5; 72:19</p> <p>Bartholomew's (1) 27:9</p> <p>basically (4) 4:8;18:21;25:9;33:3</p> <p>bathtub (1) 4:10</p> <p>battery (1) 20:24</p> <p>bear (4) 60:2,8,9,11</p> <p>beat (6) 18:24;25:17;27:25;30:23; 39:8;59:22</p> <p>beaten (1) 4:8</p> <p>beating (2) 18:4,4</p> <p>beatings (2) 13:21;27:22</p> <p>became (1) 70:10</p> <p>bed (2) 33:23;67:15</p> <p>Beginning (3) 2:1;21:8;53:5</p> <p>behavior (2) 66:12,14</p> <p>behaviors (1) 50:17</p> <p>behind (2) 35:8;44:13</p> <p>believes (1) 62:1</p> <p>bet (1) 70:18</p> <p>betrayal (2) 9:15,15</p> <p>better (4) 5:15;6:20;47:20;56:3</p> <p>big (8) 9:15;15:25;18:23;34:7,11; 37:13;54:10;60:9</p> <p>biggest (1) 10:22</p> <p>bike (2) 33:12;34:1</p> <p>bit (10) 13:4,17;19:11;24:2;35:25;</p>
	B	<p>babbling (1) 22:14</p> <p>babies (2) 5:17;16:21</p> <p>babysitter (1) 16:19</p> <p>babysitting (1) 2:16</p> <p>back (24) 4:5;17:20;18:9;23:20; 25:3,10;27:11;30:12,22; 31:20,20;35:10;36:9;37:20; 42:25;51:6;52:22;57:25; 58:1;69:6,19;71:5,9;75:9</p> <p>backfired (1) 6:15</p> <p>backhand (1) 19:23</p> <p>backhanded (1) 3:2</p> <p>bad (13) 10:14;12:10;14:16;33:8; 39:18;49:15;58:16,16;61:18; 65:8;66:11;69:13;72:3</p> <p>bananas (1) 43:13</p> <p>bandage (1) 30:15</p> <p>bandaid (1) 11:20</p>	

<p>43:21;45:18;49:14;54:7; 69:11 bitch (2) 47:20;60:10 black (2) 37:18,24 blacks (1) 38:6 bleeding (3) 34:14;35:19,20 blessing (1) 65:4 block (1) 34:25 blocks (1) 38:7 Bloomington-Normal (1) 44:18 boat (2) 46:25,25 body (3) 25:10;27:9;30:12 Boise (1) 73:5 bologna (1) 59:2 boom (1) 25:25 bore (1) 3:22 born (1) 62:11 bothered (1) 50:22 bottle (2) 16:19;30:8 boxer (1) 15:1 boy (1) 38:13 Boy's (1) 23:24 bragging (1) 55:17 brags (1) 48:7 brain (2) 62:10;66:8 Brando (1) 22:11 break (4) 21:3;52:23,25;53:6 breakage (1) 7:6 breath (1) 68:21 brilliant (2) 9:4,5 bring (3) 4:5;21:5;30:22 brings (3) 30:12;42:24;69:6 broken (1)</p>	<p>6:17 brother (5) 12:7;47:4,7,19;65:17 brothers (4) 11:21;22:17;39:2;63:4 brother's (1) 47:25 brought (2) 42:24;51:6 bruises (2) 7:15;18:4 Bud (11) 9:2;13:3;25:4;29:9,9; 30:21;33:1,6;52:9;60:6,8 buddy (1) 16:1 built (1) 15:2 burden (1) 71:6 burn (4) 60:3,4,6,12 burned (1) 16:17 burns (1) 57:14 business (1) 14:17 busy (1) 13:10 Butterfly (1) 36:19 buy (1) 59:3</p> <p style="text-align: center;">C</p> <p>California (1) 35:7 call (6) 33:19;34:2,14,15;51:7; 57:1 called (2) 22:13;59:23 calm (1) 71:17 came (9) 8:15;25:10;31:25;32:18; 33:18;35:24;47:17,18;60:8 camera (1) 53:7 can (32) 4:18;8:8;9:1;11:14;12:14, 14;16:1;20:17;21:2,3,5; 22:14,21;39:24;48:25;52:23, 25;59:1;60:23;62:13;65:1,8; 66:17;69:8,8,19;70:1,6;72:9; 73:10,24;74:22 cancer (1) 57:14 cans (1) 17:19 capable (4)</p>	<p>2:14,25;15:17;66:15 car (3) 18:7;19:23;43:20 cardboard (1) 34:2 cards (1) 63:5 care (3) 2:18;14:16;64:16 carried (1) 27:8 carry (1) 20:17 carton (1) 48:11 cascade (1) 56:15 caught (2) 9:24;10:1 causes (1) 65:7 cell (1) 58:2 certain (1) 6:1 Certainly (2) 7:9;62:13 chains (1) 21:22 chair (2) 16:15;41:13 chance (12) 21:15;22:6;30:1;42:2; 50:3,7;59:22;60:13;62:15; 63:1,16;67:4 chances (1) 56:17 change (2) 10:21;35:21 changes (1) 36:11 charge (2) 2:15;37:12 check (1) 33:3 chicken (1) 12:17 chickens (1) 4:2 chief (1) 16:18 child (5) 9:16;22:5;44:9;52:17;56:7 childhood (2) 45:9;59:22 children (4) 2:16;62:19;63:10;64:16 choices (1) 20:9 Christmas (1) 60:3 cigarette (1) 53:1</p>	<p>cigarettes (1) 43:21 claim (1) 49:7 clarity (1) 4:24 clean (1) 4:9 cleaning (1) 2:16 Clearly (2) 22:3;60:25 close (1) 26:10 clothes (1) 18:9 coffee (1) 27:16 cold (1) 4:11 comfort (1) 17:10 coming (5) 9:11;32:14;36:9;46:13; 57:8 commotion (1) 32:13 communicate (1) 50:18 community (1) 66:18 compared (1) 7:1 compassion (1) 74:24 completely (2) 13:18;25:21 composure (1) 43:12 concepts (1) 7:10 concerned (1) 73:4 conflict (1) 6:10 confronted (1) 51:13 connect (1) 61:21 conscious (1) 12:2 considered (1) 2:14 considering (1) 65:19 continues (9) 26:19;28:25;29:4,8,17; 30:9;41:15;58:17;60:1 conversation (1) 49:14 convey (1) 67:7 convulsing (1)</p>
--	---	---	---

<p>4:9 cook (3) 16:4,5,18 cooking (2) 2:15;16:14 cornered (1) 47:18 corrections (2) 43:16;73:2 counseling (3) 10:24;45:12;63:20 counselor (1) 75:4 couple (9) 6:15;12:23;15:22;25:19, 20;39:11;45:21;55:3;74:4 course (7) 8:16;22:23;25:24,24; 52:24;73:15,20 court (6) 21:12;42:12,14,15,15;45:4 cousin (1) 36:4 cousins (1) 35:24 covering (1) 13:11 cows (1) 17:17 cracked (2) 12:16;64:20 cracks (1) 62:16 crap (4) 18:2;59:7;63:21;74:16 crashed (1) 33:11 crashing (2) 34:1;35:11 crazy (3) 22:12;41:25;64:19 Cream (1) 36:18 creating (1) 24:19 credit (1) 74:22 cry (2) 11:21;27:23 crying (4) 32:3;33:18;34:10;60:6 crystal (1) 36:5 cunning (1) 13:23 cup (1) 27:16 cybersecurity (1) 47:17 cycles (1) 57:16</p>	<p style="text-align: center;">D</p> <p>dad (13) 15:1;23:25;24:4,5,25; 29:14,14,24;40:9;60:5; 61:10,10;67:8 daily (4) 4:19,19;17:25;19:6 Daisy (5) 26:18;28:22;30:5;58:12,15 daredevil (1) 35:5 date (4) 55:3,4;57:6,11 day (35) 2:18;3:10;4:13;7:1,1,2,2,2, 2,2,3,3;15:6;17:20;18:21,23; 19:21;22:8;25:17;33:21,22; 37:20,23;49:6;52:22;61:9; 63:5;67:13,13,14,14,19; 70:19,20;73:24 days (8) 9:17;15:15;23:2,3;25:19, 20;45:22;69:2 deal (1) 64:10 dealing (1) 59:6 death (3) 47:4;65:12,19 decades (1) 11:15 decent (1) 52:2 decided (1) 43:20 decision (1) 59:17 deeper (1) 66:5 defiant (1) 27:21 definitely (1) 58:13 delivered (1) 4:7 demented (1) 9:4 Department (1) 47:15 designated (1) 13:9 deviant (2) 6:14;13:24 devices (1) 64:18 diabetes (1) 58:6 diabetic (1) 58:4 die (3) 56:20,21;72:1</p>	<p>died (1) 51:21 different (9) 7:16;8:2;9:6;15:22;35:22; 37:8;45:22;53:24;74:17 difficult (6) 11:15;42:11,22;43:8; 44:15;70:25 dinner (1) 31:4 directed (1) 22:3 disagree (1) 51:11 discern (1) 24:24 discussion (2) 9:20;43:19 disorder (1) 19:15 doctor (5) 26:20;32:15;34:13,16,17 dog (11) 21:5;26:17;28:21;29:2,6, 15;30:2;41:11;58:8,10;59:24 dogs (1) 21:22 Don (2) 14:12,12 done (5) 3:25,25;10:20;16:10;32:11 door (10) 7:6;15:6,7,11;32:14;34:23; 43:4;49:16;54:11;61:6 double (1) 6:19 down (11) 29:7;30:7;32:15;45:21; 46:13;47:17,18;58:2,15; 59:22;71:17 downtown (1) 36:8 dozen (1) 12:13 Dr (2) 45:20;62:3 drag (3) 4:5;17:15;75:15 drags (1) 17:24 drama (1) 51:9 draw (1) 33:9 dreaded (1) 9:11 dreamed (2) 71:11,18 drilled (1) 18:11 dropped (2) 17:20;33:17 dropping (1)</p>	<p>19:1 drug (2) 67:16;74:11 drugs (3) 36:1,15;58:22 dumb (1) 70:2 duties (1) 15:17 duty (1) 51:25</p> <p style="text-align: center;">E</p> <p>early (3) 2:7;8:21,24 earth (1) 9:2 easier (1) 10:12 east (2) 32:12;37:19 easy (1) 75:16 eating (1) 58:5 edge (1) 38:10 effort (1) 12:2 egg (3) 34:7;35:18;48:11 eggs (3) 12:13,15,24 eighth (1) 58:21 either (4) 8:5;64:11;66:15;73:22 elephant (1) 64:4 Eleven (1) 2:5 else (9) 6:12;8:15;15:25;18:10; 38:24;53:9;56:3;62:23;75:14 Elsie (1) 56:5 emotional (4) 4:19;62:20;66:6,23 emotionally (2) 53:13;59:23 emulating (1) 6:7 End (4) 21:7;22:13;53:4;75:19 ended (1) 2:17 ends (1) 65:5 enough (6) 4:11;11:13;12:23;46:19; 60:23;61:14 environment (4)</p>
---	--	---	---

<p>7:11;28:10;62:5,13 escape (1) 5:7 especially (3) 2:11;9:17;52:22 Eureka (1) 35:7 evaluations (1) 62:21 Evel (1) 32:8 even (23) 4:6;5:6;6:4,5,22;12:17; 15:21;31:18;33:11;35:6; 37:17;50:7;54:15;55:5;56:5; 66:16;69:3,14;71:23;72:13, 24;73:6,18 eventually (1) 59:14 everybody (4) 19:24;27:2;38:1;56:3 everyone (4) 8:12;14:4;47:4;62:1 evidentiary (4) 21:11;42:17;45:10,23 evil (3) 4:21;36:18;65:17 Examination (9) 26:19;28:25;29:4,8,17; 30:9;41:15;58:17;60:1 examined (1) 26:21 example (2) 25:13;46:23 ex-convicts (1) 44:20 excuse (1) 60:24 execute (1) 65:1 execution (1) 57:10 ex-husband (1) 46:23 expect (1) 45:17 explain (1) 68:19 explode (1) 49:24 expounded (1) 57:19 extent (1) 4:17 extinguished (1) 60:17 extraordinary (1) 39:20 eye (4) 65:13,13,22,22</p>	<p>face (2) 15:11;54:9 faces (1) 18:5 fact (6) 10:10;24:15;39:1;46:9; 49:5;65:18 fairly (1) 5:13 fall (1) 16:17 families (1) 64:16 family (8) 2:16;23:15,15;41:23; 48:16;51:9,11;73:13 fantasize (1) 14:25 fantasized (1) 24:10 fantasy (1) 24:24 far (5) 33:1;35:14;41:24;42:12; 45:4 father (5) 6:2;15:3,17;51:12;64:10 fault (1) 50:25 FBI (1) 40:16 feel (14) 4:21;10:12;22:18;28:4; 44:5;50:3;51:25;52:8;60:25; 63:18;68:20;70:12;71:4; 74:22 feeling (2) 10:4;59:22 feelings (1) 75:2 feels (1) 73:19 fell (3) 33:16,20;62:16 felt (11) 2:20;3:7,16;5:7;10:14; 11:11;44:3;50:10;56:13; 65:13;68:20 few (2) 17:1;43:21 fifth (3) 15:23;16:11;37:17 fight (2) 25:3;38:2 fighting (1) 5:25 file (6) 2:1;21:7,8;53:4,5;75:19 film (1) 65:18 final (1) 59:17 find (7)</p>	<p>20:20;22:13;26:14;31:19; 37:5;50:8;74:10 fine (3) 32:23;67:20;75:3 F'ing (1) 47:19 fire (1) 60:10 first (12) 2:19;6:6;11:13;15:5; 23:24;37:23;40:21;42:20; 43:2;44:14;49:6;73:12 flight (1) 40:17 floor (2) 19:1;33:16 fly (1) 40:15 fool (1) 41:10 forest (1) 35:8 forever (2) 20:18,18 forget (1) 70:18 forgiveness (1) 72:10 forgot (1) 71:11 forward (1) 66:1 found (2) 20:21;74:4 four (6) 2:19;3:5;16:7;23:8;56:25; 67:3 fourth (1) 37:17 four-year-old (2) 42:6;69:20 freak (1) 70:14 frequent (1) 8:10 frequently (1) 53:16 friend (4) 23:15,15;67:18;69:22 friends (3) 26:10;75:3,7 fringe (1) 38:10 front (5) 3:3;11:21;34:8;47:2,4 full (1) 59:7 future (2) 17:13;20:12</p>	<p>60:3,6 gave (2) 43:7;63:16 generally (1) 2:14 genetics (1) 12:19 gentleman (1) 47:16 gets (1) 58:6 girl (1) 58:16 girlfriend (1) 40:10 girls (4) 26:22,25;37:23,24 gives (1) 74:20 giving (2) 71:5;75:9 glasses (2) 43:6;54:10 glimmer (3) 60:16,16;69:14 glorified (1) 6:3 God (5) 11:2,3;19:7;61:25;74:18 goes (1) 22:12 good (7) 12:24;23:4;65:8;66:14; 72:3;75:8,14 goose (2) 34:7;35:18 gotta (1) 17:17 grab (1) 19:23 grabbed (1) 70:11 grabs (2) 17:19,23 grade (10) 4:7;5:16;15:23;16:11; 23:22;26:21;36:8;37:17,17; 58:22 grades (1) 5:23 grandchildren (1) 62:19 grandkids' (1) 75:7 grasp (1) 43:16 great (1) 75:12 grocery (1) 12:14 groin (1) 70:11 group (2)</p>
F		G	
		garbage (2)	

<p>4:5;18:25 grow (3) 7:10;14:11;27:2 growing (1) 9:9 grown (3) 15:2;53:12,13 guard (1) 69:11 guess (3) 9:5;16:1;72:19 guessing (1) 8:24 guidance (2) 6:17;66:17 guilt (3) 3:22;56:13;64:8 guy (18) 6:8;8:6;9:8;14:9,15,16; 24:12;25:1;32:15;36:4; 44:24;47:13;48:7;53:17; 55:18,18,25;61:3 guys (8) 23:5;25:12;30:15;31:7; 55:2,3,11;58:2 gypsies (1) 38:3</p>	<p>healing (1) 75:9 hear (6) 28:12;40:11;53:10;57:21, 21;71:23 heard (5) 57:5;68:6,7,8,9 hearing (5) 13:1;21:11;42:17;45:10,23 heavier (1) 54:7 hell (4) 6:18,19,22;41:23 help (10) 10:24;17:17;28:23;29:24; 50:11,12;52:4,6;64:24;74:10 helped (4) 23:16;52:11;74:3,7 helps (1) 75:11 herself (1) 50:15 Hey (2) 40:22;41:12 hiding (1) 8:9 high (3) 5:15;55:14;74:3 hill (1) 32:12 himself (3) 22:14;43:16;50:7 hindsight (1) 8:4 hit (9) 17:15;19:21;35:15;39:1, 12,12,12;43:8;67:9 hold (3) 31:23;32:6,7 holding (2) 40:17;68:21 holy (1) 18:1 home (19) 5:17;8:17;9:11;10:20; 11:11;12:16;16:20;18:3,6; 23:8,9,17;24:7;32:18;33:2, 18;38:23;40:15;58:21 hone (1) 13:25 honed (1) 17:5 Honest (1) 19:7 honestly (5) 16:14;41:2,4;50:13;54:10 hook (1) 17:16 hope (2) 27:1;73:24 hoping (1) 65:8 horrible (3)</p>	<p>4:21;5:6;71:14 horror (3) 22:15,15,18 horsewhip (1) 18:25 hospital (4) 32:19;33:15,21;40:25 hours (3) 31:4;33:10,10 house (3) 9:10;59:4;61:4 household (2) 2:21;11:3 houses (1) 34:24 housing (2) 66:10,10 hug (1) 21:19 huge (1) 72:8 Huh (10) 11:6;15:4,18;19:3;27:18, 24;43:10;44:21;47:12;65:23 hurt (8) 3:19;10:13;16:17;27:23; 33:7,16;50:2;69:18 husband (10) 39:10;42:5;43:15;47:6; 49:6;50:22;56:5;69:3;71:17; 73:1</p>	<p>27:13 indifferent (1) 72:3 infuriated (1) 70:10 injured (1) 34:6 inmates (1) 55:4 insight (1) 74:20 insulated (1) 13:17 integrate (1) 7:22 intellect (1) 12:3 Intent (2) 39:23,23 interaction (1) 66:18 interested (1) 46:13 interesting (3) 7:9;19:14;75:17 internet (1) 9:22 interrupting (1) 58:9 interviewed (1) 45:21 intimately (2) 44:3;73:7 into (9) 35:25;43:18;57:25;58:1; 61:25;69:19;72:6;74:11,20 invented (1) 14:6 involved (1) 75:2 Iowa (1) 15:16 IQ (1) 9:5 Iron (1) 36:19 Ishimura (1) 34:21 issues (1) 37:7 Italian (3) 6:2;14:20;25:1</p>
H		I	
<p>hair (2) 50:15;67:15 hallucinated (1) 36:22 hallway (1) 47:17 hand (1) 60:9 hanging (4) 44:20;55:2,11;58:23 happen (4) 18:14;25:14;33:8;56:20 happened (5) 20:10;31:6;48:20;56:6,11 happening (4) 2:10;28:17;37:7;67:24 happens (2) 19:15;53:7 happy (1) 20:10 harassment (1) 46:19 hard (9) 10:11;39:14;43:11;48:23; 50:6;56:10,10;60:23;68:25 harder (1) 72:13 harm (1) 29:10 hated (1) 29:14 head (4) 4:8;12:24;19:22;34:8</p>	<p>hit (9) 17:15;19:21;35:15;39:1, 12,12,12;43:8;67:9 hold (3) 31:23;32:6,7 holding (2) 40:17;68:21 holy (1) 18:1 home (19) 5:17;8:17;9:11;10:20; 11:11;12:16;16:20;18:3,6; 23:8,9,17;24:7;32:18;33:2, 18;38:23;40:15;58:21 hone (1) 13:25 honed (1) 17:5 Honest (1) 19:7 honestly (5) 16:14;41:2,4;50:13;54:10 hook (1) 17:16 hope (2) 27:1;73:24 hoping (1) 65:8 horrible (3)</p>	<p>Idaho (4) 41:17;45:4;54:22;73:1 idea (2) 17:12;25:22 idiot (2) 69:25;70:21 ill (1) 10:14 Illinois (5) 44:18,19,25;54:20;55:7 image (1) 6:8 imaginary (1) 15:3 imagine (4) 6:23;29:23;65:2;71:25 impact (2) 62:13;65:2 impacts (1) 28:19 important (1) 44:3 impress (1) 15:1 incapable (1) 66:16 Including (1) 9:14 indication (1)</p>	<p style="text-align: center;">J</p> <p>jail (1) 12:1 jeez (1) 46:24 Jerry (72) 2:5,11,11,25;3:2;4:7;5:21; 6:1,4,7,14;12:7;14:5,6;15:6, 9;17:1,13,21,23,24;21:9;</p>

<p>23:17,22;24:6;25:13,14,20; 27:8;28:4;29:9,13,23;30:11; 31:6;32:1,18;33:11;34:1; 35:5,13,18;36:3,7,24;38:2, 10;39:25;40:18;43:5;44:15, 22;48:4,6;49:18;50:2;51:6; 52:6,8;53:11;55:5;57:21; 60:2,5,9,13;65:1;66:25; 67:24;68:2,15;71:10</p> <p>Jerry's (5) 3:1;6:3;30:12;59:15;62:10</p> <p>Jesus (1) 18:15</p> <p>job (7) 2:18;3:6,16;8:11;59:3; 73:10;75:17</p> <p>jobs (3) 16:18;30:19;60:3</p> <p>Joseph (1) 45:20</p> <p>Juneau (1) 40:16</p> <p>justify (1) 48:23</p>	<p>2:17</p> <p>knew (16) 7:23;11:7;15:13;16:10; 18:8;25:1;26:11;31:8,10,18, 18;37:12;46:20;48:14,16; 56:14</p> <p>Knieval (1) 32:8</p> <p>knock (1) 58:11</p> <p>knocked (4) 15:6;43:3;54:11;61:6</p> <p>knowing (1) 2:6</p> <p>known (1) 54:12</p> <p>knows (3) 27:2,2;73:1</p>	<p>49:17;59:3,15;61:10;65:5; 67:5,22</p> <p>lifeless (4) 25:10;27:9,9;30:12</p> <p>liked (4) 9:12;29:9,10;43:21</p> <p>liken (1) 12:13</p> <p>likes (1) 48:6</p> <p>line (1) 49:7</p> <p>lineage (1) 14:19</p> <p>lining (2) 18:24;27:21</p> <p>list (1) 15:25</p> <p>listening (1) 36:18</p> <p>lit (1) 60:7</p> <p>literally (3) 16:14;59:15;61:13</p> <p>little (15) 13:4,17;24:1;26:25;35:25; 43:18,19,21;45:18;49:14; 52:23,25;57:19;69:11;73:18</p> <p>live (5) 19:13;60:19;63:17;67:23; 69:8</p> <p>lived (5) 19:4;35:7,8;38:2,13</p> <p>lives (2) 66:23;72:6</p> <p>living (4) 6:22;16:16;40:6;74:16</p> <p>long (14) 6:13;9:1;23:3,5;28:8,11; 35:23;43:4;46:7;48:10; 49:11;50:23;55:8;56:2</p> <p>look (7) 12:14;22:17;43:2;54:9; 63:9;72:19,22</p> <p>looked (3) 29:13;43:7;53:24</p> <p>looking (4) 8:25;32:20;40:18;43:4</p> <p>Lord (1) 11:7</p> <p>lot (20) 3:22;5:16;6:10;10:24,24; 18:20;19:22;22:1;23:11; 24:14;27:6;37:3,15;56:25; 65:11;66:2,10;73:25;74:2,24</p> <p>lots (2) 66:17,17</p> <p>love (4) 11:24;36:14;52:25;60:11</p> <p>Luckily (1) 41:9</p> <p>Lucky (5) 4:3;12:2,23;16:24;20:21</p>	<p style="text-align: center;">M</p> <p>machines (1) 17:17</p> <p>mafia (4) 6:3;14:7,19;24:8</p> <p>main (1) 4:4</p> <p>Mainly (1) 47:7</p> <p>maintained (1) 43:11</p> <p>makes (2) 48:20;60:11</p> <p>makeup (1) 66:8</p> <p>male (1) 26:21</p> <p>man (10) 4:21;9:4;17:11,14;42:24; 47:24;48:19;59:1;64:19; 69:24</p> <p>manage (1) 5:17</p> <p>management (3) 6:16;66:11,11</p> <p>manipulative (2) 13:23;14:3</p> <p>manipulator (1) 9:6</p> <p>many (12) 2:13;4:2;10:6;11:15; 44:15;50:23;53:21;55:20; 56:17;63:10;65:12;67:9</p> <p>marijuana (1) 36:22</p> <p>Marlon (1) 22:10</p> <p>married (3) 42:5;47:1,3</p> <p>Mason (1) 40:25</p> <p>master (1) 9:6</p> <p>master's (1) 69:24</p> <p>match (1) 43:19</p> <p>matter (5) 3:10;50:4,5,6,6</p> <p>matters (1) 67:3</p> <p>maximum (1) 7:6</p> <p>may (4) 17:12;32:11;57:22;66:23</p> <p>maybe (21) 3:24,25;4:17;6:20,21;8:5; 14:14;24:1;25:16;34:24; 54:14,15;57:7,17,18;63:23; 67:9,18;69:3;74:21,21</p> <p>mean (29)</p>
K	L		
<p>keep (4) 4:1,3;7:19;30:10</p> <p>keeper (1) 48:1</p> <p>kept (5) 5:16;28:17;30:22;43:4; 49:20</p> <p>kick (1) 39:13</p> <p>kicked (1) 39:13</p> <p>kid (3) 30:22;51:25;67:22</p> <p>kids (12) 5:17;6:11;7:14;9:20;16:7; 30:18;62:17;67:3,3;73:25, 25;75:8</p> <p>kids' (1) 75:3</p> <p>kill (1) 74:15</p> <p>killed (3) 64:8;72:18;74:14</p> <p>kind (34) 8:6;9:7;12:3;19:4;21:19; 25:2;26:25;32:15,20;36:14, 19;37:13;38:14;39:16;45:5; 47:9;48:8,19;53:19;55:22; 57:3,17;59:2;61:3;62:20; 65:2;66:11,14;69:21;72:10; 73:14,25;74:23;75:2</p> <p>kindergarten (1) 16:23</p> <p>kindness (1) 72:10</p> <p>kinds (1)</p>	<p>Labor (1) 47:16</p> <p>last (15) 8:2,12,14;18:11,16,20; 21:10;29:19;54:14,19,22; 57:5;62:8;67:9;71:11</p> <p>lasted (1) 23:2</p> <p>later (6) 11:9;15:15;25:19,20; 28:20,20</p> <p>law (1) 8:5</p> <p>Lay (1) 30:7</p> <p>leader (1) 53:17</p> <p>learn (6) 2:21;17:1;39:11,12,12; 50:7</p> <p>learned (1) 7:19</p> <p>leave (5) 18:3;28:18;31:1;49:13; 59:12</p> <p>leaving (2) 18:7;36:8</p> <p>left (12) 2:18;10:19;11:11;23:8,9, 22;40:9;42:5;44:25;58:21; 61:10;64:17</p> <p>legs (1) 31:21</p> <p>letting (1) 40:17</p> <p>level (1) 48:10</p> <p>lied (1) 44:4</p> <p>life (17) 4:13;11:9,12;13:25;20:9, 11;22:22;29:1,5;39:15;</p>		

<p>4:17;5:4,5;9:9;10:5,9; 15:16;16:23;17:15;18:1; 19:10,24;20:12,16;31:5; 32:23;33:6,7;35:12;38:24; 40:8;41:22;43:17;44:10; 45:12;49:23;50:1;64:22; 66:22</p> <p>meant (1) 6:16</p> <p>meeting (1) 62:3</p> <p>member (2) 51:11;73:13</p> <p>memorize (1) 8:12</p> <p>memory (1) 3:6</p> <p>men (1) 58:24</p> <p>mental (1) 22:3</p> <p>mentally (1) 10:14</p> <p>mentioned (5) 14:5;21:25;24:8;30:10; 53:11</p> <p>mercy (1) 59:18</p> <p>messing (1) 58:13</p> <p>met (4) 15:5,6;68:5;74:4</p> <p>metal (1) 17:19</p> <p>methedrine (1) 36:5</p> <p>Michigan (3) 40:1,8;45:1</p> <p>middle (2) 67:16;71:16</p> <p>might (5) 6:2;12:17;57:6;63:24;65:3</p> <p>military (1) 69:22</p> <p>milk (2) 17:16,19</p> <p>mind (5) 6:3,5;24:10,19;28:3</p> <p>minorly (1) 70:15</p> <p>minute (3) 15:10;43:12;49:24</p> <p>missing (1) 6:18</p> <p>mom (11) 8:18;10:13;13:3;15:11; 19:24;25:25;32:18;36:17; 37:5;61:10;75:5</p> <p>moment (1) 57:23</p> <p>moments (1) 39:15</p> <p>mom's (1)</p>	<p>30:18</p> <p>money (2) 8:7;15:25</p> <p>monster (2) 9:10,12</p> <p>months (2) 2:5;57:1</p> <p>more (15) 6:16;12:21;28:9;29:13; 34:13;42:12,14;56:17;57:19; 66:6;70:19;71:3,3;74:1,2</p> <p>morning (3) 18:6;23:24;55:9</p> <p>most (12) 2:14;6:22;7:14;11:5; 22:19;29:10;30:19;44:7; 55:14;57:4;59:22;66:16</p> <p>mostly (1) 17:5</p> <p>mother (13) 3:3,3;7:17;10:11;15:8; 16:15;26:16,20,23;51:12,13; 64:8;69:20</p> <p>Mother's (1) 63:5</p> <p>mouths (1) 7:20</p> <p>move (3) 8:19;15:16;25:15</p> <p>moved (8) 8:1,1,1,1,2;37:18;41:22; 42:18</p> <p>movie (2) 6:25;22:10</p> <p>moving (2) 25:11;54:20</p> <p>much (13) 3:2;4:24;15:5;16:25; 25:10,21;37:14;41:22;46:17; 56:24;58:18;65:7;68:12</p> <p>mummy (2) 4:13;32:1</p> <p>murderer (1) 47:4</p> <p>must (3) 14:2;23:11;44:8</p> <p>myself (5) 3:15;23:14;42:3;74:14,15</p>	<p>65:7</p> <p>need (2) 15:24,24</p> <p>needed (4) 10:23;11:5;16:10;71:7</p> <p>needle (1) 36:5</p> <p>needs (2) 38:24;69:18</p> <p>neighbor (3) 32:13;38:13;75:8</p> <p>neighborhood (1) 38:9</p> <p>neighbors (1) 38:3</p> <p>nest (1) 4:2</p> <p>new (5) 2:20;18:11,16;25:15;46:25</p> <p>next (8) 8:11;17:18;18:5;25:17; 33:22;34:23;40:11;67:19</p> <p>nice (1) 47:5</p> <p>night (10) 3:10;18:4;25:16;33:3; 55:8;67:9,14,14,16;71:16</p> <p>nightmares (1) 20:18</p> <p>Nishimura (1) 34:18</p> <p>nobody (7) 15:25;27:1;45:8,14;52:16; 62:23;64:2</p> <p>none (11) 9:21,21,22;10:16,17; 15:13;45:14;46:3;51:25; 59:4,4</p> <p>normal (2) 7:11;44:18</p> <p>notes (2) 8:17,17</p> <p>Nothing's (1) 26:22</p> <p>notice (2) 25:19;58:18</p> <p>noticed (2) 53:12;63:24</p> <p>nowhere (1) 9:16</p> <p>nuts (1) 47:12</p>	<p>75:18</p> <p>officer (2) 43:16;69:22</p> <p>often (5) 9:22,23;18:14;38:10;72:18</p> <p>old (4) 2:19;4:12;28:13;64:22</p> <p>older (2) 2:24;58:24</p> <p>once (6) 18:25;22:22;56:25;57:4; 63:15;67:9</p> <p>one (38) 4:5,13;7:5,9,24;8:11; 11:19;12:15,16;13:9;16:9, 18;17:19;24:6;25:12,16,23; 26:16,20;28:1,1,19;30:12; 33:7,16;35:13,14,24;37:12; 40:25;47:2,17;58:1;60:3; 63:12;65:18;73:24;74:17</p> <p>only (12) 5:7;6:18;8:7;13:10;23:2; 24:6;31:17;39:21;42:2; 69:23,25;70:9</p> <p>onslaught (1) 67:12</p> <p>open (2) 9:20;31:20</p> <p>opinion (1) 70:22</p> <p>order (1) 38:25</p> <p>orders (1) 16:16</p> <p>ourselves (1) 43:19</p> <p>out (45) 5:25;6:12;7:2,2,2,3,6;12:1; 14:16;17:16,18;26:14;27:25; 28:24;32:14;33:3,22;36:24; 38:24;39:8;42:3;43:20; 44:20;45:7;46:9;49:16;50:8, 24;55:2,4,11;58:23;60:7,8, 23,25;61:14,16;63:13;65:8, 17;67:15;70:14;71:4;74:4</p> <p>outside (3) 33:17;43:13;49:21</p> <p>outsmart (1) 20:2</p> <p>over (16) 13:25;19:23;21:6;22:1; 28:22,23;29:3;30:5;31:20; 39:16;51:13;56:11;57:18; 58:11;59:25;75:3</p> <p>overcome (2) 11:15;70:25</p> <p>owe (1) 52:1</p> <p>owed (1) 8:7</p> <p>own (2) 62:19;64:18</p>
	N		
	<p>Nakamarra (1) 34:19</p> <p>name (4) 15:9;16:19;29:18,19</p> <p>named (1) 29:23</p> <p>names (7) 8:2,13;18:11,16,20;45:19; 59:23</p> <p>nasty (1) 26:25</p> <p>natural (1)</p>	O	
		<p>obviously (3) 13:2;21:9;29:1</p> <p>odd (2) 19:19;65:1</p> <p>off (16) 4:5;17:23,24;18:9;22:12; 28:1,12;33:16;35:10;40:10; 43:7;51:16;53:7;67:16;71:6;</p>	

	<p>12:15;15:16 performing (1) 15:17</p>	<p>prison (7) 39:25;40:11;41:7,16; 50:15;55:5,25</p>	<p>52:8,9 raised (4) 3:7;26:3;48:11;64:19</p>
<p>P</p> <p>packing (1) 44:19</p> <p>page (1) 39:16</p> <p>pain (7) 10:22;56:15;57:13,14; 63:18;66:23,23</p> <p>paired (2) 6:12,13</p> <p>Pamela (1) 15:8</p> <p>panicky (1) 8:22</p> <p>papers (1) 72:24</p> <p>Pardon (1) 42:13</p> <p>parent (2) 13:3;64:13</p> <p>parents (7) 2:13;5:16;8:1;32:17; 34:15,15;63:3</p> <p>part (11) 4:4;6:16;10:17;12:2; 19:18;46:16;50:25;51:9; 72:2;74:3;75:17</p> <p>particular (1) 68:1</p> <p>party (1) 45:3</p> <p>pass (2) 13:4,10</p> <p>past (1) 44:4</p> <p>path (1) 14:23</p> <p>pathologist (1) 62:4</p> <p>peace (3) 20:20,21;36:14</p> <p>pecking (1) 38:25</p> <p>peculiar (2) 40:14;48:9</p> <p>pedophile (1) 9:3</p> <p>penalty (2) 65:13,20</p> <p>people (25) 4:18;6:22;8:7;9:7,12; 12:10;13:24;22:19;25:18; 26:14,15;27:6;39:21;44:7; 45:15;46:20;55:4;59:16; 63:24;64:4;69:23,25;72:11; 74:21,24</p> <p>people's (1) 72:6</p> <p>per (1) 63:3</p> <p>perfect (2)</p>	<p>perhaps (2) 6:2;64:25</p> <p>perpetual (1) 44:24</p> <p>person (3) 66:17;68:10;72:18</p> <p>personal (3) 44:3;45:12;48:10</p> <p>phonetic (3) 34:18,19,21</p> <p>physical (3) 4:20;18:21;57:14</p> <p>physically (3) 25:5;28:18;54:1</p> <p>physiological (2) 12:11;66:8</p> <p>pick (1) 29:9</p> <p>pile (1) 22:24</p> <p>pissing (1) 43:19</p> <p>pistol (1) 54:23</p> <p>place (5) 6:6;21:2;25:12,16;37:18</p> <p>plan (1) 72:3</p> <p>playground (1) 37:24</p> <p>pleading (1) 59:14</p> <p>pleasure (1) 18:23</p> <p>plug (1) 21:4</p> <p>point (4) 4:6;7:5;19:2;32:24</p> <p>poison (1) 27:16</p> <p>poor (1) 5:23</p> <p>posttraumatic (2) 19:15;70:4</p> <p>pray (2) 19:9;48:24</p> <p>predator (1) 4:21</p> <p>preoccupy (1) 4:4</p> <p>press (1) 75:14</p> <p>pretty (13) 3:2;6:14;8:10;15:5;25:10; 30:23;37:9,14;41:22;50:21; 59:1;66:17,24</p> <p>princess (1) 59:1</p> <p>Prior (4) 35:7;43:18;44:17;62:3</p>	<p>private (2) 44:7;73:8</p> <p>probably (9) 8:7;23:7;45:11;47:8; 50:13;56:25;58:21;66:25; 74:1</p> <p>problem (2) 32:22;62:11</p> <p>problems (2) 5:24;66:8</p> <p>procedure (1) 73:16</p> <p>proceedings (1) 45:3</p> <p>profound (1) 50:21</p> <p>proponent (1) 65:12</p> <p>protect (6) 2:7,20;3:6,12,15,16</p> <p>proud (1) 39:4</p> <p>psychedelic (1) 36:15</p> <p>psycho-crazy (1) 17:11</p> <p>psychology (1) 69:24</p> <p>PTSD (2) 70:1,20</p> <p>public (2) 61:1;66:10</p> <p>puffy (2) 54:9,9</p> <p>pull (2) 19:23;25:23</p> <p>pure (1) 6:22</p> <p>push (1) 69:8</p> <p>pushed (1) 60:23</p> <p>put (9) 2:14;4:10,11;11:3;27:16; 31:19,20,23;69:19</p> <p style="text-align: center;">Q</p> <p>quickly (1) 75:1</p> <p>quiet (1) 37:9</p> <p>quite (1) 54:7</p> <p style="text-align: center;">R</p> <p>racist (1) 37:15</p> <p>rage (2)</p>	<p>ran (1) 58:23</p> <p>Ranch (1) 23:24</p> <p>rank (1) 50:5</p> <p>raped (3) 60:5;67:16;70:6</p> <p>rat (1) 27:16</p> <p>rather (1) 65:7</p> <p>reached (1) 7:5</p> <p>read (8) 6:25;10:24;11:22;16:24; 17:8;22:21;72:23,24</p> <p>reading (2) 17:7;62:7</p> <p>ready (3) 3:12,15;49:13</p> <p>real (8) 5:24;8:22;9:16;12:25; 32:22;37:19,22;54:9</p> <p>realization (1) 39:15</p> <p>realize (4) 7:14;10:23;74:1,7</p> <p>realized (2) 63:15,20</p> <p>realizing (1) 39:17</p> <p>really (45) 4:18,21;5:5,6;7:16,22; 10:8,11;12:13;19:9;20:16; 24:6,25;28:17;32:2;34:4,10, 11;38:18;39:20;41:3,19; 42:11,22;43:5,8;44:7,10,15; 46:9;47:14,23;50:18;53:22; 54:4,7;56:2,10;62:10;66:6; 67:7;68:25;70:25,25;74:7</p> <p>reason (2) 2:19;66:23</p> <p>reasons (1) 63:12</p> <p>recall (2) 32:19;34:6</p> <p>recent (2) 42:12,14</p> <p>recognize (1) 43:3</p> <p>recognized (2) 13:3;53:24</p> <p>records (2) 8:16,17</p> <p>redwoods (1) 35:11</p> <p>register (1) 8:11</p> <p>regrets (2)</p>

<p>49:17;50:20 regretted (1) 42:7 relationship (1) 7:16 relive (1) 19:16 remember (16) 3:5;9:1;16:14;19:11; 22:13;32:10,11,13,20;34:7, 10;36:3;37:22,23;38:16;48:5 remembers (1) 66:25 remote-control (1) 16:15 Renee (3) 2:24;17:2;26:24 rent (1) 66:11 reporter (1) 65:19 respects (1) 74:21 respond (2) 8:18,18 response (1) 68:3 responsibility (2) 5:9;72:8 responsible (1) 16:9 rest (4) 11:12;22:22;24:7;48:15 retardation (1) 22:4 retrospect (1) 11:3 rewarded (1) 11:9 right (62) 6:6;13:1,6,8,10;18:22; 19:24;20:19,25;27:7;28:6; 32:2,21;36:20;42:1,16; 45:24,25;46:8,15;47:22; 48:2;50:4;51:1,2;52:3,5,7, 18;54:23;55:6,21;56:1,22; 57:24,25;58:1,5,22,22,23; 59:11;60:22;61:19;62:18,25; 63:19,24;64:3,14,16,25,25; 66:4,21;67:21,24;69:12; 71:9;73:9,11,21 ripples (1) 72:6 river (1) 22:12 rocks (1) 20:17 roll (2) 28:1;66:1 rolling (1) 35:11 room (5) 3:3;16:16;36:18;64:5;70:5</p>	<p>ropes (1) 35:11 rough (2) 29:1,5 row (1) 47:4 ruin (1) 11:12 running (3) 8:9;17:23;30:22</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safe (2) 4:1,3 Saint (1) 38:6 same (14) 4:1;12:17;15:6;16:10; 18:18;34:25;35:1;48:8,11; 53:19;57:3,21;58:19;70:5 sang (1) 11:23 save (1) 67:5 saw (21) 3:2;4:24;7:1;15:19;21:10, 12,21;27:13,15,15;41:9; 42:8;43:2;48:4;53:11;54:14, 18,19,19,22;56:23 sawhorse (1) 34:3 saying (5) 26:23,25;32:21;53:20;58:1 scared (1) 34:13 scenery (1) 36:13 school (20) 5:7,7,12,15,16,18,21;7:14; 8:11,14;16:25;18:3,5,6; 25:18;26:6;37:23;38:6; 67:20;74:4 schoolmates (1) 74:4 scream (1) 49:23 screaming (2) 60:9;71:16 screwed (1) 50:24 se (1) 63:3 Seattle (2) 40:15,24 second (2) 26:21;33:16 seeing (10) 32:22;44:14;50:2,10;51:6; 52:8;66:11;69:10,19;71:10 seemed (2) 18:23;38:2 seems (2)</p>	<p>7:11;32:24 self (1) 10:5 self-help (1) 10:25 send (2) 8:17;63:4 sent (1) 15:15 sentenced (1) 46:7 sequester (1) 29:10 sequestered (2) 25:7,9 serious (3) 3:23;5:24;57:4 seriously (1) 74:15 severe (1) 70:19 severely (1) 38:23 sex (1) 13:21 sexual (1) 4:20 shame (1) 73:19 sheet (2) 4:12;31:23 shell (1) 12:19 shit (3) 38:11;39:8;47:20 shoes (3) 2:22;3:1,1 shooting (1) 14:15 short (1) 60:23 shortly (3) 36:3;40:9;44:25 shot (1) 36:4 shoved (2) 37:24;70:10 show (1) 59:17 shown (1) 66:7 shut (2) 7:20;15:11 shyster (1) 8:6 siblings (4) 2:7;11:19;19:20;69:10 side (2) 32:12;68:16 sign (1) 65:16 similar (1) 74:5</p>	<p>single (1) 19:21 sister (7) 2:24;4:10;12:6,8;28:4; 66:22,24 sisters (5) 11:22;17:22;22:18;39:2; 63:4 sit (3) 19:8;29:7;58:15 sitting (2) 19:24;32:15 Sitton (2) 45:20,20 situation (1) 8:22 situations (1) 75:1 sixth (2) 4:7;23:22 sixth-grader (1) 53:15 slap (1) 19:23 sleep (2) 5:6;18:1 slow (1) 55:15 smart (1) 47:7 smarts (1) 48:14 smoke (1) 43:22 snap (1) 62:6 snapped (1) 28:8 sneaky (2) 6:14;38:16 snot (1) 27:25 soldier (2) 70:8,9 soldiers (1) 70:1 somebody (9) 4:3;5:8;13:4;14:22;38:23, 24;52:9,10;69:3 somebody's (1) 15:12 somehow (1) 6:3 someone (1) 6:12 something's (1) 63:24 sometimes (3) 12:16;18:17,18 Somewhat (2) 13:18;14:19 somewhere (3) 8:15,19;18:10</p>
---	---	---	--

<p>son (1) 60:10</p> <p>sorry (4) 49:8;51:14;53:3;66:2</p> <p>sort (5) 6:7;23:16;45:13;49:13; 57:18</p> <p>soul (1) 65:9</p> <p>sound (6) 48:20;58:5,9,14;60:11; 64:25</p> <p>sounds (2) 43:5;56:6</p> <p>south (1) 32:12</p> <p>spanked (1) 67:9</p> <p>speak (2) 19:20;57:16</p> <p>speaking (11) 14:21;26:17;28:21;29:2,6, 15;30:2;41:11;58:10;59:24; 62:7</p> <p>special (2) 44:19;54:23</p> <p>spectacle (1) 46:14</p> <p>speech (1) 55:15</p> <p>spiritual (2) 68:9,16</p> <p>Spocompton (1) 37:19</p> <p>Spokane (2) 23:25;32:11</p> <p>spot (3) 30:3,4;41:12</p> <p>square (1) 54:10</p> <p>squirt (1) 30:8</p> <p>stabbing (1) 27:15</p> <p>stages (1) 4:6</p> <p>stairway (1) 47:18</p> <p>standing (2) 16:15;26:23</p> <p>Star (1) 23:24</p> <p>start (3) 25:18;38:11;53:7</p> <p>started (8) 36:7,8,24;58:22,23;60:7; 71:5;73:12</p> <p>starting (2) 10:23;18:24</p> <p>starts (1) 57:18</p> <p>state (3) 6:4;46:22;47:2</p>	<p>stay (7) 16:21;30:7;33:2,3,14; 35:25;64:15</p> <p>stayed (4) 12:1;40:9;63:12,13</p> <p>staying (3) 7:23;16:20;61:4</p> <p>stepdad (2) 37:5;65:16</p> <p>stepfather (3) 2:20;8:6;16:24</p> <p>stepped (2) 52:10;64:2</p> <p>stigma (3) 6:7;27:4;44:11</p> <p>stigmatized (1) 52:21</p> <p>still (8) 3:19;19:20,20;23:17;24:7; 28:20;55:22;72:23</p> <p>stood (1) 15:21</p> <p>Stop (3) 29:16;30:3;58:15</p> <p>stopped (1) 40:16</p> <p>store (2) 12:14;15:24</p> <p>stories (1) 11:23</p> <p>story (1) 73:24</p> <p>stranger (1) 15:16</p> <p>street (4) 35:1;38:2,5,14</p> <p>stress (2) 19:15;70:4</p> <p>struck (1) 53:21</p> <p>stuck (1) 23:6</p> <p>stuff (18) 11:16;17:25;22:1,4;35:5, 12;36:14,19;37:14;38:14,18; 44:3;45:5;47:9;62:23;74:1,5, 23</p> <p>stunt (1) 32:8</p> <p>stupid (1) 35:12</p> <p>sudden (1) 16:7</p> <p>suffering (1) 66:24</p> <p>supporting (1) 23:14</p> <p>sure (10) 15:5;25:5;26:4;36:25; 56:16;57:7;64:12;65:6; 66:25;72:25</p> <p>surgery (1) 40:15</p>	<p>survive (1) 22:19</p> <p>survived (1) 50:12</p> <p>suspect (1) 55:14</p> <p>Sutton (1) 45:20</p> <p>swayed (1) 14:22</p> <p>Swedish (1) 40:25</p> <p>swinging (2) 17:22;35:10</p> <p>Swore (1) 51:16</p> <p>swung (1) 17:20</p> <p>Sybil (1) 6:25</p>	<p>50:11;67:8;71:12</p> <p>terrified (2) 9:8;25:24</p> <p>test (1) 62:17</p> <p>testified (1) 21:23</p> <p>thankful (1) 23:2</p> <p>therapy (1) 71:1</p> <p>therefore (1) 3:25</p> <p>thin (2) 54:5,7</p> <p>thinking (3) 27:2;43:5;49:10</p> <p>though (2) 6:4;33:11</p> <p>thought (23) 3:5,23;6:1,8;11:13;15:3; 28:18;29:12;33:9;34:17; 36:17,21;41:25;43:3;48:9, 17;50:21,21,25;56:17;57:7; 65:15;70:14</p> <p>thousandfold (1) 22:25</p> <p>thousands (1) 23:3</p> <p>threat (1) 47:14</p> <p>three (4) 23:7;51:21,21;56:25</p> <p>threshold (1) 23:12</p> <p>threw (1) 60:10</p> <p>tie (2) 2:21;3:1</p> <p>tied (1) 3:1</p> <p>ties (1) 17:24</p> <p>times (11) 5:16;6:15;15:22;30:13; 39:20;45:22;52:9;67:10; 70:19;71:9;74:17</p> <p>today (1) 16:20</p> <p>toe (1) 4:8</p> <p>together (1) 49:20</p> <p>told (13) 4:9;7:19;15:21;25:25; 36:3;39:14;45:17;47:18; 50:22;57:4,13;60:6;73:24</p> <p>tolerate (1) 59:6</p> <p>tomorrow (1) 56:20</p> <p>Tony (2) 12:8;28:4</p>
		T	
		<p>tacos (1) 58:3</p> <p>tags (1) 46:25</p> <p>talk (15) 9:18;19:8;20:22;30:11,16; 31:5;48:6;56:24;57:22;58:6; 59:3,9;69:3;71:1;74:8</p> <p>talked (7) 45:8,15,18;48:5;68:2,4,15</p> <p>talking (9) 2:6;21:9;25:18;31:11; 39:10;53:8;59:14;67:8;71:5</p> <p>talks (1) 53:16</p> <p>tall (1) 17:19</p> <p>task (1) 6:11</p> <p>tasks (1) 2:17</p> <p>taught (1) 17:2</p> <p>teach (2) 17:1,2</p> <p>teaching (1) 17:5</p> <p>tear (2) 28:1;31:24</p> <p>Teddy (4) 60:2,8,9,11</p> <p>telling (1) 31:12</p> <p>tells (1) 58:4</p> <p>ten (2) 28:13;62:8</p> <p>tend (1) 12:21</p> <p>terrible (3)</p>	

<p>Tonya (1) 66:24</p> <p>took (9) 3:23;23:16;26:20;42:6; 43:4,6;53:6;71:6;75:16</p> <p>tore (1) 4:12</p> <p>torture (3) 4:20;11:18;22:8</p> <p>tortured (2) 61:11;67:4</p> <p>torturous (2) 43:24;60:19</p> <p>touch (1) 57:17</p> <p>tough (10) 6:8;11:13;14:9;24:12; 25:1;44:24;48:7;53:17; 55:17,25</p> <p>towards (2) 10:4;38:5</p> <p>traumatized (1) 22:22</p> <p>tree (1) 35:15</p> <p>trial (3) 45:4,15,25</p> <p>tried (5) 17:2;25:5;27:19;58:5; 74:15</p> <p>trigger (1) 72:21</p> <p>trooper (1) 47:2</p> <p>troopers (1) 46:22</p> <p>trouble (9) 8:5;37:3,13;38:18,19;40:4, 5,8;61:14</p> <p>true (1) 6:4</p> <p>truly (2) 19:9;72:2</p> <p>try (10) 11:23;17:23;20:2;31:24; 42:3;48:23;52:4;59:14; 70:18;72:9</p> <p>trying (4) 38:11;67:22,23;71:17</p> <p>tucked (1) 54:23</p> <p>turn (3) 39:16;53:7;75:18</p> <p>turned (5) 17:21;26:24;50:24;61:16; 74:11</p> <p>turns (1) 65:17</p> <p>twice (1) 18:25</p> <p>two (11) 4:5;12:16;15:15;30:19; 34:24;38:6;40:25;45:19;</p>	<p>49:24;51:14,21</p> <p>two-by-four (1) 19:22</p> <p>type (1) 14:2</p> <p>types (1) 9:6</p>	<p>3:6</p> <p>void (1) 66:19</p>	<p>49:15;67:7</p> <p>witnessed (1) 66:15</p> <p>woman (1) 50:24</p> <p>wonder (1) 38:22</p> <p>wondered (2) 9:23;72:18</p> <p>word (2) 14:6;37:12</p> <p>words (4) 13:24;17:2;49:9;51:14</p> <p>work (3) 17:3;20:4;42:3</p> <p>worked (3) 30:19;47:15,16</p> <p>working (1) 23:13</p> <p>works (1) 73:1</p> <p>world (3) 66:23;69:23,25</p> <p>worried (1) 34:16</p> <p>worry (1) 20:24</p> <p>worrying (1) 10:22</p> <p>worse (2) 61:16,18</p> <p>worst (1) 50:14</p> <p>worth (1) 10:5</p> <p>WORTHEN (1) 2:2</p> <p>wound (2) 43:18;45:1</p> <p>wounds (1) 31:20</p> <p>Wow (26) 10:2;15:20;16:3,13,22; 18:12;28:2;29:21;33:24; 35:16;38:12;40:12,19;43:14, 25;46:21;47:5;49:11;51:18; 52:20;61:12;63:6,8;67:17; 69:5;70:13</p> <p>wrap (1) 31:24</p> <p>wrapped (1) 4:12</p> <p>write (1) 51:7</p> <p>writing (1) 53:16</p> <p>written (1) 41:6</p> <p>wrong (5) 3:24;9:2;13:2;26:22;33:20</p>
	<p style="text-align: center;">U</p> <p>unable (1) 10:13</p> <p>unconscious (3) 17:21;19:1;28:1</p> <p>under (1) 6:17</p> <p>understandings (1) 50:17</p> <p>unfortunately (2) 6:15;66:22</p> <p>unintelligible (1) 69:4</p> <p>Unless (1) 8:9</p> <p>unusual (1) 4:15</p> <p>up (31) 4:9;5:25;7:10;9:10;14:11; 15:2,21;17:16,24;18:24; 22:24;25:17;27:2,21;30:15, 24;31:24;36:4;40:17;42:18; 45:1;47:16;50:24;52:10; 53:9;57:9;64:2;67:19;70:11; 71:10,16</p> <p>use (1) 14:6</p> <p>used (8) 8:2;14:10;28:9,9;34:2; 39:1;54:4;62:4</p> <p>using (1) 55:13</p>	<p style="text-align: center;">W</p> <p>waiting (1) 38:10</p> <p>wake (2) 71:10,16</p> <p>walk (1) 43:20</p> <p>walked (1) 7:6</p> <p>wall (1) 70:11</p> <p>wants (1) 57:17</p> <p>war (1) 28:12</p> <p>washer (1) 16:19</p> <p>Washington (2) 40:4,5</p> <p>watch (4) 38:17,17;47:20;60:12</p> <p>watched (1) 22:10</p> <p>watching (2) 2:17;11:18</p> <p>water (1) 4:11</p> <p>way (9) 15:17;28:4;41:10;48:12; 56:3;58:19;60:13;68:23; 71:21</p> <p>weakness (1) 12:18</p> <p>week (1) 16:2</p> <p>Weinstein (2) 45:19;62:3</p> <p>weren't (3) 5:17;7:15,23</p> <p>Whack (1) 18:25</p> <p>What's (2) 15:8;30:16</p> <p>When's (1) 21:10</p> <p>whining (1) 58:8</p> <p>white (1) 37:18</p> <p>whole (3) 14:7;18:10;24:8</p> <p>who's (1) 2:24</p> <p>wife (1) 16:4</p> <p>window (1) 33:17</p> <p>wish (2)</p>	<p style="text-align: center;">Y</p>
	<p style="text-align: center;">V</p> <p>various (1) 4:6</p> <p>Vaseline (1) 31:19</p> <p>verbal (1) 68:3</p> <p>veterans (2) 28:12,13</p> <p>victim (1) 25:9</p> <p>Vietnam (1) 22:11</p> <p>view (1) 24:25</p> <p>Virginia (1) 40:25</p> <p>visit (1) 21:15</p> <p>vivid (1)</p>		

<p>yanked (1) 67:15</p> <p>yappy (1) 21:5</p> <p>year (5) 2:3,4,24;23:2;57:5</p> <p>years (26) 2:19;7:3;10:6;28:13,19,20, 20;39:11;44:15;46:24;50:23; 51:7,16,21,22;53:21;55:20; 56:11;58:24;62:8;63:4,10; 65:11,12;66:1;75:3</p> <p>Yep (2) 16:12;42:9</p> <p>young (4) 3:23;11:4;14:10;50:23</p> <p>younger (2) 2:5;35:6</p>	<p style="text-align: center;">5</p> <p>5 (2) 53:5;75:19</p> <p>5:00 (1) 55:8</p> <p style="text-align: center;">6</p> <p>68 (1) 24:1</p> <p>69 (1) 24:1</p> <p style="text-align: center;">7</p> <p>74 (1) 41:20</p> <p>7th (1) 36:7</p>		
1			
<p>100,000 (1) 70:19</p> <p>15 (4) 10:19;19:1;23:8,9</p> <p>16 (2) 19:1;74:14</p> <p>18 (2) 54:15;55:7</p> <p>19 (1) 54:15</p> <p>1974 (3) 40:21;42:20;44:19</p>			
2			
<p>20 (3) 28:20;58:24;66:1</p> <p>2008 (6) 41:18,20;42:8,19;48:4; 49:6</p> <p>2010 (2) 21:11;42:15</p> <p>25 (1) 19:1</p>			
3			
<p>3 (2) 2:1;21:7</p> <p>30 (3) 28:20;46:24;51:16</p> <p>365 (1) 23:2</p> <p>38 (2) 44:19;54:23</p>			
4			
<p>4 (2) 21:8;53:4</p> <p>40 (1) 28:20</p>			

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 16

(Excerpt from testimony of Monique Eska)

1 BY MS. WARD:

2 **Q.** When you visited Jerry, how did he
3 interact with you and the other kids?

4 **A.** He sat on the outside a lot. He
5 was --

6 THE COURT: Just a moment. How old was he?

7 THE WITNESS: How old was he? Okay. Let me
8 count my age. Twelve or thirteen.

9 THE COURT: Okay.

10 THE WITNESS: I was about nine or ten. He
11 is four years older than I am.

12 BY MS. WARD:

13 **Q.** How did Jerry talk to other kids?

14 **A.** He tended to talk in some gibberish.
15 He would tell stories that were nonsensical. They
16 didn't make sense.

17 **Q.** You testified that you saw Jerry more
18 often when he was younger, and then less so as he
19 got older?

20 **A.** Yes.

21 **Q.** When you're describing Jerry, is it
22 just when you were nine, or are you also talking
23 about the younger years?

24 **A.** My biggest memory that I am referring
25 to is when I was about nine or ten years old -- or

1 **Q.** How did his sisters treat him?

2 **A.** They looked out after him. They tried
3 to take care of him. They would try to make sure,
4 "Jerry," you know, "your shirt is dirty," because
5 he had had food, and dirty. And they would,
6 "Change your pants, Jerry," "No, Jerry." "Jerry,
7 I'm going to tell Mom."

8 **Q.** Who supervised Jerry?

9 **A.** His sisters.

10 **Q.** Will you describe Jerry's physical
11 appearance?

12 **A.** He was kind of dirty, unlike the other
13 children that I looked up to, because they were
14 women and they were, wow, I loved how they
15 dressed. He was more dirty. Frumpy is not really
16 a word. He just -- as he looked down and he would
17 play amongst himself, he -- he would have to
18 change his clothes a lot. He was kind of stinky.

19 **Q.** Which sisters supervised Jerry?

20 **A.** Elsie. I remember Elsie. I remember
21 Angie. I remember, less, Toni. But Elsie a
22 lot -- [Return to Petition Page 10](#)

23 **Q.** How did --

24 **A.** -- and Renee some.

25 **Q.** How did Jerry -- what was Jerry's

1 nine years old.

2 **Q.** How did Jerry play with other kids?

3 **A.** He -- he was weird. He would push. He
4 would take things from you. I saw him playing in
5 the dirt. I saw him with ants. I think he did
6 that just to get a reaction from us, and he did.

7 **We didn't play with him.** [Return to Petition Page 9](#)

8 **We would play, like Red Rover, Red**
9 **Rover. He would slap at our hands. We would tell**
10 **stories, and we would play truth or dare, and he**
11 **would sit there shaking his head, no, no, no, no,**
12 **no.**

13 **Q.** How did Jerry compare to his siblings?

14 **A.** I would think that he would be a
15 special ed student, because his younger siblings
16 acted older than him.

17 **Q.** You mentioned that Jerry wasn't allowed
18 to go to the store or to go to the pool.

19 **A.** And ride his bike. He couldn't ride
20 his bike outside of the yard.

21 **Q.** How old was he when he couldn't do
22 those things?

23 **A.** That was the time frame when I was nine
24 and he was thirteen. I can't believe he was
25 thirteen, but he is four years older than I am.

1 physical appearance in comparison to his sisters?

2 **A.** I thought he was a lot younger. He was
3 slight build.

4 **Q.** Will you describe Jerry's mannerisms?

5 **A.** Just quiet. He would rock. He would
6 drag his feet. He would turn around, he would
7 stare. He -- really not a conversationalist. He
8 was more quiet. When he -- it's kind of opposite.
9 He was quiet, or he would, like, "No." You know,
10 "I want to play with that," you know.

11 MS. WARD: Thank you.

12 No further questions, Your Honor.

13 THE COURT: Mr. Anderson.

14 CROSS-EXAMINATION

15 BY MR. ANDERSON:

16 **Q.** Is it Eska?

17 **A.** Yes.

18 **Q.** Ms. Eska, Kismet Winslow is your mom?

19 **A.** Yes.

20 **Q.** And that's the lady that just
21 testified?

22 **A.** Yes.

23 **Q.** And how are you related to Ruth Roath?

24 **A.** That's my aunt; my mother's sister.

25 **Q.** Now, you indicated that at age nine --

1 **A.** Okay.
 2 **Q.** Thank you.
 3 **A.** You know, before --
 4 **Q.** Let --
 5 THE COURT: Just a moment. Ms. Ward will
 6 give you a chance to offer anything else.
 7 THE WITNESS: Okay.
 8 THE COURT: But under cross-examination,
 9 it's very important --
 10 THE WITNESS: Right.
 11 THE COURT: -- to listen just to counsel's
 12 questions, and answer those questions directly.
 13 THE WITNESS: But even if, Judge,
 14 Your Honor, if I saw it before, though, him being
 15 that way, does it matter?
 16 THE COURT: Well, if you can now recall an
 17 incident that is responsive to counsel's last
 18 question, you can go ahead and answer that.
 19 THE WITNESS: Just, I recall when we lived
 20 -- when we lived in Grants Pass, they were in
 21 Eureka, that he was just as odd as ever. The bug
 22 incident, I recall when we lived in Grants Pass.
 23 BY MR. ANDERSON:
 24 **Q.** Now, what was the neighborhood like,
 25 during that visit, that the Pizzutos lived in?

1 **A.** He was like braggadocious [sic] about
 2 it.
 3 **Q.** Bragganocious [sic]. What --
 4 **A.** Braggadocious.
 5 **Q.** -- do you mean?
 6 **A.** It's a word that means overly bragging,
 7 thinking it was kind of a cool, funny thing to
 8 gross people out; but too over and beyond.
 9 **Q.** Tell me what the game Red Rover is.
 10 **A.** The kids -- it's one of my favorite
 11 games. We could play now, if you want. It's hold
 12 onto hands, and, "Red Rover, Red Rover, send so
 13 and so over." And they say their name. And they
 14 try to break the link.
 15 **Q.** Okay. Let me make sure I understand
 16 this game, because I think it's the same game I
 17 played as a child.
 18 **A.** Most children do.
 19 **Q.** You have a line of kids on one side
 20 that are holding hands.
 21 **A.** Mm-hmm.
 22 **Q.** That's correct?
 23 **A.** Yes.
 24 **Q.** Then you have a line, a parallel line
 25 on the other side of kids holding hands.

1 **A.** They had a big -- in my child's mind,
 2 it was a big house with a big backyard. There was
 3 a gate around it. And we slept out in tents, as
 4 children, under the sun.
 5 **Q.** Was -- was the neighborhood, though,
 6 where the house was at a bad neighborhood?
 7 **A.** I don't recall. I wasn't really
 8 allowed outside the gate.
 9 **Q.** You were not allowed outside the gate?
 10 **A.** Mm-hmm. Because I was one of the
 11 younger children. The older ones were, the
 12 sisters. Jerry and I had to stay behind. And
 13 there was a couple younger children.
 14 **Q.** Do you have children?
 15 **A.** Only through marriage. I can't have
 16 children.
 17 **Q.** I'm sorry.
 18 **A.** That's all right. I've had
 19 miscarriages.
 20 **Q.** But you have experience with children.
 21 **A.** Oh, yes.
 22 **Q.** Have you ever seen children at a young
 23 age, under 10, eat dirt and ants?
 24 **A.** Not like Jerry.
 25 **Q.** He really liked them?

1 **A.** Mm-hmm.
 2 **Q.** Correct?
 3 **A.** Mm-hmm. Yes.
 4 **Q.** And then, one side will say, "Red
 5 Rover, Red Rover, send Johnny right over."
 6 **A.** Yes.
 7 **Q.** Johnny comes over and tries to break
 8 through the hands?
 9 **A.** Yes.
 10 I was very good at it.
 11 **Q.** Okay. And Jerry would slap people's
 12 hands when he would be called over to play that
 13 game?
 14 **A.** In between. He would slap in between.
 15 **Q.** Okay.
 16 **A.** Or he would just sit down and, you
 17 know, like pout.
 18 **Q.** Tell me about truth and dare.
 19 **A.** That's where my memory is very vivid.
 20 **Q.** Okay.
 21 **A.** It was --
 22 **Q.** Did Jerry play truth and dare?
 23 **A.** No. He sat on the side, but he was --
 24 there was a group of all the kids, kind of like
 25 not in a perfect circle. We had our sleeping

1 bags. We were outside. And Jerry was close, but
2 he was outside the main -- he was always kind of
3 on the outside, close, you know, the sisters took
4 care of him.

5 And, you know, slumber parties, all the
6 kids that I was aware of, we all played truth or
7 dare. You get bored, you play truth or dare. And
8 you do funny, silly things on the dare. And the
9 truth was, "Did you kiss a boy?" "Did you," you
10 know.

11 Q. Okay. Let me make sure I understand
12 this game, too.

13 A. Yes.

14 Q. Truth and dare is where you basically
15 have kind of a circle of kids.

16 A. Mm-hmm.

17 Q. Yes?

18 A. Yes.

19 Q. They're not holding hands or anything.
20 They're just sitting in a circle, more or less
21 sitting in a circle?

22 A. Sometimes they hold hands, sometimes
23 they don't. Sometimes they play spin the bottle
24 with it, but --

25 Q. And somebody will say truth or dare to

1 someone else, and they're asked if something is
2 true, like -- and I think your example was, "Did
3 you ever kiss a boy?"

4 A. Mm-hmm. Yes.

5 Q. And they have to tell the truth.

6 A. Yes.

7 Q. And the dare is asking someone to do
8 something during the course of the game.

9 A. Yes. Sometimes --

10 Q. That's fine. That's the gist of the
11 game, though?

12 A. Yes. But there is variations. You get
13 bored and just start talking, telling truths.

14 Q. Do you know if Jerry liked this game?

15 A. I don't know if he liked it. I --

16 honestly, no, I recall him, not; because he was
17 shaking his head: No, don't. No, don't.

18 Q. Now, I believe that you said that his
19 sisters -- and I think you used the word
20 "supervised" him.

21 A. Yes.

22 Q. Did Renee help supervise?

23 A. Sometimes, but not as often.

24 Q. And that was because Renee, for lack of
25 better words, had some issues, too?

1 A. I didn't realize that, but she was more
2 quiet, as well.

3 Q. Quiet like Jerry?

4 A. Not quite like Jerry.

5 Q. Did Bud ever limit the children's
6 activities outside?

7 A. Certainly. He didn't allow Jerry to go
8 to the store.

9 Q. How about the girls?

10 A. The girls went.

11 Q. Was there any problem with Bud limiting
12 their friendships with other children?

13 A. Not that I -- I don't know that myself.

14 Q. How about sports?

15 A. I never knew them to play sports. I
16 was always active in school. I never knew them to
17 be active.

18 Q. How about other extracurricular
19 activities?

20 A. Not that I know of.

21 Q. Did Bud work?

22 A. Yes.

23 Q. Where did he work?

24 A. I don't -- I don't know. I was a
25 little kid.

1 Q. How do you know Bud worked, then?

2 A. Because I knew -- for some reason I
3 knew that he was involved in community activities,
4 and I remember him having a suitcase. He acted
5 like he worked.

6 Q. So you don't know that he actually
7 worked. He was just involved in activities and
8 had a suitcase?

9 A. Like chamber of commerce type
10 activities. And usually you have to have a job to
11 do that. At the time as a child, I just knew that
12 he bragged about these different organizations
13 that he was involved with to my parents. And I
14 was just a child on the side.

15 Q. Did Pam work? Jerry's mom?

16 A. On and off, all her life.

17 Q. Well, I'm --

18 A. Mostly on.

19 Q. We're talking about his childhood right
20 here.

21 A. I'm not sure what she did. I mean, I
22 can tell you what my parents did, but I don't know
23 what most other parents did.

24 Q. Do you know if Jerry boxed?
25 Was he a boxer as a child?

1 **A.** He couldn't go to the pool with me; so
2 probably not, if he wasn't allowed at the pool.

3 **Q.** Do you know if he was able to ride a
4 bike?

5 Did you ever see him ride a bike?

6 **A.** I saw him sit on a bike, but he -- and
7 I saw him move it back and forth. But I don't
8 recall him going on a bike ride.

9 **Q.** Did Jerry have problems telling the
10 truth?

11 **A.** Oh, yes. Definitely. Like the time he
12 went to the store and he talked, I think, to the
13 man on the moon, or something about his -- those
14 were the nonsensical stories.

15 **Q.** Did Jerry ever try to stand -- let me
16 rephrase that. Did Jerry ever attempt to protect
17 his sisters from Bud?

18 **A.** Most of the time.

19 **Q.** And he would do that by standing
20 between his sisters and Bud?

21 **A.** Yes.

22 **Q.** And so he apparently had some
23 experience with this, and would know what to do to
24 protect those sisters?

25 **A.** I would think he would. I don't --

1 he -- I do recall seeing him get the brunt of
2 punishment from Bud over something I wasn't even
3 sure that he did.

4 **Q.** Okay.

5 **A.** I remember seeing his head bleeding.

6 **Q.** Have you ever received any letters from
7 Jerry? [Return to Petition Page 4](#)

8 **A.** Years ago, my sister received letters
9 when he was in prison.

10 **Q.** But you haven't received any?

11 **A.** If I did, I think it freaked me out so
12 much that I just didn't even respond. I might
13 have received one. But I never answered them.

14 **Q.** Have you ever talked to Jerry over the
15 phone?

16 **A.** No.

17 **Q.** And who have you talked to regarding
18 your -- let me change that. You talked to your
19 mom about Jerry's childhood in the last few days?

20 **A.** A little bit. But we all just kind of
21 know. We also believe, and I believe, right is
22 right and wrong is wrong.

23 **Q.** But you did talk to your mom?

24 **A.** Briefly. I live seven hours from her,
25 but we have a phone, yeah. Yes.

1 **Q.** Did you talk to others about Jerry's
2 childhood in the last few months?

3 **A.** My husband.

4 **Q.** Anyone else?

5 **A.** My youngest sister, who never met
6 Jerry, who is actually my legal cousin.

7 **Q.** Anybody else?

8 **A.** No. My mother-in-law briefly.

9 **Q.** Have you talked to Elsie?

10 **A.** I saw Elsie for the first time in my
11 life last night when I knocked on her motel -- not
12 first time in my life -- since that time. And I
13 knocked on her door and woke her up.

14 **Q.** Tony?

15 **A.** Huh?

16 **Q.** Did you talk to Tony?

17 **A.** No.

18 **Q.** Angie?

19 **A.** I saw Angie once, and I didn't want to
20 be around her.

21 **Q.** All right.

22 **A.** You know, my heart breaks for them. I
23 let my -- his mother, I let her know that I was
24 coming today. She is hard to talk to about it.
25 She cries.

1 **Q.** Now, I want to make sure --

2 THE COURT: Counsel, we're at the breaking
3 point, but I --

4 MR. ANDERSON: I think I have just one or
5 two questions.

6 THE COURT: All right.

7 BY MR. ANDERSON:

8 **Q.** I want to make sure I understand the
9 store incident. Did I understand you correctly,
10 that Jerry went to the store with you one time?

11 **A.** No. He said he went to the store, but
12 he also -- it was something about Martians, or the
13 moon. He didn't go to the store, trust me. He
14 said he did. Because the other kids could go.

15 **Q.** And is it at least conceivable, based
16 upon your understanding of the situation at the
17 time, that the reason he couldn't go to the store,
18 to the pool, outside the yard, or any of these
19 other places, was punishment from Bud?

20 **A.** No. He wasn't mature enough. I
21 thought he was my age, or a year older than I am.
22 He wasn't old enough.

23 **Q.** He wasn't old enough.

24 MR. ANDERSON: Okay. All right. Thank you.

25 THE COURT: Ms. Ward?

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 17

(Excerpt from testimony of Elsie Pizzuto-Rado)

1 paper. How was Jerry unable to do that?

2 **A. He was unable to grid out various**
3 **ships, and you -- when you're playing, you call,**
4 **say, for example, D-4. He had a hard time finding**
5 **where D-4 was.**

6 **Q.** And how did that compare with your
7 other siblings?

8 **A. They didn't need translation or help.**

9 **Q.** Other than the games on paper, were
10 there other things that Jerry couldn't do?

11 **A. With regard to playing?**

12 **Q.** Yeah. Games --

13 **A.** Yes.

14 **Q.** -- recreation.

15 What were some of those things?

16 **A. We did a lot of playing in the snow,**
17 **building igloos, that kind of thing. He could do**
18 **the manual task, but he couldn't visualize what we**
19 **were building.**

20 **Q.** And how did the activities that you and
21 your other siblings did, how did their ability to
22 build snow igloos compare with Jerry's?

23 **A. They could come up with ideas for**
24 **making it, from a one-room igloo to a condo.**

25 **Q.** What types of things did your whole

1 family do together for recreation?

2 **A. Generally speaking, we would go hunting**
3 **or camping.**

4 **Q.** What would you do when you went
5 camping?

6 **A. I was sort of the camp cook and**
7 **baby-sitter.**

8 **Q.** What did the other kids do?

9 **A. Stayed close to camp, or one of the**
10 **older kids would go fishing with them.**

11 **Q.** Tell me about the fishing. Was that
12 something that the family did often?

13 **A. Generally in the summer, we would.**

14 **Q.** And how often would you say you went
15 fishing each summer?

16 **A. Probably half a dozen times.**

17 **Q.** Did Jerry enjoy fishing?

18 **A. I think that he did.**

19 **Q.** Who taught Jerry how to fish?

20 **A. My sisters and I.**

21 **Q.** How old was Jerry when he first started
22 fishing?

23 **A. Four or five.**

24 **Q.** Let's move on to grooming now. How was
25 Jerry at dressing himself?

1 **A. He needed help.**

2 **Q.** What do you mean by "he needed help"?

3 **A. He needed someone to make sure that he**
4 **had his buttons buttoned up correctly, that he had**
5 **his pants on right side out, that clothing**
6 **matched, that it was school clothes and not play**
7 **clothes.** [Return to Petition Page 9](#)

8 **Q.** Who did that for Jerry?

9 **A. I did.**

10 **Q.** And how old was Jerry when you were
11 picking out his clothes and helping him get
12 dressed?

13 **A. As long as I can remember; little kids.**

14 **Q.** Up until what age would you say that
15 continued?

16 **A. Fourth and fifth grade.**

17 **Q.** And can you describe Jerry's
18 cleanliness?

19 **A. He didn't bathe when he was told to. I**
20 **always had to make sure that he, in fact, did**
21 **bathe, and that he just didn't draw the water and**
22 **play in it.**

23 **Q.** And how old was Jerry when you were
24 making sure that he took a bath?

25 **A. Clear into fourth grade, easily.**

1 **Q.** What -- what kind of things was Jerry
2 allowed to do by himself?

3 **A. He was allowed to take the garbage out.**
4 **That was one of his chores.**

5 **Q.** What places was Jerry not allowed to
6 go, that his other siblings were?

7 **A. Probably grocery shopping.**

8 **Q.** And why wasn't Jerry allowed to go
9 grocery shopping?

10 **A. Because if you gave him the money, he**
11 **more often than not wouldn't get what was on the**
12 **list that was given to him.**

13 **Q.** What would he get instead?

14 **A. Candy. "Mad" magazine.**

15 **Q.** How old was Jerry when he wasn't
16 allowed to go to the store?

17 **A. He wasn't allowed.**

18 **Q.** How old was he?

19 **A. Until probably fifth grade.**

20 **Q.** Were there other reasons, other than
21 spending the money, that Jerry wasn't allowed to
22 go to the store?

23 **A. He wouldn't be mindful of time. He**
24 **would take off. He wouldn't go to the store when**
25 **he was expected, if someone didn't go with him.**

1 **Q.** How old were you and your other
2 siblings when you guys were allowed to walk to the
3 store?

4 **A.** We always paired up an older child with
5 a younger one, so that we would take them. But
6 most of the others could go on their own and
7 follow a list. And how old we were -- probably
8 the third graders, I mean, they could have handled
9 a list and money and brought change and a receipt.

10 **Q.** What were the concerns with the younger
11 kids going by themselves?

12 **A.** Just that they might not get what they
13 needed to get. They weren't handling the money.

14 **Q.** In Nevada, when Jerry was kicked out of
15 the house, where did he go?

16 **A.** Into the field across the street.

17 MR. ANDERSON: Objection, Your Honor.
18 Foundation, as to time.

19 THE COURT: Sustained.

20 BY MS. WARD:

21 **Q.** Do you remember a time when you were
22 living in Nevada, when Jerry was kicked out of the
23 house?

24 **A.** Yes, I do.

25 **Q.** And how old was Jerry at that time?

1 **A.** Most of the school year.

2 **Q.** And then where did you go?

3 **A.** Then we went back to Spokane.

4 **Q.** And how did you get back to Spokane?

5 **A.** We flew.

6 **Q.** Do you remember times when Jerry ran
7 away from the house?

8 **A.** Yes.

9 **Q.** And how old was Jerry when he ran away
10 for the first time?

11 **A.** Probably starting in third grade.

12 **Q.** And where would he go when he ran away?

13 **A.** Mostly go hiding.

14 **Q.** What do you mean by "go hiding"?

15 **A.** He would go hide. He would climb in a
16 tree and hide out. He would go stay at a
17 friend's.

18 **Q.** What types of chores did Jerry have in
19 the house?

20 **A.** Mostly, you could give him stuff like
21 sweeping, sweep the floor, dump the garbage. We
22 had to check to make sure that he took the garbage
23 to the dump -- to the can.

24 **Q.** Were there other chores that he had,
25 also?

1 **A.** I was in fourth grade, which would make
2 me approximately 10 or 11, and he is a year older
3 than I am.

4 **Q.** At that time, when Jerry was kicked out
5 of the house, where did he go?

6 **A.** Across the street there was a large
7 field, and that's where he stayed.

8 **Q.** How long did he stay there?

9 **A.** It seemed like a really long time. It
10 was probably no more than a week or two.

11 **Q.** When -- was there a time when you and
12 Jerry began living with your father?

13 **A.** Yes.

14 **Q.** And what -- what grade was that in, for
15 you?

16 **A.** The summer of fifth grade.

17 **Q.** And how did -- where was your dad
18 living at the time?

19 **A.** In Iowa.

20 **Q.** And how did you and Jerry get to Iowa,
21 to your dad's house?

22 **A.** Our dad came to Nevada and picked us up
23 and took us to Iowa.

24 **Q.** And how long did you stay at your dad's
25 house?

1 **A.** Yes. We have lived on some dairy
2 farms, and we would all share in feeding cattle.

3 **Q.** Okay. So I'm going to break it down by
4 chore, and give you the chore that -- tell you the
5 chore that you just said Jerry did, and then ask
6 you how he did at it.

7 So we'll start with the first one that
8 you said, taking out the trash. How did Jerry do
9 with that?

10 **A.** He could take the trash out.

11 **Q.** And how old was Jerry when he could
12 take the trash out?

13 **A.** Eight or nine is when he began.

14 **Q.** And how did Jerry's abilities compare
15 with his siblings'?

16 **A.** The rest of us would sort the trash,
17 because we always had a burn barrel to burn the
18 paper products. Most generally, Jerry would just
19 take the bag out and drop it.

20 **Q.** And you also mentioned that you
21 worked -- the kids worked on a dairy farm?

22 **A.** Yes.

23 **Q.** What specifically was Jerry's chore at
24 the dairy farm?

25 **A.** To stand on the back of the trailer and

1 knock hay out.

2 **Q.** And how old was Jerry when this was
3 happening?

4 **A.** We lived on a buffalo ranch when I was
5 in third grade, and we worked. And then beyond
6 that, we lived on a dairy farm and we worked.

7 **Q.** And starting at the buffalo ranch, what
8 was Jerry's chore -- what were Jerry's chores
9 there?

10 **A.** Bring in grain, bring in hay, sweep out
11 stalls.

12 **Q.** And how was Jerry at doing those
13 chores?

14 **A.** If you told him what to do, he could do
15 it.

16 **Q.** What were -- how did the chores that
17 were given to Jerry compare with the chores that
18 you had or your other siblings had?

19 **A.** I had a higher level of responsibility.

20 **Q.** What do you mean by that?

21 **A.** I was pretty much the foreman of all
22 the kids.

23 **Q.** So at the buffalo ranch, what types of
24 things were you doing?

25 **A.** Picking the type of grains, adding the

1 vitamins or powdered minerals to it that they were
2 feeding them with, just directing who is cleaning
3 what stall, what needed to be done.

4 **Q.** And what about Jerry's other younger
5 siblings? What were they doing?

6 **A.** All chores associated. I mean, I could
7 tell them to do it and they would do it.

8 **Q.** How did their chore level compare with
9 Jerry's?

10 **A.** If they could carry it, I would have
11 them do it. I mean, there was a lot of carrying
12 grain and that kind of things, and feed from bags,
13 and measured, usually coffee cans, that kind of
14 thing.

15 **Q.** What were Jerry's chores at the dairy
16 farm?

17 **A.** Rinsing out milk jugs, cleaning stalls.

18 **Q.** What were your chores?

19 **A.** My chores were making sure that it was
20 all done, once again.

21 **Q.** And how did Jerry do at rinsing out the
22 milk jugs?

23 **A.** He did okay at that.

24 **Q.** Were there things that Jerry could not
25 do at the dairy farm?

1 **A.** Yes. He couldn't use the milk
2 machines, couldn't attach them.

3 **Q.** Which -- which kids were allowed to use
4 the milk machines?

5 **A.** Most of the older kids.

6 **Q.** Were these kids that were older than
7 Jerry?

8 **A.** No; younger than Jerry.

9 **Q.** Were there other chores that we haven't
10 talked about that Jerry had, any of the different
11 places that you lived?

12 **A.** Mostly, he was just -- he was the
13 muscle. I saw fit to use him in that way, in that
14 he could -- two kids could lift a bale of hay and
15 split it up. We would stack a trailer, drive out
16 a tractor into the middle of the field, and start
17 chucking hay.

18 **Q.** Growing up, how would you describe
19 Jerry's vocabulary?

20 **A.** Limited, compared to mine.

21 **Q.** And what do you mean by "limited"?

22 **A.** I mean that when I would read to my
23 brothers and sisters at night, most of them would
24 understand the story and anticipate parts of the
25 story, "Let's get to this part," "Let's get to

1 this part"; and Jerry would just wait and listen.

2 **Q.** Would Jerry ever read stories, too?

3 **A.** No.

4 **Q.** How did you talk to Jerry?

5 **A.** Like he was my son.

6 **Q.** How did the way that you talked to
7 Jerry compare to the way you talked to your other
8 siblings?

9 **A.** My other siblings, I didn't have to
10 explain as much. I could tell them to do
11 something and expect that they would do it.

12 **Q.** How did Jerry react to jokes?

13 **A.** He wouldn't get them, usually.

14 **Q.** What would he do when he didn't get a
15 joke?

16 **A.** Just kind of look at you. Everyone
17 else would laugh.

18 **Q.** How well could Jerry ride a bike?

19 **A.** He could -- he could get the bike
20 moving. He could follow us down the street. But
21 he didn't know to stop, look both ways. He didn't
22 understand the concept that a bike had safety
23 rules.

24 **Q.** What concerns did you have with Jerry
25 riding his bike?

1 **A. Dashing across the street in front of a**
2 car.

3 **Q.** Were there other things that caused you
4 concern?

5 **A. On a bicycle, with him, yes.**

6 **Q.** What about just in general?

7 **A. I had to keep an eye on Jerry so that**
8 **he wouldn't hurt himself accidentally. He didn't**
9 **seem to understand the concept of electricity, and**
10 **that you can get shocked.**

11 **Q.** How do you know -- what do you mean by
12 Jerry couldn't understand electricity?

13 **A. We always had -- I mean, we lived on**
14 **these farms. They would have the electric fence.**
15 **And a lot of times our sister, Angelina, would**
16 **goad him into grabbing the wire and tell him it's**
17 **not on, and it would be on and he would get**
18 **shocked.**

19 **Q.** And how much time was there in between
20 when this would happen? So Jerry would get
21 shocked. How long was it before --

22 **A. A day or two later she would get him**
23 **again.**

24 **Q.** Were there other times that Jerry's
25 actions concerned you?

1 **A. No.**

2 **Q.** Do you recall when your mother married
3 Bud Bartholomew?

4 **A. I recall him being in our lives.**

5 **Q.** But you don't remember when that was?

6 **A. I don't remember that they got married.**

7 **Q.** Okay. Now, as I understand it, for
8 lack of better words, Bud was an evil man?

9 **A. Yes.**

10 **Q.** And there was a great deal of sexual
11 and physical abuse that was perpetrated by him
12 upon yourself?

13 **A. That's correct.**

14 **Q.** And upon Jerry?

15 **A. That's correct.**

16 **Q.** And upon your sisters?

17 **A. All of us.**

18 **Q.** And I don't want you to go into the
19 details of what took place, but how would you
20 describe it generally?

21 **A. It was hell. It was torturous.**

22 **Q.** Now, this fifth grade, I think you
23 talked about -- well, the incident where Jerry was
24 thrown out or tossed out of the class -- or the
25 house, how old was he?

1 **A. Yes. I remember vividly coming into a**
2 **room and Jerry was standing on a chair in the**
3 **middle of the room. We had a dangling light**
4 **socket that came down, kind of on a cord. And I**
5 **came into the room and he was standing on a chair.**
6 **And he licked his thumb and stuck his finger in**
7 **the light socket. It blew him clear across the**
8 **room.**

[Return to Petition Page 9](#)

9 MS. WARD: No further questions. Thank you.

10 THE COURT: Mr. Anderson.

11 CROSS-EXAMINATION

12 BY MR. ANDERSON:

13 **Q.** Is it Ms. Rado?

14 **A. Rado.**

15 **Q.** Rado. Sorry.

16 **A. That's okay.**

17 **Q.** What was -- let me start over.

18 You initially lived with your mother
19 and your natural father, Jerry, Sr.; correct?

20 **A. I don't recall that, but yes.**

21 **Q.** You have no recollection of that period
22 of time; correct?

23 **A. No. No.**

24 **Q.** Do you recall when your natural father
25 and your mother divorced?

1 **A. I was in fifth grade, and we were**
2 **living at Stead Air Force Base.**

3 **Q.** What city was that in?

4 **A. Stead Air Force Base.**

5 **Q.** But where was that at, that base?

6 **A. It's near Reno, but it's outside of**
7 **Reno.**

8 **Q.** And you were in the fifth grade?

9 **A. Yes.**

10 **Q.** Was Jerry in the fifth grade?

11 **A. Yes.**

12 **Q.** So how old would Jerry have been at
13 that time?

14 **A. Probably 10.**

15 **Q.** And he was away from home for
16 two weeks?

17 **A. Oh, yes.**

18 **Q.** Across the street?

19 **A. Yes, sir.**

20 **Q.** How did he feed himself?

21 **A. We snuck him food.**

22 **Q.** How did he get water?

23 **A. I don't know.**

24 **Q.** Was this during the summer, the winter?

25 **A. It was mostly summer.**

1 to the house?

2 **A. Not often.**

3 **Q. How many friends did Jerry have?**

4 **A. I recall one friend in particular.**

5 **Q. And that's in the entire growing up?**

6 **A. That's correct.**

7 **Q. Did the other kids have friends?**

8 **A. Yes.**

9 **Q. And what opportunities did they have to**
10 **see their friends?**

11 **A. We saw them in school. We didn't -- we**
12 **didn't bring friends to our house, because we were**
13 **afraid that Bud would hurt them like he was**
14 **hurting us.**

15 **Q. What -- when you said the kids were**
16 **playing battleship, which kids were playing**
17 **battleship?**

18 **A. Richard, my little brother, Angie,**
19 **Tony, Renee.**

20 **Q. And what about the other games; which**
21 **kids were playing cribbage?**

22 **A. Usually it was the older kids that**
23 **could count. But Richard was sharp enough that he**
24 **could count at a pretty young age.**

25 **Q. And what -- how old is Richard?**

1 **Q. About how long would you read to the**
2 **kids?**

3 **A. I would read to them at least an hour**
4 **at night. I could read before I even went to**
5 **school. I was taught to read.**

6 **Q. And what was Jerry reading at that**
7 **time?**

8 **A. "See Jane run" kind of stuff.**

9 MS. WARD: No further questions. Thank you.

10 THE COURT: Recross?

11 RE-CROSS-EXAMINATION

12 BY MR. ANDERSON:

13 **Q. Ms. Rado, as I understand it as far as**
14 **this electrical thing, you explained very clearly**
15 **to Jerry that if he kept touching the electrical**
16 **fence, it could kill him; correct?**

17 **A. Yes.**

18 **Q. And the same with the electrical**
19 **socket --**

20 **A. Yes.**

21 **Q. -- it could kill him?**

22 **A. Yes. I saw it throw him across the**
23 **room, an arc of light flash and everything.**

24 **Q. And the same with playing Superman out**
25 **of a tree; it could kill him?**

1 **A. Richard is -- he will be 50 next week.**

2 **Q. How much younger is that than Jerry?**

3 **A. Five years.**

4 **Q. How about two square or four square;**
5 **which kids were playing that?**

6 **A. The older kids.**

7 **Q. Do you remember where you were living**
8 **when you had to check Jerry's buttons before**
9 **school?**

10 **A. I remember most recently being at Saint**
11 **Ann's, on east side of Spokane.**

12 **Q. You also gave the example of Jerry**
13 **being tricked into touching the fence. Were there**
14 **other examples of times where Jerry was taken**
15 **advantage of?**

16 **A. Yes. My sister, Angelina, and Jerry,**
17 **when we were living in Iowa, wandered off together**
18 **and caught a rail car on fire. Of course, they**
19 **each blamed the other, but the consequence was**
20 **that the police came, and it was a big deal.**

21 **Q. What kinds of books would you read to**
22 **the kids?**

23 **A. Lots of fairy tales. We had a set of,**
24 **like, Britannia or something, some brand, that had**
25 **24 big books.**

1 **A. Yes.**

2 **Q. How would you compare the abuse that**
3 **Jerry suffered at the hands of Bud to your own**
4 **abuse?**

5 **A. Jerry suffered more.**

6 **Q. And, in fact, he was -- I think you**
7 **said he was booted out of the house by Bud.**

8 **A. He was beat unconscious, to the point**
9 **where he would have convulsions. We all were.**

10 MR. ANDERSON: All right. Thank you.

11 THE COURT: Anything else?

12 MS. WARD: No, Your Honor.

13 THE COURT: All right. You may step down.

14 THE WITNESS: Thank you.

15 THE COURT: You are excused. Thank you.

16 Petitioner may call their next witness.

17 MS. WARD: Petitioner calls James Patton.

18 THE COURT: Mr. Patton, would you please
19 step before the clerk and be sworn.

20 JAMES RUSSELL PATTON, Ph.D.,

21 having been first duly sworn to tell the whole
22 truth, testified as follows:

23 THE CLERK: Please state your complete name
24 and spell your last name for the record.

25 THE WITNESS: Yes. My name is James Russell

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 18

**(Memo Re: Carrie Pellegrino (Pizzuto) by Kelly Nolan,
December 14, 2009)**

FEDERAL DEFENDER SERVICES OF IDAHO
Capital Habeas Unit

TO: Teresa, File
FROM: Kelly
DATE: December 14, 2009
RE: Carrie Pellegrino (Pizzuto)

Carrie Pellegrino
nee Bartholomew
727-267-7196

On Monday, Dec 14, I spoke with Carrie Pellegrino on the telephone and she related the following information:

Carrie will be 44 years old this Thursday. She is nine years younger than her brother Jerry. She has few memories of Jerry from her childhood other than that he was frequently beaten by her father Bud Bartholomew.

One incident in particular that she remembers was an episode when Jerry was beaten due to something she had done. Her father had a small collection of fountain pens that the children were not allowed to touch. Carrie took them and was playing with them around a base of a lamp in the living room. She left them all there and her father found them and was outraged at Jerry. Carrie told her father that she had done it but he didn't believe her. He whipped Jerry on the back with a leather horsewhip until he bled. Carrie was about four or five years old at the time.

[Return to Petition Page 5](#)

Jerry was frequently abused by Bud. Bud would punish Jerry even when he didn't deserve it, such as the example given above. Carrie remembers Jerry also being punished for not doing well in school, getting bad grades and not doing his homework. She remembers once that Jerry was punished because a teacher had called their home about something. She does not remember which teacher, what grade or why the teacher called. She said whenever Jerry started to get in trouble she would go in her room or somewhere else because she was afraid. In addition to Jerry being whipped on the back and buttocks, Carrie recalls that Bud frequently hit Jerry in the head, both slapping and backhanding, and just hitting him on the side of his head.

Carrie also remembered Jerry getting punished for his table manners. For example, if he put his elbows on the table, Bud would stab Jerry in the arm with a fork. She remembered several instances of seeing Jerry at the table with a fork sticking straight up out of his arm.

[Return to Petition Page 5](#)

All of the Pizzuto children suffered physical abuse from Bud, with Jerry receiving the most of all. Neither Carrie nor Richard were abused by Bud physically. Bud sexually abused all the children, Pizzutos and Bartholomews alike. Carrie believes that Richard was sexually abused even though they have never spoken about it.

Carrie doesn't remember much else about Jerry from when she was a child. She has a vague memory of Jerry sticking up for her at school. He and Elsie and Angie would threaten to beat up other kids if they hurt or were mean to Carrie.

She thinks Jerry was kicked out of the home a couple of times before the age of 14, or maybe he would run away. She knows that at least a couple of times Jerry ran away after being beaten. She knows now that he left their home to go to the Boys' Ranch but at the time she didn't really understand what was going on. Elsie tried to shield her and her siblings from all the bad things that happened. She was everyone's protector and really raised all of them. *Note: Carrie is not currently in touch with Elsie or Richard because the three of them had a falling out over a "stupid family thing".*

When Carrie was about 17 and living in ChoctEAU, Montana, Jerry came and stayed with the Pizzutos after he got out of prison in Michigan. Pam and Gerry Senior were running a restaurant and Jerry lived on the back porch of their place that summer. That summer was the most time she ever spent with Jerry but even then, it wasn't much time because she mostly hung out with her friends. Jerry told her about prison and talked a lot about how hard it was to make it on the outside and that since he had been out, he'd been having a lot of trouble adapting.

In the fall, Carrie went to college at Montana State. Once someone came to her dorm room and told her her brother was waiting for her outside. She thought it was Richard but when she went out, she was surprised to see Jerry.

He told her he had come to tell her good bye, that he loved her, and that he wouldn't be seeing her again. When she asked why, he said "You'll understand later". She asked Jerry if he was going to hurt himself and he said "No, no - not that". He mentioned that her father's treatment of him had a lot to do with how Jerry turned out. She wondered if maybe Jerry was going to go and kill her father. She said she didn't call her father to warn him because she wouldn't have cared if Jerry had killed him. Jerry only stayed about 5 minutes. That was the last time she ever spoke with Jerry.

Carrie said that she and Jerry loved each other but they weren't close. Carrie's daughter is a "special needs" child and she says now she can see some of that in Jerry, though she couldn't give any specifics, only that he was always struggling with school and could never understand his homework. Jerry seemed more like Renee than the other children. Jerry and Renee were always together. Renee was definitely slow and Jerry seemed slow too - not on the level of everyone else.

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 19

(Excerpt from testimony of Dr. Roger Moore)

1 general information from them, again, as well as
2 trying to listen to how they express themselves,
3 watching how they interact with me, looking for
4 different more broad-based clinical cues about
5 cognitive and emotional functioning.

6 **Q.** Now, you said you did this with
7 Mr. Pizzuto. Did all three of these things occur
8 at the same setting, meaning the mental status
9 exam, the TOMM, and the interview?

10 **A.** During the same day; yes, sir.

11 **Q.** Okay, day. And where did that take
12 place?

13 **A.** Here in Idaho at the penitentiary.

14 **Q.** Who was present when you did this?

15 **A.** Just me and Mr. Pizzuto.

16 **Q.** How important to your evaluation or
17 determination in this case was the interview with
18 Mr. Pizzuto?

19 **A.** I thought it was important.

20 **Q.** Well, you heard, I think it was
21 Dr. Patton talk about how he assessed the
22 interviews with defendants. How would what he
23 testified to contrast with how you considered it?

24 **A.** He and I bring a different set of
25 skills and focus to the table. He talked about

1 particularly -- particularly taken out on
2 Mr. Pizzuto.

3 One of the things I thought was -- I
4 was going to say "most notable," but it was also
5 notable -- but one of the things that was really
6 striking to me was that Mr. Bartholomew didn't
7 want Mr. Pizzuto -- or wouldn't allow
8 Mr. Pizzuto's name to be used, that he insisted
9 that -- as I understand it -- that he be called
10 "J. P." or "Peter," I believe. I don't think
11 "Peter" is even -- his name is Gerald Ross
12 Pizzuto. I'm not sure where the "Peter" even came
13 from.

14 But not only was there horrific abuse
15 that was perpetrated, but just an incredible
16 depersonalization of it. As I understand it, not
17 being able to live in the house, depending on --
18 different folks indicating either at all or for
19 extended periods, not being allowed to eat with
20 Bartholomew children, just many different ways
21 that not only was the abuse perpetrated, but a
22 real depersonalization that went on.

23 **Q.** What did you learn about his [Return to](#)
24 educational history? [Petition Page 5](#)

25 **A.** My understanding is that there were

1 that he was specifically looking at adaptive
2 deficits prior to the age of 18. It seemed he
3 centered in around the 10-, 11-, 12-, 13-year age
4 range, in general, and -- but, then, he was
5 looking at adaptive functioning and looking back
6 at that period.

7 And, for me, an important part of my
8 interview with Mr. Pizzuto was to get a bead on
9 what his general functioning is like so I could
10 understand that in how he presented in comparison
11 to how he's presented over time and in different
12 settings, as well as, again, looking at not just
13 mental retardation or intellectual disabilities,
14 but are there other emotional factors or other
15 psychological factors that might impact his
16 presentation.

17 **Q.** And so based upon the -- I'll call it
18 "investigation," my word -- what did you learn
19 about Mr. Pizzuto's background? Just generally
20 speaking, what's his background?

21 **A.** It was -- my understanding is it was
22 horrific growing-up years. I don't know that we
23 make the right words to describe how bad it was.
24 It was a horrific set of growing-up years with
25 physical and sexual and emotional abuse,

1 many moves. The family moved numerous times, that
2 sometimes there were school changes within the
3 school year. That there is -- the report that
4 there was an early school failure. I'm not sure
5 whether that was a school failure or whether he
6 started late because of the moves. I'm not sure
7 where that part -- exactly where the first school
8 failure came from. But he was held back in the
9 fifth grade.

10 It looks like in the seventh grade over
11 Christmas, perhaps, they moved. It looks like
12 there were maybe two brief schoolings in the early
13 part of the spring of the seventh grade, where he
14 had actually missed a number of days there, and
15 then he became a ward of the state. It looks like
16 he actually, basically, missed the second half of
17 the seventh grade.

18 And then at the Zoe Barnum continuation
19 school, the school that he was then placed into
20 that fall, he was placed in the ninth grade. So
21 it looks like, basically, he missed the last half
22 of the seventh grade and then was skipped past the
23 eighth grade into the ninth grade, went through
24 that year and left at the end of the school year.
25 I'm not sure whether he actually went through --

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 20

(Declaration of Pam Pizzuto)

JOAN M. FISHER

ID Bar No. 2854
Federal Defender's Office for the
Eastern District of California
801 I St., 3rd Floor
Sacramento, CA 95814
Telephone: 916-498-5700
Facsimile: 916-498-6656
Joan_Fisher@fd.org

ROBERT GOMBINER

WA Bar No. 16059
Federal Defenders of
Western Washington
1601 Fifth Avenue, Suite 700
Seattle, WA 98101
Telephone: 206-553-1100
Facsimile: 206-553-0120
Robert_Gombiner@fd.org

CAPITAL HABEAS UNIT

Federal Defender Services of Idaho
317 West Sixth St., Ste. 204
Moscow, ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

GERALD ROSS PIZZUTO, JR.,)	
	)	CASE NO. CV-05-516
Petitioner,)	
	)	CAPITAL CASE
v.)	
)	
JOHN HARDISON, Warden,	)	DECLARATION OF PAM PIZZUTO
Idaho State Maximum Security)	
Institution,)	
Respondent.)	
_____)	

I, Pam Pizzuto, a person over eighteen years of age and competent to testify, mindful of the penalties of perjury, depose and say as follows:

1. I am the mother of Gerald Ross Pizzuto, Jr., hereafter referred to as "Jerry";
2. When Jerry was born on January 11, 1956, I was eighteen years old. Jerry was my second child. Jerry's half-sister, Renee, was born fourteen months before on November 21, 1954;
3. I dropped out of high school during my junior year because I became pregnant;
4. I started smoking at age sixteen. I smoked about a pack a day for many years. I smoked during the first trimester of my pregnancy with Jerry but not after the first trimester because smoking started to make me really nauseous;
5. I did not eat a very healthy diet during my pregnancy with Jerry. I wasn't aware of the importance of nutrition to the baby and I ate mostly junk food. Even if I had known about the importance of good nutrition I didn't have the money to buy healthy food;
6. I was under a lot of mental and emotional stress during my pregnancy with Jerry. My family was very angry with me. My mother wanted to put me in a home for unwed mothers. I even tried to commit suicide with a gun but the gun misfired. I had no support from my family and no money;
7. I didn't know it at the time of my pregnancy, but I have had epilepsy since I was a child. I've had seizures for my whole life, even when I was little. Several of my sisters also had seizures. We would all watch over each other whenever one of us had a seizure. I was finally diagnosed at the age of twenty-nine. I called my mom when I was diagnosed and she told me

that epilepsy ran in our family. My mother, aunt, grandmother and five of my sisters all had epilepsy. We weren't diagnosed as children because my family very rarely went to the doctor for anything;

8. I did not receive any pre-natal care when I was pregnant with Jerry. I didn't have any health insurance and could not afford to go to the doctor. I just went to the hospital when it was time to deliver him;

9. Jerry was three weeks premature when he was born. He weighed five pounds. (Jerry was my second child to be born premature. His sister Renee was born at seven weeks early). Jerry also had pretty bad jaundice as a baby; [Return to Petition Page 8](#)

10. When I left the hospital with Jerry I was not given any referrals to a pediatrician or referrals for any kind of social service assistance. Jerry didn't receive any post-natal care; no regular visits to a doctor or well-baby clinic like they do these days; and

11. For most of Jerry's childhood, he didn't receive medical care. He would only go to the doctor if there was an emergency. Jerry had two emergency medical visits during his childhood. One was for when he fell down a flight of stairs into the basement when he was two and a half years old; the other was when he was involved in a bicycle accident at the age of twelve and hit his head on a rock. He had to be hospitalized for a head fracture but even then, we took him out of the hospital early against medical advice. Our family just wasn't ever big on doctors; [Return to Petition Page 8](#)

I declare under penalty of perjury, under the laws of the United States and the State of Idaho, that the foregoing is true and correct.

Executed this 3rd day of July, 2008 at Kamiah, Idaho.



PAM PIZZUTO

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 21

(Affidavit of Pam Pizzuto)

Filed on 11/10/00 at 10:21 AM
at Laramie, Boise, ID
Rose E. Gehring, Clerk
By: *Stark Allen*
Deputy Clerk

ORIGINAL

DOCKETED

NICK CHENOWETH
Attorney at Law
P.O. Box 2040
Orofino, ID 83544
Telephone: (208) 476-5545

Associate: Scott Wayman

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

GERALD ROSS PIZZUTO, JR.)
)
Petitioner,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)

CASE NO. 23001
AFFIDAVIT OF PAM PIZZUTO

STATE OF CALIFORNIA)
)
County of Mendocino) ss.

I, PAM PIZZUTO, being first duly sworn, depose on oath and say the following:

That your affiant is a citizen of the United States; that I am over the age of 21; and I have personal knowledge of the facts stated herein and am therefore competent to make this affidavit.

That I am the mother of Gerald R. Pizzuto Jr, the petitioner above named.

That there was, to my recollection, nothing abnormal about the birth of Gerald R. Pizzuto except that his birth was five weeks earlier than expected.

[Return to Petition Page 8](#)

That when Gerald R. Pizzuto Jr. was approximately two and one half years old, he fell down a double flight of stairs into the basement of the dwelling which our family resided. He was hospitalized, and he received a fractured skull and a fractured

99 25840

leg. This occurred in Everett, Washington, but I cannot remember the name of the hospital.

That in 1970, while the family was living in the vicinity of Spokane, Washington, Gerald R. Pizzuto Jr. was involved in a motorcycle accident which resulted in serious injuries to his face and his head. Although I did not witness the accident, it is my understanding that he was thrown from the motorcycle and landed on cement, face and head first. He was hospitalized for his injuries.

[Return to Petition Page 8](#)

That following the motorcycle accident, I noticed definite changes in Gerald R. Pizzuto Jr.'s behavior. He became rebellious. He engaged in fantasizing, a behavior he did exhibit prior to the accident. He imagined things. He ran away from home for no reason and without telling me. While at home, he became something akin to a packrat by removing odd items, for example, a kitchen utensil, and hiding it with no explanation for taking or hiding the item.

That as a child, Gerald R. Pizzuto Jr. engaged in what I believed to be sleepwalking. He would appear to be fully conscious, but he would not remember anything concerning the sleepwalking incidents. For example, while our family was living in Chewelah, Washington I remember that Gerald R. Pizzuto Jr. fell down a flight of stairs while sleepwalking. Afterwards, Gerald R. Pizzuto had no memory of walking in his sleep or falling down the stairs. In another incident, I found him sitting in an automobile in his bedclothes, in the cold. Again, Gerald R. Pizzuto Jr. did not recall this incident.

39 25847

That I believe that Gerald R. Pizzuto Jr. was initially diagnosed as suffering from epilepsy while he was incarcerated in the Michigan State Penitentiary. My family has a long history of epilepsy. I have a mild form of it. Gerald R. Pizzuto's sister, Elsee has serious problems with epilepsy which, if not controlled by medication, results in uncontrolled violence which in one instance caused the destruction of property. Gerald R. Pizzuto's sister Renee has also been treated for epilepsy and has suffered from grand mal seizures.

That when Gerald R. Pizzuto Jr. was a child, he received severe beatings from his stepfather, Bud Bartholomew.

That when Gerald R. Pizzuto Jr. was released from the Michigan prison, he went to live with my husband and I in Montana. When he arrived, he had his epilepsy medication with him. At that time, he stated to me that he had to have medication for his epilepsy.

That when Gerald R. Pizzuto Jr. was a teenager, he received a serious beating at the hands of law enforcement authorities in Colville, Washington. He was bloodied and bruised when I saw him at the Sheriff's department. He could barely speak, and when he spoke he was incoherent. He appeared to be seriously injured. Shortly after this incident Gerald R. Pizzuto Jr., without notice to me or giving any explanation whatsoever, left home for good.

That I have personal knowledge of facts herein and would be able to testify about these matters at a hearing of this matter.

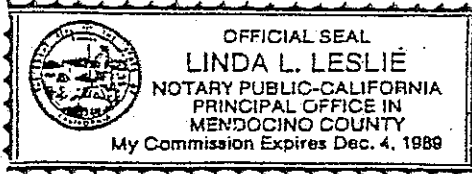
30 25848
07892 03

FURTHER your affiant sayeth not.

Respectfully submitted,

Pam Pizzuto
PAM PIZZUTO

SUBSCRIBED AND SWORN to before me this 2nd day of April, 1987.



Linda L. Leslie
Notary Public in and for the
State of California, residing
at Willits, therein.

30 25849

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 22

**(Affidavit of Craig W. Beaver, Ph.D.,
August 22, 1996)**

Craig W. Beaver, Ph.D.

Licensed Psychologist

1471 Shoreline Drive, Suite 115 • Boise, Idaho 83702 • (208) 336-2972 • Fax (208) 336-0595

AFFIDAVIT

RE: Gerald Ross Pizzuto, Jr.

I, Craig W. Beaver, Ph.D., being first duly sworn, disposes and states as follows:

1. Currently, I am licensed as a psychologist in the State of Idaho. I was authorized to complete a neuropsychological evaluation of Gerald R. Pizzuto, Jr.
2. I currently hold a Ph.D. in clinical psychology from Miami University of Ohio. This is an accredited clinical psychology training program approved by the American Psychological Association. I completed clinical internship, with an emphasis in clinical neuropsychology, at the Ft. Miley VA Medical Center in San Francisco, California, and I also completed four years of additional supervised practice under Dr. Lloyd Cripe, Diplomate in Clinical Neuropsychology. In my formal training and experience, I have been educated and trained to evaluate patients with neurological disorders, specifically epilepsy and those patients who have history of brain injury.
3. I am a diplomate in clinical neuropsychology, recognized by the American Board of Professional Psychology and the American Board of Clinical Neuropsychology. This designation requires you have completed course work and supervision in the area of neuropsychology. It also requires that you submit credentials to verify your course work but also verify supervision and training specifically in neuropsychology. Diplomate status also requires formal oral and written examination as well as submission of work product. It is the highest level of certification that can be obtained in the practice of clinical neuropsychology. Currently, there are only approximately 300 boarded neuropsychologists practicing in the United States. At this time, I am one of them. In addition to being a diplomate in clinical neuropsychology, I am also recognized as an individual who is qualified to review work samples of applicants for boards in neuropsychology.
4. I have specialized training and experience in the area of seizure disorder and how it affects behavior. I have been on the professional advisory board for Epilepsy League of Idaho for many years. I also was the consulting neuropsychologist for the Epilepsy Evaluation Unit at St. Luke's Regional Medical Center located in Boise, Idaho. I have presented numerous talks and workshops to professionals and lay audiences on the cognitive, behavioral and emotional consequences of seizure disorders and the medications used to treat those disorders. Also, in the course of my clinical practice, I have been involved in several clinical field trial studies in which we have examined how new medications affect seizure disorder patients with regard to their affect, cognition and behavior. I have cared for and treated numerous patients who have seizure disorders.

39 21758

Diplomate in Clinical Neuropsychology, American Board of Professional Psychology

00001350

Affidavit of Craig W. Beaver, Ph.D.

Page 2

5. I also have many years of formal training and experience in treating and evaluating patients who have significant brain injury. Currently, I am the director of Neuropsychological Services at Idaho Elk's Rehabilitation Hospital. My duties include providing neuropsychological services and team leadership to the inpatient and outpatient Brain Injury Rehabilitation Treatment Programs. The Brain Injury Treatment Program at Idaho Elk's Rehabilitation Hospital is one of only a few accredited brain injury treatment programs in the Intermountain West. I helped found that program. I have also given multiple workshops and lectures to both professional and lay audiences on the effects of brain injury with regard to behavior, affect and cognition. I have also given multiple workshops and lectures on behavioral management and other treatment modalities with brain injury patients.
6. I have training and experience in drug and alcohol use and abuse and its effects on behavior, cognition and affect. I have served as a consulting psychologist and neuropsychologist for the inpatient drug/alcohol treatment at the VA Medical Center in San Francisco in the past and have been a consultant to outpatient drug/alcohol treatment programs in the Boise area over the past several years. I have also given numerous workshops and lectures on the neuropsychological effects of drug and alcohol abuse. I have also specifically talked about the interaction between drug/alcohol abuse and brain injury and its overall effect on behavior, cognition and emotion. I have also served on the Idaho Governor's Committee to review drug/alcohol treatment evaluations and to revise standards related to those evaluations.
7. During the course of my clinical experience, I have been qualified as an expert witness in multiple judicial districts around the State of Idaho and also in the Intermountain West. I have been specifically qualified to discuss issues related to brain injury and its effect on behavior. I have also been involved in testifying in the effects of seizure disorder on behaviors as well. I have been qualified in judicial districts to discuss issues of aggravation versus mitigating circumstances in capital sentencing cases.
8. During the course of my examination of Gerald R. Pizzuto, I did have the opportunity to review a number of records related to Mr. Pizzuto's current circumstances. This included review of a presentence investigative report filed in April of 1986 on the original sentencing of Mr. Pizzuto on his conviction of murder. I also reviewed the prior presentence report when he was sentenced in 1975 in Michigan. I also reviewed various records from his incarceration in the Michigan Correctional System and Idaho Correctional Systems. I had the opportunity to review the sentencing transcripts from Mr. Pizzuto's trial in which multiple individuals testified. I have also had the opportunity to review prior reports by Drs. White and Emery who examined Mr. Pizzuto for psychological factors in the original 1986 sentencing. I have also reviewed affidavits from various family members and physicians who have reviewed or been involved in the care and treatment or evaluation of Mr. Pizzuto.

80 21759

Affidavit of Craig W. Beaver, Ph.D.

Page 3 -

9. During the course of my evaluation of Mr. Pizzuto, I have had the opportunity interview him now on multiple occasions. Specifically, I have conducted diagnostic interviewing with Mr. Pizzuto on 1/12/96, 2/9/96, 2/16/96 and 3/7/96. In total, I have had an opportunity to interview Mr. Pizzuto for approximately 8 1/2 hours. During the course of those interviews, we have reviewed his current status, reviewed his psychosocial history, particularly in this matter as it relates to his history of head injury and seizure disorder as well as polysubstance abuse.
10. On 2/12/96, Mr. Pizzuto underwent a comprehensive neuropsychometric examination under my supervision. Specifically, Mr. Pizzuto underwent approximately 9 hours of neuropsychological and psychological tests under my direction. Formal neuropsychometric testing was conducted at that time to evaluate Mr. Pizzuto's neurocognitive functioning and to assist in evaluating his mental status. The tests used and administered are commonly accepted as instruments to evaluate neurocognitive status in patients who are suspected of having possible neurological impairment secondary to brain injury, seizure disorder or drug/alcohol problems.
11. In reviewing prior records relating to Mr. Pizzuto, I note that he was examined by Dr. Michael Emery, psychologist, as described in reports from January 23, 1986 and April 24, 1986. Of particular importance is that Dr. Emery noted in those reports that he had conducted some intellectual and limited cognitive testing of Mr. Pizzuto. He described him as having "cognitive limitations." No formal neuropsychological testing or history related to neuropsychological status was obtained or reported in those reports. Dr. Emery went on to indicate in an affidavit apparently filed in February 1987 that, in fact, he had not conducted a neurological or neuropsychological evaluation of Mr. Pizzuto. He noted, in light of Mr. Pizzuto's history, in which Dr. Emery indicated he had an apparent history of seizure disorder, child abuse, and possible organic brain damage, neuropsychological examination could be helpful in detecting whether or not there were problems in those areas with Mr. Pizzuto. Further, Dr. Emery only evaluated Mr. Pizzuto for a total of 2.75 hours between the two evaluations conducted in January and April 1986.
12. At the time Mr. Pizzuto was originally evaluated for sentencing in January and April of 1986, neuropsychological services were available in the State of Idaho. These services were also available in Eastern Washington, close to the Lewiston area. A comprehensive neuropsychological evaluation of Mr. Pizzuto, at the time of his original sentencing, would have most likely revealed the same issues that are being discussed in the current Affidavit.
13. I also reviewed an affidavit from Dr. Michael Koerner. He is a physician who is board certified in neurology who examined Mr. Pizzuto in September 1987. He indicated that as a result of his examination it was reasonable to make a working diagnosis of epilepsy with Mr. Pizzuto and to treat it accordingly. He felt that Mr. Pizzuto's seizure disorder was reasonably typical of complex partial seizure disorder. He went on to indicate that from what he knew of Mr. Pizzuto's history,

39 21780

Affidavit of Craig W. Beaver, Ph.D.

Page 4 -

there is a family history of seizure disorder and Mr. Pizzuto had received multiple head injuries in the past.

14. I also reviewed an affidavit by Pam Pizzuto, Gerald Pizzuto's mother. She indicated in her April 1987 affidavit that her son, Gerald, had suffered at least two significant brain injuries in his youth. The first one occurred when he was 2 ½ years of age and fell down a flight of stairs and suffered a skull fracture and was hospitalized. She indicated also that around 1970 Gerald was involved in a serious bicycle accident in which he received significant brain injury. She noted there was a significant change in his behavior after that event, consistent with a patient who suffered a brain injury. She also went on to indicate he had been severely physically abused by his stepfather and others during his upbringing. She indicated she is aware that Gerald Pizzuto has been diagnosed in the past as having a seizure disorder and that he has been on medication for the seizure disorder in the past. I also interviewed Pam Pizzuto on 8/2/96. She confirmed her statements in the affidavit. Further, she described in more detail Mr. Pizzuto's changes in behavior after his head injuries. She also described the severity of abuse he suffered from his stepfather.
15. During the course of interviewing with Gerald Pizzuto in January, February and March of 1996, he provided me with a list of his current medications being prescribed at the Maximum Security Facility at the Idaho Correctional Institute. Mr. Pizzuto indicated that one of the medications he is currently being prescribed is Depakote which he understands is for seizure control. In my working with seizure patients, Depakote is one of the more common anticonvulsant medications used to treat this disorder.
16. In my review of the medical records from the Idaho Department of Corrections, Medical Services, I note that there have been multiple occasions, dating back to 1990, in which Gerald Pizzuto has reported or has been observed having seizure like behavior. Those records also indicate Mr. Pizzuto has had neurological workup by Dr. Thomas Henson, neurologist, in April 1990. He diagnosed the patient as having a seizure disorder plus pseudo-seizure disorder. Additionally, I reviewed records from 1990 in which Mr. Pizzuto had gone to the Emergency Room at Saint Alphonsus Regional Medical Center, taken by correctional officers, for possible seizure activity. In those incidents, he had also been described as having seizure disorder. The Idaho Corrections medical records are also consistent with Mr. Pizzuto's indication that he has been on anti-convulsive medications during the course of his incarceration at that facility.
17. In my interview with Jerry Pizzuto, he indicates that he has had seizures since possibly adolescence if not early adulthood. He was somewhat uncertain as to the exact date of onset of his seizures. However, he suspects he was sometime after a bicycle accident around age 15 in which he reports receiving a significant head injury. Jerry Pizzuto indicates he has been told he had a head injury at age 2 ½ after falling down a flight of stairs and that he also suffered a second

Return to Petition
Page 8

39
21781

Affidavit of Craig W. Beaver, Ph.D.

Page 5

head injury in adolescence secondary to a bicycle accident. Mr. Pizzuto further indicates that he has been on anti-seizure medications now for many years. He reports that if he does not take the medication, he has difficulty with seizure control.

18. Mr. Pizzuto further indicates that when he experiences seizures, he loses control and does not recall exactly what occurs. He understands that when he does have seizures, he can become very aggressive and violent towards others but, again, indicates that he has little recall of those events when he has the actual seizures.
19. Mr. Pizzuto indicates that he has a long history of multiple substance abuse beginning in adolescence. He indicates that his polysubstance abuse has been a lifelong problem for him.
20. Jerry Pizzuto describes having a very chaotic, dysfunctional and violent family upbringing. He reports he had limited and unstable contact with his biological father. He describes being severely mentally, sexually and physically abused by his stepfather, Veryl A. Bartholomew. This involved multiple physical beatings, ongoing mental abuse and sexual abuse. The level of abuse far exceeds normal life experience and, again, was severe.
21. Neuropsychometric testing of Mr. Pizzuto did find evidence of significant neurocognitive deficits that would be consistent with a prior history of brain injury and/or seizure disorder. In particular, his neuropsychometric testing indicates that Jerry Pizzuto has difficulty with impulse control and sustained attention in activities. Additionally, neuropsychometric testing finds evidence that Jerry Pizzuto has difficulty with decision-making in more demanding or unfamiliar circumstances.
22. In my clinical experience, patients who have neurological limitations (i.e., cognitive impairment secondary to brain injury) and/or neurological disorders such as epilepsy, are more vulnerable to their environment. Specifically, these individuals, from my clinical experience, are more adversely affected by negative family and environmental conditions than other patients given their more limited resources. Therefore, the fact that Jerry Pizzuto had a very dysfunctional abusive upbringing would likely have a much larger impact upon his own behavior and development than an individual without such a neurological history. Thus affecting his ability to conform his behavior and conduct to community standards. Also, significantly disabling Mr. Pizzuto's ability to develop appropriate relationships with others.
23. The combination of Jerry Pizzuto having a seizure disorder, neurocognitive limitations that affect his impulse control and decision-making, combined with the neurotoxic affects of polysubstance abuse would have significantly impacted his abilities to make appropriate decisions and to control his behavior in an appropriate and community acceptable manner.

39 21762

Affidavit of Craig W. Beaver, Ph.D.

Page 6 :

Finally, Mr. Pizzuto's problems with impulse control and high level problem-solving in stressful circumstances, combined with his emotional issues, make it difficult for him, in my opinion, to adequately anticipate the consequences of his activities.

24. On or about July 26, 1985, when the murders of Delbert and Bertha Herndon occurred, Mr. Pizzuto indicated that he was not taking his anti-seizure medication and had been heavily involved in polysubstance abuse. This certainly would have affected his ability to make appropriate decisions and to effectively control his behavior in a highly charged and emotional circumstance.
25. Additional information and records could be beneficial in further evaluating these issues as they relate to Gerald Pizzuto. Specifically, obtaining the following information would be of benefit:
 - A. Medical records relating to the two prior head injuries that Mr. Pizzuto suffered in his youth.
 - B. Obtaining head MRI Scan of Gerald Pizzuto would assist in determining whether or not a structural lesion could be identified that would account for his seizure disorder and his neurocognitive deficits.
 - C. Obtaining sleep deprived EEG would be of benefit in further evaluating Mr. Pizzuto's seizure disorder.
 - D. Obtain and review records from Idaho Maximum Security Correctional Institute regarding Mr. Pizzuto's discipline record and behavior, during the course of his incarceration.
26. In my interactions with Mr. Pizzuto and in my review of records of prior evaluations, I note that he can present as very verbose with considerable "bravado." He demonstrates a strong tendency to overstate his accomplishments. This also includes his accomplishments that relate to how "tough or mean" Mr. Pizzuto is. In my interviewing of Pam Pizzuto and in reviewing Jerry Pizzuto's history, it is clear that this tendency towards exaggeration of accomplishments is of a longstanding nature. There does appear to be a specific psychological dynamic involved with this behavior. Specifically, beginning at a young age, Mr. Pizzuto was severely physically, mentally and sexually abused by his stepfather. Pam Pizzuto, his mother, reports that Jerry Pizzuto would frequently attempt to embellish and overstate his accomplishments in hopes that his stepfather would be accepting of him and not abuse him so severely. Despite multiple occasions of abuse, Jerry Pizzuto persisted in attempting to gain acceptance from his stepfather via his exaggerations and overstatements of his accomplishments. This appeared to become an ingrained characteristic for Mr. Pizzuto. Additionally, his mother reports that Jerry Pizzuto engaged in more and more fantasy play and activities, also presenting circumstances in which he was either of a stature that he could not

39 21753

Affidavit of Craig W. Beaver, Ph.D.

Page 7

be harmed by his stepfather or was protected by some type of animal that would help protect him. This further goes to the ingrained pattern that we now see with Mr. Pizzuto of him often being unreliable as a historian secondary to the amount of "bravado" in his presentation. Again, this appears to have been an attempt by Mr. Pizzuto to adapt to a highly abusive and stressful upbringing as a young child.

27. Mr. Pizzuto is influenced by the peer group he is interacting with. This influence can be quite significant, based upon review of Mr. Pizzuto's history and my psychological testing of him. Specifically, Mr. Pizzuto is very concerned about what impression he gives to others. As mentioned above, this can often lead him to greatly overstate his abilities, accomplishments, etc. It is very important for Mr. Pizzuto to appear tough and unafraid in situations, to those that are around him. Therefore, in a highly emotionally charged situation, Mr. Pizzuto would be easily influenced by others in the sense that he would not want to show any "weakness." He also then is very likely to be influenced by others in terms of going along with or engaging in acts with the group so that he is accepted by others and not viewed as "weak" or "afraid."
28. Additionally, in a peer group, Mr. Pizzuto has a strong need for attention and acceptance. His personality testing suggests he can be rather passive dependent. Consequently, all of these issues result in Mr. Pizzuto being easily influenced by his peers. Further, these issues, with his cognitive and emotional limitations, make it very unlikely Jerry Pizzuto would be a leader with a group of peers.
29. Mr. Pizzuto was described as an Antisocial Personality by Dr. Emery, based upon his January and April 1986 evaluations. However, as best I can determine, Dr. Emery had limited records, little, if any, awareness of Mr. Pizzuto's organic mental status, and had only conducted a brief examination. My more extensive evaluation of Jerry Pizzuto reveals a much more complex person with many other significant factors. While Mr. Pizzuto does have some antisocial traits, he also struggles with an organic mental syndrome, related to his epilepsy. He also shows evidence of both Histrionic and Passive Dependent features to his personality which were also heavily influenced by the savage abuse Jerry suffered at the hands of his stepfather.
30. There has been concern, in his original sentencing, that Mr. Pizzuto presented as a significant threat to others. I will agree in reviewing his history and records that he does, in fact, present a significant threat to others if he were again placed in an unstructured environment outside of the correctional system. However, in considering Mr. Pizzuto's age and in reviewing what I know at this point about his conduct while in the correctional facility, either in Michigan or Idaho, I do not believe he poses a high risk to others. Specifically, in reviewing the Michigan Correctional Institute's records, we note that in the beginning, when Mr. Pizzuto was quite young (i.e., 19) he had a few incidents in which he was written up for fights and/or being threatening with other inmates. However, in continued review of the Michigan records, we see that behavior drop off substantially during the

30 21764

course of his incarceration. In fact, he was ultimately released after 9 years of incarceration on a sentence of 20-40 years. He was described as having complied with their requests and having made good adjustment to the correctional system. Additionally, I am not aware at this time of any incidents in which Mr. Pizzuto has posed a significant threat to other inmates or correctional officers during the course of his stay at the Idaho Maximum Security Facility. Therefore, I believe if Mr. Pizzuto were to continue within the structure of a correctional facility, I do not believe he would pose a high risk to others. I do not feel Jerry Pizzuto poses a significant risk to others within the prison population. If Mr. Pizzuto continues on medication, has the structure of the correctional system and remains abstinent from drugs or alcohol, I believe he can function safely and adjust appropriately to long-term incarceration.



Craig W. Beaver, Ph.D.
Diplomate in Clinical Neuropsychology, ABPP

CWB:mb

30 21764A

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 23

(Deaconess Hospital records on Gerald Ross Pizzuto, Jr.)

ADMISSION DATE

AUG 27 8 30 PM '70

EMERGENCY ROOM RECORD
DRAGONESS HOSPITAL SPOKANE WASHINGTON

ER 0295

DISCHARGE

PATIENT'S NAME

Bartelmann, Barbara

ADDRESS

E 1401 1/2 W. 1st Ave. Spokane, WA 99201

HUSBAND
WIFE
PARENT

Verlyl A. Bartelmann

BROUGHT BY

Mother

PERMISSION FOR MEDICAL AND NURSING CARE

GRANTED BY

M. J. Smith

HOW RELATED

Mother

PERMISSION FOR TREATMENT OF MINORS BY PHONE

ATTENDING PHYSICIAN

J. Larson

WITNESSED BY

D. ...

HOUSE DOCTOR

Doornbos

PAYMENT PLAN

CASH

WEL FARE

WEL SERV

IND INS

WEL CROSS

WEL CARE

LABORATORY 15					
XRAY 15	10.5	0.50	10.40	30.5	0.40
EMERGENCY ROOM					
	Empire #3	87 1.00			
		87 4.00			
					15
					TOTAL

PHYSICIAN'S REPORT

DIAGNOSIS

Contusions & abrasions

PHYSICIAN'S PHYSICAL FINDINGS

REASON FOR ADMISSION

Pt. states was riding bike at Edina school. ... Pt. was in a crash. ... in neck, shoulder, hand, right eye. ...

VITAL SIGNS

92

BLOOD PRESSURE 112/84/56

Mother states sensitive to

TREATMENT

Conical splint to immobilize hand

Crackles left wrist. ... clavicle & shoulder. ... right shoulder. ...

REFERRED BY DR.

J. Larson

SAMPLE TO TEST NO. FAMILY DOCTOR DOCTOR ON CALL TIME CALLED TIME CALLED IN

ADMITTED BY: [] BY: [] HOME ADDRESS: [] ROOM: [] ADMISSION NUMBER: []

COMPLAINT: [] PHYSICIAN: [] SIGNATURE: [] DATE: []

REASONS FOR ADMISSION: [] PHYSICIAN'S SIGNATURE: [] DATE: []

CP 87

RECORD ROOM COPY
39 60751

DEACONESS HOSPITAL

West 800 Fifth Ave., Spokane, Washington

504-1

REQUEST FOR RADIOLOGICAL CONSULTATION

DATE 8/29 19

NAME PIZZUTO-JERRY-R
EX. CHILD 14 425827
DOC. DR. LARSEN-D-R

- STRETCHER
- WHEELCHAIR
- WALK
- DRESSING OR CAST MAY BE REMOVED

TRAY NO. 47524

EXAMINATION OF SYSTEM, PART OR ORGAN DESIRED: *Additional views of cervical spine per Dr. Tubbs*
Call to Dr. Larsen as per order on case discharge

AMOUNT

DEACONESS HOSPITAL
DRS. HARRIS, BETTE, STEVENSON, TUBBS,
GOTTSCHELL AND DRISCOLL, RADIOLOGISTS

W. Tubbs
SPokane, Wash. S 47524 R-29-70

NAME PIZZUTO, JERRY R 14
DR. LARSEN-D-R

Oblique views of the cervical spine and repeat AP odontoid views and the lateral to include the lower cervical shows no fracture. C 6 and 7, I believe, are normal.

The only abnormality identified is the slight asymmetry of the relationship between C 1 and the odontoid process on the AP view, which is consistent with spasm, or possibly some ligamentous injury about the upper cervical level.

WT/gb Wm. Tubbs, M.D.

DIAGNOSIS: CERVICAL SPINE NEGATIVE EXCEPT FOR ASYMMETRIC RELATIONSHIP C 1 TO THE ODONTOID, AS NOTED. THIS IS ESSENTIALLY UNCHANGED SINCE 8-27, SPASM VERSUS LIGAMENTOUS INJURY, UPPER CERVICAL.

LOCALIZED VIEWS OVER THE BROW WERE DONE AND DEMONSTRATE A HAIRLINE FRACTURE IN THE RIGHT FRONTAL SINUS REGION. BOTH MAXILLARY ANTRA ARE CLOUDED.

DIAGNOSIS: LINEAR FRACTURE, RIGHT FRONTAL OVERLYING THE FRONTAL SINUS. CLOUDING OF BOTH MAXILLA.

WT/gb Wm. Tubbs, M.D.

Return to Petition Page 8

PATIENTS JERRY R
CHILD 14 425827
BVS LARSEN-D-D

NURSES NOTES

Burchdomer, Jerry
Peta
Dr. J. Larsen

DEACONESS HOSPITAL, SPOKANE, WASHINGTON

HOSPITAL REGULATIONS: THE SIGNATURE OF A NURSE SHALL ACCOMPANY EACH ENTRY.

NO.	NAME	OUTPUT				DEF. ENEMA	MEDICATION - TREATMENT	NURSES NOTES
		URINE	CUTS	SIN	DRAINAGE			
								Admitted to ER 8-29-70 Admitted to ER by fire dept. ambulance stretcher 17 yr. old white male status known riding bike at Latona school but fell over bike hitting a pole Fire Dept. stretcher pt. was unconscious on arrival pt. no pain in neck, shoulder, head and right eye. Head tilted to left. Mouth, lips and nose. BP 138/84 P 92 Examined per Dr. Deaconess stretcher per stretcher parents here - took to ER. Abrasions on face hands scrubbed examined & pried, pried vs. Pupils equal and react to light. corneal kernel good at all 4 Examiner # 3 pt. transferred to ER stretcher & Michael no other signs known allergic to drugs Michael pt. transferred to stretcher to set pt into the lab. complaints of shoulder & head pain stretcher arrived to emergency. pt. shown respiratory. (Referred) Aug 28 1970 Hands et. feet scrubbed ser. patients received Please check on R. Res show no change (Referred)

NURSES NOTES IDENTIFICATION OF INITIALS 19 80764

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 24

(Declaration of James R. Merikangas, M.D.)

JOAN M. FISHER

Idaho State Bar No. 2854
Assistant Federal Defender
Federal Defenders of the
Eastern District of California
801 "T" Street, 3rd Floor
Sacramento, CA 95814
Telephone: 916-498-6666
Facsimile: 916-498-6656
Joan.Fisher@fd.org

ROBERT GOMBINER

WA Bar No. 16059
Federal Defenders of
Western Washington
1601 5th Ave., Suite 700
Seattle, WA 98101
Telephone: 206-553-1100
Facsimile: 206-553-0210
Robert.Gombiner@fd.org

CAPITAL HABEAS UNIT

Federal Defender Services of Idaho
317 W. 6th Street, Ste. 204
Moscow, ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

Attorneys for Petitioner

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

GERALD PIZZUTO, JR.

Petitioner-Appellant,

vs.

**JOHN HARDISON, Warden
Idaho Maximum Security Institution,**

Respondent-Appellee.

CAPITAL CASE

CASE NO. CV-05-516-S-BLW

**DECLARATION OF
JAMES R. MERIKANGAS, M.D.**

I, James K. Merikangas, M.D., a person over eighteen years of age and competent to testify, and mindful of the penalties of perjury say and declare as follows:

1. I am a medical doctor trained and board certified in both Psychiatry and Neurology. I am on the faculty of the George Washington University School of Medicine where my position is Clinical Professor of Psychiatry and Behavioral Neuroscience. I have been engaged in the practice and teaching of Psychiatry and Neurology for more than thirty five years. I have evaluated more than two hundred persons accused or convicted of murder and other crimes including rape, assault, arson and kidnapping. A copy of my CV is attached hereto
2. I was retained by counsel for Gerald Ross Pizzuto, Jr. ("Jerry Pizzuto") to determine whether or not he is mentally retarded.
3. I met with and administered a neuropsychiatric examination to Mr. Pizzuto on April 3, 2003.
4. I requested that the following tests be performed:

An Electroencephalogram was done on 01/19/2009. A Whole Brain Perfusion PET Scan and a CT Scan was done on 01/20/09, demonstrating a reduced level of activity in the frontal temporal regions (or an increased level in the occipital) which suggests frontal lobe dysfunction. An MRI scan of the brain was done on 01/20/2009 revealing that his brain is smaller than usual, he has more atrophy than normal, there is white matter hyperintensity around his ventricles, and he has a cavum septum pellucidum (a congenital abnormality). A battery of blood tests including a metabolic profile, complete blood count, ANA screen, thyroid functions, ceruloplasmin, rheumatoid factor, liver and

[Return to Petition Page 8](#)

kidney function were performed on 01/10/2009 including a urinalysis, which test results I have now received and reviewed to be within normal limits.

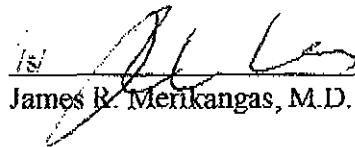
5. I have reviewed the following documents and exhibits:
1. Birth Certificate for Gerald Pizzuto;
 2. Washoe County School District School Records;
 3. St. Ann School Records;
 4. Hambleton School Records;
 5. Sacajawea School Records;
 6. Mitigation Specialist, Rosanne Dapsauski's interview notes:
 - a. Kibby Winslow - Jerry's aunt - two interviews;
 - b. Gaye W. Momerak - Jerry's Fifth grade teacher at Stead Elementary School;
 - c. Margaret Herzog - former teacher of Jerry's - Spokane, WA;
 - d. Paul Irsnik - Jerry's Sixth grade teacher - Spokane, WA;
 - e. Romilda Renee Parris Sutton Rodewald - Jerry's half-sister;
 - f. Angelinna Rawson - Jerry's sister;
 - g. Tomi Lacasella - Jerry's sister.
 7. Military records;
 8. Dr. Michael Emery - January 23, 1986 letter to Hon. George Reinhardt;
 9. Dr. Michael Emery - April 24, 1986 letter to Hon. George Reinhardt;
 10. Dr. Michael Emery - Sentencing transcript testimony;
 11. Craig Beaver - Affidavit of August 1996(?);
 12. Craig Beaver - Affidavit of June 18, 2003;
 13. Dr. James Merikangas of April 1, 1988;

14. Epilepsy - Reports and Affidavits:
 - a. Dr. Michael Koerner - Letter to Scott Wayman dated September 10, 1987;
 - b. Dr. Michael Koerner - Letter to Scott Wayman dated November 9, 1987;
 - c. Dr. Michael Koerner - Affidavit of April 5, 1988
 - d. Sarah S. Werner - Report of October 18, 1985;
 - e. Sarah S. Werner - Affidavit of March 8, 1987;
 15. Hospital records from age 14 head injury;
 16. Michigan DOC records;
 17. Medical Records - Idaho Maximum Security Institute on Jerry;
 18. St. Luke's PET Scan;
 19. St. Luke's MRI Scan;
 20. St. Luke's EEG;
 21. St. Luke's Laboratory Results;
 22. Report of Neurocognitive Evaluation by Dr. Ricardo Weinstein, Ph.D. of February 16, 2009;
 23. WAIS-IV Score Report;
 24. Social History of Gerald Ross Pizzuto, Jr. prepared by Keily Noian;
 25. Declaration of Toni Pizzuto;
 26. Declaration of Angelinna Pizzuto; and
 27. Declaration of Elsie-Pizzuto-Rado.
6. Based on my examination and review of relevant documents, it is my opinion to a reasonable degree of medical certainty that Gerald R. Pizzuto suffers from mental retardation according to the Idaho Code 19-2515A(1)(a), and the DSM-IV-TR. He has

and IQ below 70, and he exhibited significant deficiencies in many areas relation to his adaptive behaviors and these conditions were present before the age of 18.

FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 3 day of March, 2009.


James R. Merikangas, M.D.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of March, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which is designed to send a Notice of Electronic Filing to persons including the following:

L. Lamont Anderson
lamont.anderson@ag.idaho.gov

Robert Gombiner
Robert_Gombiner@fd.org

/s/ _____
Heidi Thomas

James R. Merikangas, M.D.
Neurology, Psychiatry, Neuropsychiatry

4938 Hampden Lane #428
Bethesda, Maryland 20814
Office: (301) 654-1934
Fax: (301) 654-1834
Email: neuropsych2001@hotmail.com

Send to: <i>Don Fisher</i>	From: James Merikangas
Attention: <i>Haidi</i>	Date:
Fax Number: <i>208 883 1472</i>	Phone Number: 301-654-1934
Re:	Number of pages, Incl. cover sheet: <i>7</i>

Urgent
Reply ASAP
Please comment
Please Review
For your Information

Pizzuto Gulerator

RECEIVED
MAR 02 2009
FEDERAL DEFENDER
SERVICES OF IDAHO

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 25

**(Affidavit of Craig W. Beaver, Ph.D.,
September 15, 2004)**

JOAN M. FISHER
 Idaho State Bar No. 2854
 Capital Habeas Unit
 Federal Defenders of
 Eastern Washington and Idaho
 201 North Main
 Moscow ID 83843
 Telephone: 208-883-0180
 Facsimile: 208-883-1472

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO**

GERALD ROSS PIZZUTO, JR.)
)
) **Petitioner,**)
)
) **v.**)
)
) **STATE OF IDAHO,**)
)
) **Respondent.**)
)

CASE NO. CV 34748

**AFFIDAVIT OF
 CRAIG W. BEAVER, PhD**

STATE OF IDAHO)
 : ss.
 County of Ada)

I, Craig W. Beaver, being first duly sworn, deposes and states as follows:

1. Currently, I am licensed as a psychologist in the State of Idaho and previously had completed a neuropsychological examination of Gerald R. Pizzuto, Jr.

I am qualified under state law to conduct neuropsychological testing.

2. Currently, I hold a PhD in clinical psychology from Miami University of Ohio, an AP Approved Clinical Training Program. I also completed an internship at the Fort Miley VA

Medical Center in Coordination with the UC San Francisco Medical School, which is also an AP Approved Clinical Training Program, with an emphasis in clinical neuropsychology. I then completed four years of additional supervised practice under Dr. Lloyd Cripe. In short, I have extensive formal training in the area of brain behavior relationships.

3. Presently, I hold a Diplomate in Clinical Neuropsychology by the American Board of Professional Psychological and the American Board for Clinical Neuropsychology. This reflects my additional training and expertise in the area of clinical neuropsychology. There are only a little over 300 boarded neuropsychologists practicing and recognized in the United States.

4. Please see attached curriculum vitae outlining my training and clinical and professional experiences working with patients who have neurological disorders that affect their function and behavior. Presently, in addition to private practice, I am the Director of Neuropsychological Services at Idaho Elks Rehabilitation Hospital in Boise, Idaho in which I oversee a Brain Injury Rehabilitation Program.

5. Previously, I had conducted an examination of Gerald Pizzuto, Jr. in 1996. At that time, I completed neuropsychometric testing of him. Additionally, I reviewed other neuropsychological testing completed on Mr. Pizzuto in the past. Neuropsychometric testing was used to evaluate Mr. Pizzuto's cognitive abilities, particularly as it refers to his ability to understand and process information, communicate, abstract information and learn from experience, as well as assessing ones logical reasoning and impulse control.

6. In addition to formal assessment of Gerald Pizzuto, Jr., I have also completed an extensive review of medical records related to his care and treatment. This included a number of neurological evaluations and workups relating to Gerald Pizzuto, Jr.

7. Neuropsychological examination of Mr. Pizzuto, Jr. demonstrates significant neurocognitive deficits. More specifically, Mr. Pizzuto on formal neuropsychometric testing, evidences difficulties with language skills, memory, and higher-level reasoning and problem solving skills. Thus, he does show impairment on formal neuropsychometric testing of difficulties with mental abilities. These deficits are consistent with an individual who has an organic brain disorder.

[Return to Petition Page 8](#)

8. Review of medical records finds evidence that Gerald Pizzuto has a long history of seizure disorder, with evidence of abnormal EEG and a history of requiring anticonvulsive medications. This also is both evidenced and consistent with Gerald Pizzuto having an organic brain disorder that affects his mental capacities.

[Return to Petition Page 8](#)

9. Mr. Pizzuto has continued to require pharmacological management of his seizure disorder since he was last examined by myself in 1996. He has continued to have neurological difficulties. Therefore, given that it has now been over eight years since his last comprehensive neuropsychological examination, I would strongly recommend that he undergo repeat neuropsychometric studies. Repeat neuropsychometric studies are needed to better determine Gerald Pizzuto's cognitive abilities. Often, patients that have persistent seizure disorders, for example, will decline over time in their overall mental abilities. Therefore, repeat neuropsychological testing to evaluate issues relating to his ability to understand and process information and abstract information, communicate, and learn from experience, engage in logical reasoning, and his abilities to control his impulses would be evaluated by repeat testing.

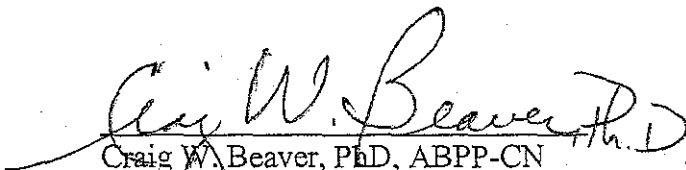
10. Given his history of seizure disorder and positive findings on EEG examination, it is my opinion that Gerald Pizzuto would also benefit from further neurological study. This should include not only a comprehensive neurological examination, but also further neuroradiological studies (i.e. PET scan, Spec scan, and/or MRI) to further evaluate his neurological functioning and how it affects his behavior. Those technologies are readily available in the medical community adjacent to where Mr. Pizzuto currently is incarcerated.

11. The combination of having more current neuropsychometric testing on Mr. Pizzuto, combined with additional neurological studies would further elucidate his mental abilities, and the etiology of his limitations. These factors are particularly relevant with regard to issues of his culpability given the legal circumstance in which he finds himself.

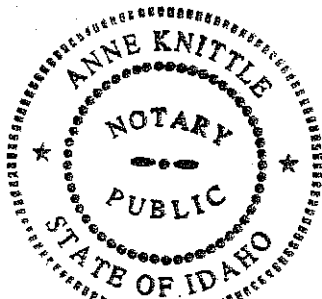
12. Mr. Pizzuto does have a history of intellectual limitations and poor adaptability. Within the context of the recent U.S. Supreme Court case, *Atkins v. Virginia*, current evaluation of Gerald Pizzuto is indicated to determine if he meets the criteria of mental adaptability.

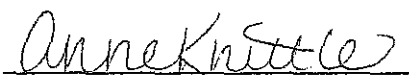
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 15th day of September, 2004.


Craig W. Beaver, Ph.D, ABPP-CN
Clinical Neuropsychologist

SUBSCRIBED AND SWORN to before me this 15th day of September, 2004.




NOTARY PUBLIC FOR IDAHO
Residing in Boise, Idaho
Commision Expires: 10-02-2006

CURRICULUM VITAE
CRAIG W. BEAVER, Ph.D.
Diplomate in Clinical Neuropsychology, ABPP-CN

250 Bobwhite Court, Suite 220
P.O. Box 5445
Boise, ID 83705-0445
(208) 336-2972
Fax (208) 336-4408

Education:

- | | |
|-------|--|
| 8/83 | Ph.D. Clinical Psychology (APA Approved)
Miami University; Oxford, Ohio |
| 12/80 | M.A. Clinical Psychology
Miami University; Oxford, Ohio |
| 6/78 | B.S. Psychology (with honors)
University of Oregon; Eugene, Oregon |

Professional Experience:

- | | |
|---------------|---|
| 7/00-present | Private Practice; Clinical and Neuropsychology, Boise, Idaho. |
| 5/86-present | Consulting Neuropsychologist (part-time); Idaho Elks Rehabilitation Hospital; Boise, Idaho. |
| 12/88-present | Director Neuropsychology Services; Inpatient and Outpatient Brain Injury Program; Idaho Elks Rehabilitation Hospital; Boise, Idaho. |
| 1/98-6/01 | Disability Consultant; PERSI; Boise, Idaho. |
| 8/83-7/00 | Private practice; Clinical and Neuropsychology; Shoreline Psychological Associates; Boise, Idaho. |
| 3/88-6/90 | Consulting Neuropsychologist (part-time); Rehabilitation Unit, Saint Alphonsus Regional Medical Center; Boise, Idaho. |
| 5/87-12/88 | Consulting Psychologist (part-time); Rehabilitation Medicine Consultants; Boise, Idaho. |
| 3/84-2/88 | Coordinator, Psychology Service; Saint Alphonsus Regional Medical Center; Boise, Idaho. |

Professional Experience (continued):

- 9/83-9/84 Psychologist (part-time); Nelson Institute; Boise, Idaho.
- 9/82-8/83 Clinical Psychology Intern; Ft. Miley V.A. Medical Center; San Francisco, California (APA approved).
- 8/79-6/82 Psychotherapist (part-time); Miami University Psychology Clinic; Oxford, Ohio.
- 8/80-1/81 Psychology Trainee (part-time); Rollmans Psychiatric Institute; Cincinnati, Ohio.
- 5/79-8/79 Psychology Trainee (part-time); Community Mental Health Center; Good Samaritan Hospital; Dayton, Ohio.
- 9/76-6/78 Program Coordinator (part-time); Oregon Smoking Control Project; University of Oregon; Eugene, Oregon.
- 4/77-9/77 Acting Director (6/77-9/77), Counselor (4/77-9/77); Franklin House; Boise, Idaho.

Community/Professional Activities (Current):

- Epilepsy League of Idaho; Professional Advisory Board; 1985-present.
- Child and Family Services, Department of Health & Welfare, State of Idaho; Psychological Consultation; 1992-2001
- ABPP/ABCN; Work Sample Reviewer; 1993-present.
- Idaho Supreme Court; Domestic Violence Assessment Committee; 1996-present.
- Idaho State Bar, Character and Fitness Committee; 2000-present

Community/Professional Activities (Past):

- Women and Children Alliance (formerly YWCA); Board of Directors; 1997-2001.
- Medicare, CIGNA, Boise, Idaho; Consultant and Reviewer; 1992-1999.
- Idaho Board of Psychology Examiners, Member; appointed 1991-1997; chairperson 9/91-9/94 and 9/95-8/97.

Community/Professional Activities (Past) (continued):

- Idaho Head Injury Foundation; Board of Directors; 1985-1998.
- Brain Injury Task Force; State of Idaho; 1994-1996.
- CASA (Family Advocacy Program); Professional Advisory Board; 1987-1995.
- Child Custody Guidelines Work Group; Fourth Judicial District; 1992-1995.
- Nelson Institute (Alcohol/Drug Treatment); Consultant; 1983-1991.
- Idaho Commission for Alcohol and Drug Education (ICAD); Planning Committee; 1985-1988.
- Alcohol Intoxication Treatment Act (AITA) Committee, Region IV; Contract Review Committee; 1986-1987.
- Epilepsy Assessment Unit - Saint Luke's Regional Medical Center; Consultant; 1988-1990.
- CRS Washington New Medico Head Injury Program; Consultant; 1988-1990.
- Easter Seals Society of Idaho; Advisory Board; 1989-1991.
- Governor's Commission (Idaho); Chemical Dependency Treatment Committee; 1989-1991.
- Vocational Rehabilitation, State of Idaho; Consultant; 1985-1992.
- United Cerebral Palsy of Idaho; Consultant; 1985-1992.
- Boise Samaritan Village Cottage Program; Professional Advisory Board; 1986-1992.

Professional Societies:

- American Psychological Association; Member, since 1983
- Rehabilitation Psychology; Division 22; Member
- Health Psychology, Division 38; Member
- Clinical Neuropsychology Division 40; Member
- Law Society; Division 41; Member

Professional Societies (continued)

Idaho Psychological Association; Fellow, since 1983

-President; 1987-1989

-Treasurer; 1985-1986

-Executive Board: 1985-1991

Society for Personality Assessment, Member, since 1987

International Neuropsychological Society; Member, since 1989

Intermountain Neuropsychology Work Group, Member, since 1989

National Academy of Neuropsychology, Member, since 1994

Other Related Societies:

-National Head Injury Foundation; Member, since 1987

-Epilepsy Foundation of America; Member, since 1987

Professional Honors:

-Central District; Distinguished Idaho Citizens Award, Idaho Social Workers Association - Professional Contributions; 1987

-Miami University Dissertation Fellow; 1981-1982

-Graduate Research Award - Miami University; 1980

-Graduate Research Award - Miami University; 1979

Professional Publications:

Beaver, C., Brown R., and Liechtenstein, E. Effects of monitored nicotine fading and anxiety management training on smoking reduction. Addictive Behaviors, 1981, 6, 301-305.

Glasgow, R., Liechtenstein, E., Beaver, C., and O'Neil, H. Subjective reactions to rapid and normal paced aversive smoking. Addictive Behaviors, in press.

Happ, A. and Beaver, C. Effects of Work at a VDT Intensive Lab Task on Performance, Mood, and Fatigue Symptoms. Proceedings from the Human Factors Society Rochester, N.Y.; October 12 - 16, 1981.

Beaver, C. Trait Anxiety, Locus of Control, and Gender as Predictors of Differential Responses to Muscular and Cognitive Relaxation; Masters Thesis, Miami University; December 1980.

Professional Publications (continued)

Beaver, C. A Causal Analysis of the Effects of Life Events, Individual Differences, and Aspects of the Social Environment on Distress. Doctoral Dissertation, Miami University; 1983.

Beaver, C. Where Are We Going With Dementia Disorders? A review of dementia disorders, edited by C. L. E. Katona Journal of Contemporary Psychology, September 1991.

Professional Papers:

Beaver, C., Liechtenstein, E. and Brown, R. Use of an Anxiety Management and a Nicotine Fading Procedure to Control Cigarette Smoking; Association for the Advancement of Behavior Therapy annual meeting; San Francisco, California; December, 1979.

Beaver, C. Trait Anxiety, Locus of Control, and Gender as Differential Predictors of Responses to Muscular and Cognitive Relaxation; Ohio Psychology Association Convention; Columbus, Ohio; October 31, 1981.

Beaver, C. and Rorer, L. The Effects of Life Events, Cognitive Variables, and the Social Environment on Distress; Society of Multivariate Experimental Psychology annual meeting; Atlanta, Georgia; November, 1982.

Beaver, C. Medical and Legal Aspects of Disability Resulting from Brain Dysfunction: Neuropsychology Brain Injury Disability; National Social Security Disability Law Conference; Seattle, Washington; October, 1996.

Beaver, C. and Weiss, M. Training Manual for Treatment of Brain Injury Patients; State of Idaho/Idaho Elk's Rehabilitation Hospital; September, 1998.

Invited Addresses and Presentations:

Neuropsychology and Closed Head Injury; Idaho Head Injury Foundation Annual Meeting; Boise, Idaho; 1984.

Behavior Management of Neuropsychology Patients; Idaho Hospital Associate Annual Conference; Sun Valley, Idaho; 1985.

Neuropsychological Issues with Handicapped Persons; State of Idaho Specialty Service Providers; Boise, Idaho; 1986.

Invited Addresses and Presentations (continued):

Traumatic Brain Injury; Assessment and Outcome; Idaho Hospital Association Annual Conference; Sun Valley, Idaho; 1986.

Neuropsychology and Vocational Rehabilitation; State of Idaho Vocational Rehabilitation Department; Annual Education Conference; Boise, Idaho; 1986.

Role of Neuropsychological Assessment in Workers Compensation Litigation; Idaho Bar Association; Annual Conference; Sun Valley, Idaho; 1988.

Neuropsychology and Mental Health Needs; Ada County Mental Health Association; Boise, Idaho; 1989.

Psychosocial Problems of Brain Injured Patients and Their Families; Idaho Hospital Association; Sun Valley, Idaho; 1989.

Neuropsychological assessments with Worker Compensation patients. Idaho Industrial Commission; Boise, Idaho; 1990.

Repressed Memory Syndrome. Fact or Fiction?; Idaho Judicial Conference; Sun Valley, Idaho; 1994.

Family Dynamics and Domestic Violence; Fourth Judicial District Conference on Domestic Violence; Boise, Idaho; 1994.

Neuropsychological Assessment Following TBI; Utah Head Injury Association, Regional Conference; Park City, Utah; 1994.

Psychological Factors in Sentencing; Idaho Criminal Trial Lawyers Association; Sun Valley, Idaho; 1995.

Work Re-Entry for Brain Injured Patients; Occupational Disability Management Conference; Boise, Idaho; 1996.

NeuroPsych Issues in Workers Compensation; Surety Association; Boise, Idaho; 2000.

Adolescent Neuropsychology: Who is Minding the Store? Troubled Youth Conference; Division of Youth Correction Center; Snowbird, Utah; 2000.

Common Mental Health Disorders; Idaho Association of Criminal Defense Lawyers; Idaho Falls, Idaho; 2001

Invited Addresses and Presentations (continued):

MMPI: Uses, Limitations and Pitfalls in Capital Litigation; Florida Public Defender Association; Lake Buena Vista, Florida; 2001

Common Mental Health Disorders; Idaho Association of Criminal Defense Lawyers; Boise, Idaho; 2001

Neuropsychology Testing - A Hands on Experience; Claims Adjusters/Employers of the Treasure Valley; Boise, Idaho; 2001

Traumatic Brain Injury & Other Neurological Disabilities; Idaho Division of Vocational Rehabilitation; Boise, Idaho; 2002

Working with Brain Injury Students; Independent School District of Emmett No. 221; Emmett, Idaho; 2003

Neuropsychology & M.S.; National Multiple Sclerosis Society; Boise, Idaho; 2004

Use of Psychological Tests in Custody Evaluations; Mountain States Chapter American Academy of Matrimonial Lawyers; Coeur d'Alene, Idaho; 2004

Workshop Presentations:

Clinical Management of Patient with Neuropsychological Deficits; Boise State University Nursing Training Seminars; Boise, Idaho; 1984 (1 day).

Neuropsychological Assessment; Family Practice Residency Training Seminar; Boise, Idaho; 1984 (1/2 day).

Educational Impact of Epilepsy: Effects on Attention, Memory, and Behavior; Epilepsy League of Idaho Annual Conference; Boise, Idaho; 1985 (2 hour presentation).

Neuropsychological Aspects of Motor Development; Pediatric Physical and Occupational Therapists Organization, Idaho Chapter, Annual Conference; Boise, Idaho; 1985 (1/2 day).

Associations Between Neuropsychological Models and Cognitive Development; Boise State University, Gifted and Talented Teacher Summer Institute; Boise, Idaho; 1985 (1/2 day).

Neuropsychological Assessment and Learning Disabilities; Boise Schools' Psychologists; Boise, Idaho; 1985 (three day workshop).

Workshop Presentations (continued):

Behavior Management of Neuropsychology Patients; Idaho State School and Hospital Staff; Nampa, Idaho; 1986 (four day seminar).

Neuropsychological Deficits with Chemical Dependency; Idaho Conference on Alcohol and Drugs; Boise, Idaho; 1986 (1/2 day).

Neuropsychological Aspects of ADD; Idaho Speech and Hearing Association Annual Conference; Boise, Idaho; 1986 (1 day).

Role of Neuropsychological Assessment with Developmental Disabilities; State of Idaho Adult/Child Development Department; Annual Education Conference; Boise, Idaho; 1986 (1 day).

Neuropsychology: Behavior, Emotion, and Seizure Disorders; Idaho Epilepsy League Annual Conference; Boise, Idaho; 1987 (2 hours).

Treatment Implications of Neuropsychological Deficits; Idaho Conference on Alcohol and Drugs; Boise, Idaho; 1987 (1/2 day).

Impairment and Disability From Neuropsychological Deficits; Janzen International Rehabilitation Consultants; Annual Training Seminar; Sun Valley, Idaho; 1988 (1 day).

Psychometric Testing and Its Limitations; Idaho Region IV Judicial Unit; Boise, Idaho; 1988 (1/2 day).

Role of Neuropsychological Assessment in Vocational Rehabilitation; State of Idaho Department of Vocational Rehabilitation; Annual Education Conference; Boise, Idaho; 1988 (2 hours).

Luria's Model of the Brain and Neuropsychological Treatment Strategies; Occupational Therapists Association; Idaho Chapter; Annual Conference; Moscow, Idaho; 1991 (1 day).

Use of Psychological Tests in Assessing and Treating Issues of Child Abuse and Neglect; CASA (Family Advocacy Program); Boise, Idaho; 1991 (1 day).

Head Injury Workshop: Medical and Legal Aspects of Disability Resulting from Brain Dysfunction; National Social Security Disability Law Conference; Seattle, Washington; 1996 (1 day).

Neuropsychological Issues in Death Penalty Mitigation; Intermountain Neuropsychologists Group; Salt Lake City, Utah; 1996 (1/2 day).

Workshop Presentations (continued)

Strategies for Managing Agitated Traumatic Brain Injury Patients; Eastern Idaho Regional Medical Center; Idaho Falls, Idaho; 1997 (1 day).

Idiosyncratic Uses of Neuropsychological Assessments in the Criminal Courts; Intermountain Neuropsychologists Group; Salt Lake City, Utah; 1997 (1/2 day).

Competency and Involuntary Commitments in Idaho; Family Practice Residency Group; Boise, Idaho; 1998 (1/2 day).

Evaluating and Managing Psychiatric Emergencies; Idaho Paramedics Training; Boise, Idaho; 1999 (1/2 day).

Adolescent Neuropsychology: Who is Minding the Store; Salt Lake City, Utah; 1999 (1/2 day).

Working with the Brain Injured Patient; Idaho State School and Hospital; Nampa, Idaho; 2001 (1/2 day).

Pitfalls and Highlights in Assessing a Patient's Competency; Idaho Disability Examiners Association; Boise, Idaho; 2001 (1/2 day).

Brain Injury Stages of Recovery; Idaho Speech and Hearing Association Annual Conference; Sun Valley, Idaho; 2002 (1 day)

Hospital Staff Privileges:

Saint Alphonsus Regional Medical Center; Boise, Idaho
Status: Associate Medical Staff, since 1984
Privileges: Clinical Psychologist

Saint Luke's Regional Medical Center; Boise, Idaho
Status: Associate Medical Staff, since 1985
Privileges: Clinical Psychologist

Idaho Elks Rehabilitation Hospital; Boise, Idaho
Status: Associate Medical Staff, since 1986
Privileges: Neuropsychologist

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 26

**(James R. Patton, Ed.D.
Adaptive Behavior Report)**

James R. Patton, Ed.D.
1406 Thaddeus Cove
Austin, Texas 78746
(512) 740.4082
jpattton@austin.rr.com

Report – Adaptive Behavior

RE: Gerald Ross Pizzuto, Jr.
28 December 2009

1. My name is James R. Patton. I am over the age of eighteen, and have first hand knowledge of the facts and opinions presented in this report.

Professional Background

2. I have worked in the field of disabilities since 1974 and hold Master's and Doctoral degrees from the University of Virginia in the area of Special Education/Disabilities. I have taught in higher education since 1977 and have had faculty appointments at the University of Virginia, the University of Hawaii at Manoa, and the University of Texas at Austin. I have 34 years of experience working in the field of mental retardation. During my professional career, I have served as a special education teacher, consultant, and professor in the field of mental retardation/intellectual disability.
3. As a professional in the field of mental retardation, I have coauthored/co-edited two professional books specifically focused on the topic of mental retardation: Mental Retardation – 7th Edition (Beirne-Smith, Patton, & Kim, 2006) and Mental Retardation in the 21st Century (Wehmeyer & Patton, 2000). The former book, which is currently being revised in an eighth edition, is used widely throughout the country in courses on mental retardation/intellectual disabilities. The other book, which was sponsored by the Arc (formerly known as the Association for Retarded Citizens) in conjunction with the 50th anniversary of this organization, represents a compilation of a range of issues in the field of mental retardation/intellectual disabilities.
4. I have written extensively on the topic of mental retardation and other disability-related topics in my career. I have authored, coauthored, or edited 59 books (including revisions) since my first book was published in 1979. I have also authored or coauthored 37 chapters in professional books, 53 articles in professional journals, and 3 computer-based programs. I have served as the editor or co-editor on 5 special series in professional journals and as the co-editor on a 15-book series on adult-related issues associated with disabilities. I have also coauthored two published standardized assessment instruments: Scholastic Abilities for Adults (Bryant, Patton, & Dunn, 1991) and the Transition Planning

Inventory (Clark & Patton, 1997). In addition, I was one of the co-developers of the Word Identification and Spelling Test (WIST) (Wilson & Felton, 2004). I am one of the authors of the Comprehensive Adaptive Behavior Scales that is currently being normed and will be published by PRO-ED (Austin, Texas).

5. I have served on boards and committees of national, state, and local organizations that serve and represent persons with mental retardation. For six years, I served on the national board of the Division on Mental Retardation and Developmental Disabilities of the Council for Exceptional Children, serving as president of the organization for one of these years. This is an international organization dedicated to issues related to persons with mental retardation. I also served for seven years on the Programs and Services Committee of the Arc of Texas. I have also served on the editorial boards of two international journals in the field of mental retardation, Education and Training in Mental Retardation and Developmental Disabilities and Focus on Autism and Developmental Disabilities.
6. I have taught courses that were specifically about the characteristics of individuals with mental retardation at a number of different universities in the U.S. (University of Virginia and University of Hawaii at Manoa) and internationally (Universidad Catolica de Santa María – Arequipa, Perú). I have taught a number of other courses that have included content related to the topic of mental retardation.
7. I am a member of the following organizations – all of which have bearing on my credentials to comment on issues related to mental retardation: American Association on Intellectual and other Developmental Disabilities (AAIDD) – formerly called the American Association on Mental Retardation (AAMR); American College of Forensic Examiners International (ACFEI); Council for Exceptional Children (CEC).
8. As James Ellis¹ has suggested, a need exists for trained professionals whose expertise is the field of mental retardation. “The expertise of skilled mental disability professionals is crucial to implementing *Atkins*’ protections and achieving the goals of the criminal justice system in these cases.” I have worked in the field of mental retardation for the last 34 years and over this time have gained the expertise to which Ellis refers. I offer the following points to substantiate my credentials. I have worked with hundreds of individuals who had mental retardation. As a result, I am very aware of the characteristics of this population from an *in situ* perspective. I have first-hand knowledge of how these characteristics manifest in the course of everyday situations.
9. In my capacity as a special education teacher/diagnostician in the Charlottesville Public Schools, I assessed and taught many students with mild mental retardation. Included in my duties were those of diagnostic assessment. I administered standardized and nonstandardized assessments, interpreted their results, presented these results to other professional staff, and served on the multidisciplinary team

(MDT) that made eligibility decisions for special education. Many of the MDT decisions involved the issue of whether a student had mental retardation. Although I am not licensed to administer tests of intelligence, I was trained and am able to administer a variety of assessment measures, including adaptive behavior measures and educational achievement measures.

10. During my doctoral program, I co-coordinated a continuing education program for adults with mental retardation called "Night College" in Charlottesville, Virginia. This program provided "life skills" classes for 60+ adults who lived in the city of Charlottesville and surrounding county (Albemarle County). The classes were offered one night per week and were located in Ruffner Hall on the campus of the University of Virginia. In addition to co-coordinating this program, I also co-taught classes in this program. This experience added to my knowledge and understanding of the characteristics and needs of individuals with mental retardation.
11. My interactions with adults who have mental retardation is further substantiated in two additional settings. I had regular interactions with adults with mental retardation who worked in a vocational training program in Honolulu, Hawaii. I was able to see how this group of individuals dealt with the demands of daily living. I had contact with this group in classroom and community-based settings over the course of three years. I am currently the faculty advisor for the "Best Buddies" chapter at the University of Texas at Austin. This program matches UT students with adults with mental retardation who live in the Austin community. I attend the scheduled events and interact with these adults on a regular basis.
12. As a professional with a doctoral degree in special education, I have remained very active in the area of mental retardation/intellectual disabilities through my writings, service, and research. As the coauthor of a widely used textbook on mental retardation in special education, I am very aware of literature on and issues associated with the definition and assessment of mental retardation. Serving on the editorial boards of two well-recognized professional journals associated with the area of mental retardation adds to my ongoing awareness of important topics in this field.
13. As the co-author of two published standardized assessment instruments, I am acutely aware of the concepts of test development and the technical features (norms, reliability, and validity) related to these types of instruments. This knowledge provides me with a keen insight into the various issues associated with assessment. The fact that I am currently working on the Comprehensive Adaptive Behavior Scales instrument provides a unique perspective of the issues related to the measurement of adaptive skills.

Activities Performed To Date

14. I was asked by Mr. Pizzuto's counsel to examine his adaptive functioning during the developmental period. This is a report of findings related to adaptive functioning. The current report is based on a review of the following documents that were provided to me by Mr. Pizzuto's counsel.

Affidavit of Ron Dias (former school counselor)
Affidavit of Margaret Herzog (former principal)
Affidavit of Paul Ircink (former teacher)
Affidavit of William Matson (former school counselor)
Affidavit of Gaye Momerak (former teacher)
Affidavit of Elsie Pizzuto Rado (younger sister)
Affidavit of Kismet Winslow (aunt)
School records
Military records

I was able to conduct face-to-face interviews with the following individuals:

Elsie Pizzuto Rado (younger sister) [20 November 2009] (described events in Gerald Pizzuto, Jr.'s life from ages 10, 11 and 12).

Gerald Pizzuto, Jr. [20 November 2009]

I conducted phone interviews with the following individuals who knew Mr. Pizzuto at various time prior to age 18.

Ruth Roath (aunt) [22 December 2009] (age 10)

Paul Ircink (former teacher) [23 December 2009] (ages 13-14)

Monique Winslow Eska (cousin) [28 December 2009] (ages 12-13)

Margaret Herzog (former principal) [29 December 2009] (age 13)

Gaye Momerak (former teacher) [29 December 2009] (age 12)

Concept of Adaptive Behavior/Functioning

15. Adaptive behavior/functioning refers to a person's ability to deal with the everyday demands of life. The AAIDD² (2010) defines adaptive behavior as "the collection of conceptual, social, and practical skills that have been learned and performed by people in order to function in their everyday lives."³ The American Psychiatric Association (2000) describes adaptive functioning as "how effectively individuals cope with common life demands and how well they meet the standards of personal independence expected of someone in their particular age group, sociocultural background, and community setting."⁴

16. It is essential to point out that the AAIDD stresses that “within an individual, limitations coexist with strengths.”⁵ What this means is that an individual does not have to show extreme deficits across all adaptive skill areas. It is important to note that, even with relative strengths, a person can still qualify as having deficits in adaptive behavior and meet this criterion of the definition.
17. Another aspect of adaptive behavior that warrants attention is the emphasis that the AAMR 2002 manual gives to the performance rather than acquisition of adaptive skills. “Thus it is expected that reasons for limitations in adaptive skills may include (a) not knowing how to perform the skill (acquisition deficit), (b) not knowing when to use learned skills (performance deficit), or (c) other motivational factors that can affect the expression of skills (performance deficit).”⁶
18. As supported in the professional definitions of mental retardation, a person ONLY has to show deficits in SOME of the many adaptive behavior areas, as indicated below.
 - a. AAMR (2002): significant limitation in ONE of the following three types of adaptive behavior: conceptual, social, or practical
 - b. American Psychiatric Association (2000) -- Criterion B: significant limitations in AT LEAST TWO of following eleven areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety.
19. Deficits in adaptive functioning exist when a “consistency of information” obtained from a variety of sources and different settings indicates that “typical” adaptive functioning differs clearly and appreciably from the standards of personal independence expected of a person of the same age, sociocultural background, and community setting.
20. The determination of adaptive behavior must be accomplished by the collection of data from a variety of sources. Sources can include records, previous test results, interviews with key individuals who knew the person on whom adaptive information is needed, and formal testing. When obtaining information through interviews, the following conditions must be met to ensure valid results:
 - reliable, credible respondents are available
 - respondents had regular contact with the individual
 - respondents had contacts of reasonably long duration
 - respondents had an opportunity to observe behaviors associated with the specific skill areas of adaptive functioning
 - respondents were in close contact, as indicated above, with the individual prior to age 18, if retrospective assessment is used

- at least one of the respondents should be from the individual's cultural background
21. Significant limitations in adaptive functioning are defined differently, depending on the assessment technique employed. According to the AAIDD (2010), when a formal, standardized, norm-referenced instrument is used, "significant limitations in adaptive behavior are operationally defined as performance that is approximately two standard deviations below the mean."⁷
22. When clinical assessment techniques (informal data collected through collateral interviews) are utilized, "significant limitations" can be identified when nature of the adaptive deficits has a major impact on the person's functioning that clearly deviates from the standards of personal independence and social responsibility expected of the person's age and cultural group. Furthermore, "significance" is underscored when the information obtained from different sources corroborates these deficits (i.e., convergent validity). The determination that deficits exist/existed should be based on professional judgment that results from training and an extensive experiential background in working with individuals with mental retardation.

Adaptive Functioning: Findings From a Review of Documents and Individual Interviews

23. For the purposes of this report, various documents were reviewed and certain individuals were interviewed (as listed in paragraph 14) to obtain an assessment of Mr. Pizzuto's adaptive functioning.
24. General Functioning: A number of those persons who were interviewed expressed a concern that Mr. Pizzuto learned at a much slower rate than others of his age.
- His sister, Elsie Pizzuto Rado, noted that he was born with limited capacity. Others (Kismet Winslow, Monique Winslow Eska) thought he was slow. Kismet observed that he and his sister, Renee, were mentally very slow and that "their slowness made them stand out among their siblings."
 - According to Ruth Roath, Mr. Pizzuto was late in developing and "did not learn the basics of living."
 - Mr. Pizzuto was found to be immature by numerous people (Monique Winslow Eska, Gaye Momerak, Ron Dias).
 - A number of individuals (Elsie Pizzuto Rado, Ruth Roath, Kismet Winslow) noted that he needed supports in his life – in his early years, these were provided by his siblings.

25. Conceptual Adaptive Skills (includes areas such as language, reading, writing, money concepts, and self-direction):

- Communication [expressive, receptive, and pragmatic language]
 - Expressive Language:
 - Elsie Pizzuto Rado indicated that Mr. Pizzuto had a difficult time expressing his feelings and possessed a vocabulary that was limited to his experiences.
 - Ruth Roath noted that Mr. Pizzuto used baby language and did not have much of a vocabulary.
 - Monique Winslow Eska remembered that he told nonsensical stories – parts of which made some sense but other parts that did not.
 - Kismet Winslow remembered that he could not talk very well – taking a long time to get out his words - and preferred to point or gesture rather than voice his needs. She also noted that he had problems expressing himself when he was in stressful situations.
 - Receptive Language:
 - Elsie Pizzuto Rado remarked that you “had to talk down” to Mr. Pizzuto in order for him to understand what you were saying. She also indicated that he had trouble understanding humor at times.
 - Ruth Roath noted that you had to be very concrete when you spoke to him. She also thought that he had difficulty listening and was not able to follow directions.
 - Monique Winslow Eska stated that at times he had trouble understanding what was being said. [Return to Petition Page 8](#)
 - Pragmatic Language:
 - Ruth Roath noted that Mr. Pizzuto could not conduct a conversation of any substance with other people. She also remembered that he would smile at inappropriate times.
 - Monique Winslow Eska indicated that he couldn’t carry on a conversation of any length and that he never started a conversation.
- School Performance [ability to meet the content and performance standards of school]
 - The school records for Mr. Pizzuto were incomplete. A review of the available school documents provided indicates that Mr. Pizzuto demonstrated a consistent pattern of academic difficulty when he was in school. [Return to Petition Page 8](#)

- The affidavit of Elsie Pizzuto Rado, along with the interview information provided by Ruth Roath, clearly indicate that Mr. Pizzuto struggled in school.
- Ron Dias, a high school counselor, when referring to Mr. Pizzuto's school performance, remarked that he was "outgunned by his class peers."
- Mr. Pizzuto repeated a number of grade levels. The records clearly indicate that he repeated the 6th grade. The records also indicate that Mr. Pizzuto was 11 years old when he began the fifth grade at Stead Elementary—the typical student in fifth grade is 10 years old, thus suggesting that he had repeated an earlier grade as well. Elsie Pizzuto Rado corroborated this fact – indicating that she and Mr. Pizzuto, who was a year older than she was, were in the same 3rd grade class.
- The final report card at St. Ann's School - a school that served a large number of students who were at risk - suggested that Mr. Pizzuto be retained in 6th grade. Paul Ircink (Mr. Pizzuto's 6th grade teacher at Hamblen Elementary) remarked that "his [Mr. Pizzuto's] physical maturity caused him to stand out from his peers."
- The grade reports that were reviewed show low levels of performance – most of the grades he received were C's and D's (records from Stead Elementary, St. Ann Primary, Sacajawea Junior High, Glover Junior High, Zoe Barnum High School). According to Margaret Herzog, St. Ann's School rarely failed students and a grade of "C" at St. Ann's indicated a student was "really in the danger zone."
- Mr. Pizzuto received a "D" in English when he attended Zoe Barnum High School - according to William Matson, a school counselor at this school, "this is a significant mark because it was my experience while at Zoe Barnum that the school rarely gave a D grade to any student."
- His overall grade equivalent of 4.2 on the Stanford Achievement Test (SAT) [10/67] is below not only the national norm (5.1) but also the median for his class (4.7). His score is notable because, at the time, he was a year older than his classmates and those at the fifth grade level nationally.
- It is important to recognize what Paul Ircink opined in his affidavit: "Despite the fact that he was a couple of years older than the average 6th grade student, Jerry performed at the bottom of his class." He also remarked that "at 13 and 14 years of age Jerry was performing *average* and *below average* in a group of 11 and 12 year olds who were considered to be of lower intellectual ability."
- No school records indicate that Mr. Pizzuto was officially in special education. However, Ruth Roath (his aunt) and Paul Ircink (a former teacher) both thought that Mr. Pizzuto should have been in this type of educational setting. It is important to recognize that Mr. Pizzuto attended elementary school prior to the enactment and full implementation of the *Education of All Handicapped Children Act* (enacted in 1975 and now referred to as the *Individuals with*

[Return to
Petition Page 9](#)

Disabilities Education Act) that mandated a free, public education for all children who qualified for special education. Prior to this law, special education may not have been provided in some schools – as was the case in many of the schools (e.g., St. Ann and Hamblen) that Mr. Pizzuto attended. Furthermore, when special education was provided, services were typically limited in scope to those students with the most serious needs and few procedural safeguards were in place to ensure that appropriate identification and placement occurred. For example, Gaye Momerak stated she did not have the training to recognize students with special education needs.

- Elsie Pizzuto Rado noted that Mr. Pizzuto had great difficulty in completing his homework. Most of the time they were in the same class. Elsie would do her homework first and then do his. An [Return to Petition Page 9](#) example that she shared involved Mr. Pizzuto’s inability to use a dictionary to look up the meaning of words that were assigned – either she or his other younger sister, Angie, would have to do the work.

- Reading/Writing/Math Skills [ability to comprehend written text, write various types of documents, and perform everyday math activities]
 - Reading was a major problem for Mr. Pizzuto. Paul Ircink taught reading to students and indicated that Mr. Pizzuto was in the “low” group. Mr. Ircink also stated that he used a variety of techniques to help Mr. Pizzuto with his reading challenges such as oral discussion of the topics read, pairing struggling readers with students who were better readers, and differentiating assignments.
 - According to William Matson, Mr. Pizzuto did not pass the *Reading Equivalency Test* when he attended Zoe Barnum High School.
 - Elsie Pizzuto Rado remarked that Mr. Pizzuto never learned the concept of money. When going to the store, one of the younger sisters would have to handle the money transactions.
- Self-Direction
 - According to Paul Ircink, Mr. Pizzuto did not volunteer in his class when opportunities arose.
 - Mr. Pizzuto was assigned chores at home – e.g., taking out the garbage. According to Elsie Pizzuto Rado and Ruth Roath, he had trouble doing this chore – he could not tie the bag properly and had to be monitored by one of his younger sisters.
 - Elsie Pizzuto Rado believed that he would not have been able to identify his own strengths and weaknesses.
 - Ruth Roath noted that he did not have any drive or direction and always needed incentives.

26. Social Adaptive Skills (includes competence in the areas of social and leisure skills):

- Social Skills

- According to a number of individuals who knew Mr. Pizzuto (Paul Ircink, Monique Winslow Eska, Kismet Winslow), he was a quiet kid and kept to himself. Paul Ircink indicated that he did not bond with others. Monique remembered that he played by himself – always “outside” from others.
- Mr. Pizzuto was somewhat of a loner and more of a follower – he went along with what others wanted most of the time, according to Elsie Pizzuto Rado.
- Kismet Winslow noted that he was a “baby” among his siblings – even though he was older than most of them.
- As a youth, Mr. Pizzuto did not have friends. His teachers indicated that he did not have friends (Paul Ircink) and was not able to interact with his peers (Gaye Momerak). According to Ruth Roath, he did not have friends nor did he know how to maintain friendships. Elsie Pizzuto Rado did indicate that he had one friend who lived across the street from him when they lived in Spokane.
- Mr. Pizzuto could easily be taken advantage of, according to three of his relatives (Elsie Pizzuto Rado, Ruth Roath, and Monique Winslow Eska):
 - Elsie reported an incident when Mr. Pizzuto broke into a church and he got caught – the enticement was a bag of candy
 - His siblings could get Mr. Pizzuto into fights with others (Elsie)
 - His sister, Angie, could trick him into doing her work (Elsie)
 - Kids would talk him into letting them use his bike – they would then say he could get it back if he gave them cookies – it would happen repeatedly (Ruth)
 - He was considered a push over (Monique)
- Ruth Roath indicated that he was naïve – he would not understand what was going on around him.
- Mr. Pizzuto was not a youngster with a behavior problem – he did not get angry and did not fight in school. However, with his relatives, when he got angry, he would sometimes get physical (Ruth Roath).
- Elsie Pizzuto Rado mentioned that Mr. Pizzuto always thought he was stupid.

[Return to Petition](#)
[Page 9](#)

- Leisure Skills

- Elsie Pizzuto Rado recalled an instance where Mr. Pizzuto was trying to play the game “battleship” on paper – but, he could not learn how to plot the moves.
- Elsie Pizzuto Rado also noted that he was interested in painting; however, he could not learn how to paint-by-numbers – something that other kids his age were able to do.
- Elsie Pizzuto Rado also pointed out that he would play checkers but never had any strategy for winning – she noted he was never “kinged.”
- Mr. Pizzuto was interested in being a cub scout – however, as noted by Elsie Pizzuto Rado, he could not learn the cub scout oath.
- Ruth Roath indicated that he took a long time to learn how to do some activities when kids were playing.
- Monique Winslow Eska observed that he was not able to play group games appropriately – if he tried to play, he would play “rough” – not the way it was suppose to be played.
- Mr. Pizzuto was not allowed to ride his bike beyond a restricted area and was not allowed to go to the pool – his other siblings were allowed to ride their bikes in a more extended area and were able to go to the pool (Monique Winslow Eska).
- Kismet Winslow remarked that his “level of play was much lower than that of his age group” and that her children, who were younger than Mr. Pizzuto, were not able to relate to him – furthermore, he was not able to keep up with them.

27. Practical Adaptive Skills (includes areas such as self-care, home living, use of the community, health, safety, and work):

- Self-Care [includes competence in areas such as eating, bathing, grooming]

- According to Elsie Pizzuto Rado, Mr. Pizzuto would wear his clothes inside out. Ruth Roath noted that he wore his underwear backwards and did not know it.
- He put his shoes on the wrong feet (Ruth Roath). [Return to Petition Page 9](#)
- Mr. Pizzuto had problems with everyday hygiene. According to Elsie Pizzuto Rado, he would not bathe. Ruth Roath stated that he didn’t look clean. Kismet Winslow noted that he had poor hygiene and needed help with grooming.
- Ruth Roath observed that he didn’t care about the way that he looked – yet, his other siblings did.

[Return to Petition Page 10](#)

- Ruth Roath also indicated other atypical behaviors such as wetting his pants at school and eating dog biscuits. She also noted that he ate so fast that he would get sick.

[Return to Petition Page 10](#)

- Home Living

- Ruth Roath noted that he was not allowed to cook or prepare meals.
- Mr. Pizzuto had difficulty understanding how to clean, as evidenced when he and others were trying to wash a car. He took a hose and sprayed water inside the car (Ruth Roath).
- According to Elsie Pizzuto Rado, when the family lived on a farm, the siblings were allowed to drive a tractor but Mr. Pizzuto was not allowed to do so.
- Mr. Pizzuto was able to use tools, but someone had to be there with him (Elsie Pizzuto Rado).

- Health/Safety

- Elsie Pizzuto Rado provided a number of examples when Mr. Pizzuto displayed risky behavior that threatened his safety.
 - He put a knife into an electrical socket.
 - He put a finger into a light socket.
 - He jumped out of a tree onto a structure.
 - He would not test food to determine if it was too hot to eat.
- Both Elsie Pizzuto Rado and Ruth Roath noted that he would walk in the road without thinking – thereby putting himself in danger.

- Work: [includes paid/nonpaid work experiences and experiences that are work-related]

- When the family lived on a dairy farm, Elsie Pizzuto Rado recalled that he was not able to accurately throw the switches on the suction devices – even though others could do this.
- According to Elsie Pizzuto Rado, the siblings had a work group and would do odd-jobs in the neighborhood. However, specific directions always had to be given to Mr. Pizzuto and he had to be supervised with the tasks he was assigned.
- Ruth Roath noted that he had a temporary paper route. However, problems arose. He had trouble getting up on time and could not manage the money that he was given for subscriptions – he would spend it.

Summary of Mr. Pizzuto's Adaptive Functioning Based on Available Information

28. This section provides a discussion of the information/data that were available in regard to Mr. Pizzuto's levels of adaptive functioning.
29. School History: Mr. Pizzuto's school history and records provide a number of facts that contribute to an understanding of Mr. Pizzuto's levels of adaptive functioning.
- According to a number of sources, he encountered major struggles related to the academic demands of school throughout his time in school.
 - He was retained from moving on to the next grade level on a number of occasions and the 9th grade was his highest completed grade level.
 - Mr. Pizzuto's poor school performance is reflected in the grades that he received and in the test scores that are in his records.
30. Informal Assessment of Adaptive Functioning: Qualitative data that were generated from the interviews, provided by affidavits of individuals who knew Mr. Pizzuto when he was growing up, or obtained from school records substantiate the fact that Mr. Pizzuto had significant problems across the key adaptive skill areas: conceptual (especially in the areas of communication and functional academics); social; and practical. The information that was obtained indicates that Mr. Pizzuto's adaptive functioning deviates from what is expected of individuals of a similar age and background in a number of key areas. Ultimately, Mr. Pizzuto's deficits seem to have had a major impact on everyday functioning during the developmental period.
31. Need for Support: The need for external support in one's life is a major characteristic of individuals with limited ability to function successfully with everyday activities. Mr. Pizzuto needed substantial support in school (e.g., alternative assignments, homework assistance from his sister) and with everyday life activities (self-care needs).

Professional Opinion

32. Based on a review of the materials provided to me and on the interviews I was able to conduct with key individuals in his life, it is my professional opinion that Mr. Pizzuto demonstrated "significant" deficits in adaptive functioning. The information provided and reviewed shows that Mr. Pizzuto displayed problems in or limited ability to perform typical adaptive behaviors across the major areas of adaptive functioning. While I was not asked to proffer an opinion on whether Mr. Pizzuto meets all of the criteria required for a diagnosis of mental retardation, it is my opinion that Mr. Pizzuto meets the adaptive deficit prong of mental retardation.

Respectfully submitted,

Gerald Ross Pizzuto, Jr.

/s/

James R. Patton, Ed.D.

Endnotes:

1. Ellis, J. W. (2003). Mental retardation and the death penalty: A guide to legislative issues. *Mental and Physical Disability Law Reporter*, 27(1) 11-24.
2. The American Association on Intellectual and Developmental Disabilities (AAIDD) was formerly known as the American Association on Mental Retardation (AAMR). The 2002 manual of the AAMR [Luckasson, R. et al. (2002). *Mental retardation: Definition, classification, and systems of support (10th ed.)II*. Washington, DC: American Association on Mental Retardation] has been widely cited in *Atkins* cases.

In this report, reference will be made to the most recent edition of the manual: Schalock, R.L., Borthwick-Duffy, S. A., Bradley, V. J., Buntinx, W. H.E., Coulter, D. L. Craig, E. M. et al. (2010). *Intellectual disability: Definition, classification, and systems of supports (11th ed.)*. Washington, DC: American Association on Intellectual and Developmental Disabilities.

3. Schalock, R.L., Borthwick-Duffy, S. A., Bradley, V. J., Buntinx, W. H.E., Coulter, D. L. Craig, E. M. et al. (2010). *Intellectual disability: Definition, classification, and systems of supports (11th ed.)*. Washington, DC: American Association on Intellectual and Developmental Disabilities, p. 15.
4. American Psychiatric Association (2000). *Diagnostic and statistical manual of mental disorders (4th ed., Text revision)*. Washington: Author, p. 42.
5. Schalock, R.L., Borthwick-Duffy, S. A., Bradley, V. J., Buntinx, W. H.E., Coulter, D. L. Craig, E. M. et al. (2010). *Intellectual disability: Definition, classification, and systems of supports (11th ed.)*. Washington, DC: American Association on Intellectual and Developmental Disabilities, p. 1.
6. Luckasson, R. et al. (2002). *Mental retardation: Definition, classification, and systems of support (10th ed.)*. Washington, DC: American Association on Mental Retardation, pp. 73-74.
7. Schalock, R.L., Borthwick-Duffy, S. A., Bradley, V. J., Buntinx, W. H.E., Coulter, D. L. Craig, E. M. et al. (2010). *Intellectual disability: Definition, classification, and systems of supports (11th ed.)*. Washington, DC: American Association on Intellectual and Developmental Disabilities, p. 43.

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 27

(Affidavit of Paul L. Ircink)

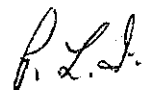
developer.

5. I was Jerry Pizzuto's 6th grade teacher (1969 - 1970 academic year) at Hamblen Elementary in Spokane, Washington.
6. The average 6th grade student was 11 and then 12 years of age during the academic year.
7. Having taught and known hundreds of children in my career in education, I specifically remember Jerry *Bartholomew* [identified to me as "Jerry Pizzuto"] because his physical maturity caused him to stand out from his peers. Jerry had a thin growth of hair on his upper lip, the beginnings of a mustache [Return to Petition Page 9](#)
8. There was an apparent age difference between Jerry and his classmates. Because Jerry appeared to be older I recall believing he must have been held back in school.
9. Hamblen Elementary did not departmentalize, meaning the sciences and so forth did not have their own departments and respective teachers. Sixth grade teachers were responsible for teaching their students the entire curriculum and thus, I taught all of the subjects to Jerry for which he received letter grades. I gave Jerry all of the letter grades for all of his classes.
10. Around the time Jerry was in attendance at Hamblen, the teacher to student ration was roughly 1:30.
11. Children with learning disabilities are undoubtedly at greater risk of going unnoticed with larger classes.
12. The Hamblen community was largely affluent. Jerry, however, lived in the section of the Hamblen school district limits that was of low socio-economic status.
13. Jerry arrived after the school year commenced, though still in the first out of four



academic quarters. Jerry was a loner. He did not seem to have friends among his classmates. Concerned for Jerry, I suggested to him that he get involved in after-school sports. Jerry replied that he could not participate because he had to get home.

14. Though parents were invited to meet with the teacher when report cards were administered at the end of each quarter, I never met Jerry's parents.
15. Paul divided his class into two groups: one for average to higher learning students and one for lower learning students. Jerry was placed in the lower learning group.
16. I have reviewed Jerry's report card for the academic year during which I taught Jerry, a copy of which is attached hereto, initialed and dated by me this date. The report card reflects the likelihood that Jerry was probably at the lower part of the low group.
17. When Jerry attended Hamblen, no programs for special education or for special needs students existed. The only separation of the students in regard to special needs was the result of my division of the into the two groups. Unlike the other school district in which I taught, the school district in which Hamblen School was located did not receive moneys to fund a special education. Based on Jerry's academic performance, I would have referred Jerry to such a program had one been available at Hamblen during Jerry's attendance. It is my opinion based upon Jerry's academic performance that Jerry would have qualified for special education. This opinion is further supported by Jerry's age of 13 and 14 in the sixth grade. Despite the fact that he was a couple of years older than the average 6th grade student, Jerry performed at the bottom of his class. [Return to Petition Page 9](#)
18. Labels such as mentally retarded were not utilized at this time within the Hamblen school, nor were they used at any teaching institution at which I was employed. You were special



ed or nothing, otherwise known as normal.

19. Jerry was graded in the following subjects: Reading, English, Spelling, Arithmetic, Social Studies, and Science. For each subject, Jerry received a letter grade for *comparative achievement* (A, B, C, D, or F,) and a numerical score for *personal achievement* (1, 2, or 3) (please refer to attached report card).
20. *Comparative achievement* was a way to grade performance against the students in the group to which you were assigned (i.e. the high learning group or the low learning group). Paul defined *personal achievement* as the extent to which a student put forth an effort to complete his or her school work.
21. Under each subject (e.g., Reading), spaces exist for the purpose of the teacher noting any strengths or weaknesses in particular subject areas. To have not received a mark means that the student was doing fine work, nothing remarkable of which to note. I would only mark a box in the cases of extremes. Thus, when Jerry received a minus sign, his respective performance was remarkably weak.
22. The *comparative achievement* scores that I gave Jerry were based on his performance compared to others in the low learning group, and not the entire class.
23. On the report card, Jerry's marks rose from a D in Spelling with a personal achievement score of 3 to a C in Spelling with a personal achievement score of 1. The latter of the two indicates that when performing at his personal best, or a scoring a 1, Jerry received no higher than a C. Translation: Jerry gave it his personal best and could only earn a grade of C. This highest mark for Jerry means that when compared to others in the low learning group, Jerry's performance in Spelling was *average* (see report card). Jerry's



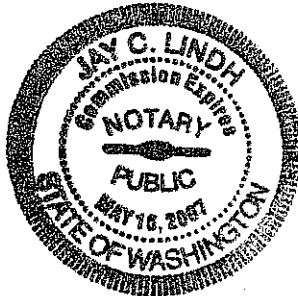
performance would have yielded an F, a failing grade, but for the fact that the group in which he was being compared was other low learning students.

24. The report card reveals that at 13 and 14 years of age, Jerry was performing *average* and *below average* in a group of 11 and 12 years olds who were considered to be of lower intellectual ability.
25. During the 2nd quarter, Jerry received a minus sign in arithmetic. There was a minus in the subcategory *computation*. There was no minus sign in the subcategory *reasoning* because the bulk of 6th grade math was computation and I would have been unlikely to measure *reasoning*. The absence of a mark beside *reasoning* does not mean that Jerry had even average reasoning abilities. If Paul did mark the *reasoning* box on another child's report card, it would have been a plus sign to indicate that a child had gone beyond that which was assigned to the class.

Dated this 28th day of May, 2004.

Paul L. Ircink
Paul L. Ircink

SUBSCRIBED AND SWORN TO before me this 28th day of May, 2004.



Jay C. Lindh
NOTARY PUBLIC FOR WASHINGTON
Residing at Deer Park
Commission expires : May 16, 2007

P.L.I.

Report to Parents

Grades 3-6

TO PARENTS AND GUARDIANS:

We of the schools share your concern for the growth and development of boys and girls. This common objective calls for our united efforts in developing a program of education to meet their needs.

In the interest of the child, home and school need to establish open lines of communication. Your child's school progress will be reported to you during the year on this report form and at a scheduled Parent-Teacher Conference. In turn you can benefit your child by sharing with the school information and suggestions regarding his progress and development.

This exchange of ideas and information permits us to plan together to meet best the educational needs of your child.

May we encourage you to visit school and discuss your child's progress with the teacher or principal. It is our sincere desire to establish a sound, productive working relationship between the school and the home.

Albert L. Ayars
Superintendent of Schools

or Guardian:

acknowledge the receipt of this card by signing your name

have any questions regarding the evaluation of your child's
ference with the teacher should be arranged.

Mr. [Signature]

Mr. M. Bartholomew

Mr. Bartholomew

Assignment for School Year 19 70 - 19 71 Grade 7

Mr. Paul L. Ircink
TEACHER'S SIGNATURE

NAME	Jerry Bartholomew		
SCHOOL	Hamblen	GRADE	6
		YEAR	69-70
TEACHER	Mr. Paul L. Ircink		
PRINCIPAL	Mr. S. Hineywell		

A.L.A.
5/28/04

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 28

(Affidavit of Margaret Herzog)

JOAN M. FISHER
Idaho State Bar No. 2854
Capital Habeas Unit
Federal Defenders of Eastern Washington & Idaho
201 North Main
Moscow ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

GERALD ROSS PIZZUTO, JR.)
)
 Petitioner,)
)
v.)
)
STATE OF IDAHO,)
)
 Respondent.)
_____)

CASE NO. _____

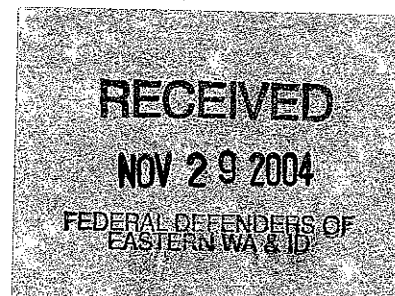
AFFIDAVIT OF MARGARET HERZOG

State of Washington)
): ss
County of Spokane)

I, Margaret Herzog, a person over eighteen years of age and competent to testify, mindful of the penalty of perjury and being duly sworn under oath, declare and affirm as follows:

1. I was the school principal at St. Ann's School in Spokane, Washington, a Catholic grammar school where Gerald Ross Pizzuto Jr. (hereinafter "Jerry") attended sixth grade during the academic year of 1968-69. I was a teacher for eight years before I became principal at St. Ann's in 1967. I was known as "Sister Margaret."

Affidavit of Margaret Herzog- 1



2. St. Ann's was a Catholic grammar school wholly funded by student tuition and monies from the Spokane Catholic Diocese, receiving no monetary assistance from the state of Washington. The school was located in the poorest of the poor neighborhoods in Spokane and had a standard tuition amount of \$50 per student per school year. I recall many families paying \$1 per month for each of their children to attend St. Ann's.
3. On July 15, 2003, I met with Rosanne Dapsauski, an investigator with the Capital Habeas Unit of the Federal Defenders of Eastern Washington and Idaho at my home in Spokane. At that meeting, Ms. Dapsauski provided Jerry's school photos and report cards during his time at St. Ann's.
4. I have reviewed Jerry's report card for the academic year during which he attended St. Ann's, and I have reviewed the photograph of Jerry from that same time period, copies of which are attached hereto, initialed and dated by me this date. I have no specific recollection of Jerry.
5. Mae Drury, who is now deceased, was Jerry's sixth grade teacher. I worked with Mrs. Drury during my tenure at St. Ann's. I fully respected Mrs. Drury as a teacher and I would never doubt any decision made by her. She was committed to helping students succeed, and it was her practice to help students in every way possible, including giving extra help to students during school hours and after school into the late afternoon.
6. St. Ann's School rarely failed a student; however, if a student was held back, the teacher felt that the student had not progressed sufficiently in their academic learning and needed to repeat the year. I can see that Jerry was retained by Mae Drury to repeat the sixth grade.

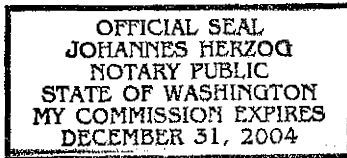
7. St. Ann's School had no special education programs. The school was severely underfunded, so there was no money or personnel to enable such programs to exist.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated this 25TH day of September, 2004.

Margaret Herzog
Margaret Herzog

SUBSCRIBED AND SWORN TO before me this 25th day of September, 2004.



Johannes Herzog
NOTARY PUBLIC FOR WASHINGTON
Residing at 345 E 129th Ave
Commission expires : Dec 31 2004

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 29

(Affidavit of Gaye W. Momerak)

Stead Elementary, I had been teaching since 1958. Stead Elementary was a school on a military base, until the base was closed and the housing was converted to low income housing that year. As a result, Stead Elementary had a huge influx of low-income students.

4. The academic year of 1967-68 was particularly challenging for me as a teacher. My class originally had 45-50 students. After an increase in staff, my class size was eventually reduced to 35-40 students. There were more behavior problems within the group of children at Stead than in groups I had formerly taught. The philosophy of the school principal, Ted Furchner, who had been at Stead Elementary while it was a military school, was to evaluate the overall performance of the school based solely on classroom decorum, not by the children's academic progress.
5. On April 9, 2004, I met with Amy Hurd, an investigator with the Capital Habeas Unit of the Federal Defenders of Eastern Washington and Idaho. Ms. Hurd showed me an aged photograph of a person approximately fourteen or fifteen years of age whom she identified as Jerry Pizzuto. I have reviewed the photograph of Jerry, a copy of which is attached hereto, initialed and dated by me this date. Ms. Hurd also provided a copy of Jerry's grades from the 1967-68 academic year. I have reviewed Jerry's report card, a copy of which is attached hereto, initialed and dated by me this date.
6. After reviewing the photograph, a fifth grade school portrait, I recalled specific memories of Jerry. I also remember that Jerry had a sister who was also in my class [Renee] but my memory of her is limited to her interaction with Jerry.
7. Jerry was admitted at Stead Elementary ten days after the academic year officially began.

in the Fall of 1967. At Stead, the student population changed frequently; it was common for children to come and go at different times during the academic year.

9. Jerry had no overt behavior problems which caused me concern or to contact the counselor or school psychologist. I remember Jerry as being an immature student. I remember Jerry lacked the ability to interact with his peers. My recollection is that Jerry did not have any friends. I recall his relationship with his sister, Renee. Jerry and Renee always seemed to be very protective of each other when they were in my class. Other than the relationship with his sister, Jerry did not associate with other classmates.
10. It became obvious to me that Jerry had been held back in school at least once. Jerry was older than the average fifth grade student, since Jerry was ages eleven and twelve during the school year, whereas most other fifth graders would have been ages ten and eleven.
11. In October of 1967, Jerry took the Standard Achievement Test. Jerry's score was a 4.2, indicating performance of someone at a fourth grade and two-month level. The national norm for this test was 5.1, indicating performance of someone at a fifth grade and one-month level. The class median for my fifth grade class at Stead was 4.7, indicating performance of someone at a fourth grade and seven-month level. At the time, I translated Jerry's score to mean that Jerry was performing a year behind where he should have been as a fifth grader. Given that Jerry was sixth grade age, he was even farther behind.
12. I have promoted students with low academic performance to the next grade level during my teaching career. For example, if a student was older and had already experienced being withheld from promotion to the next grade level, I would promote that student to

the next grade in an attempt to prevent the child from being further isolated from his/her peers. Most of Jerry's grades ranged from C- to D-. The report card reflects the likelihood that Jerry had received failing grades (F's), but I promoted him to the next grade level because he was already a year older than his classmates. [Return to Petition Page 9](#)

13. School counseling was rare at Stead Elementary. Only children with overt behavior problems were given specific counseling attention; that is to say, Jerry would not have received assistance for a learning disability if he did not act out in class.
14. Stead Elementary provided very few services for special needs children. I do not recall any of my students being removed from the class to receive special education assistance.
15. I had no formal education or instruction about identifying special needs children or learning disabilities. As a teacher, I felt if a child was trying his/her hardest, I would pass him/her on to the next grade level. Most concerns I had toward specific students during my teaching days were triggered by the student's overt behavioral problems; therefore, a student with disabilities could have gone through my class at Stead without having their specific disabilities recognized.
16. During the academic year of 1967-68, my large class, coupled with the strict military-style approach of teaching classes required by our school principal, did not allow me to pay particularly close attention to students on an individual basis. As such, I would not have perceived Jerry as worthy of extra attention, regardless of his apparent performance deficit.
17. The main focus at Stead was to educate and to get the children into the next grade no matter what. The emphasis was not to look at the students and their home environment.

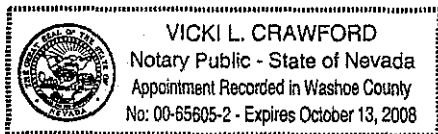
There was a "no nonsense" attitude about education – teachers just taught the class and did not become involved with the children's personal lives. In those days, teachers did not look at children in the same way teachers do now, in terms of looking for indications of abuse. Jerry could have been in an abusive home, but I would not have known. I sensed that something wasn't right with Jerry, there just wasn't anything I could do about it to help him.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated this 3rd day of ~~September~~ ^{December}, 2004.

Gaye W. Momerak
Gaye W. Momerak

SUBSCRIBED AND SWORN TO before me this 3rd day of ~~September~~ ^{December}, 2004.



Vicki L. Crawford
NOTARY PUBLIC FOR NEVADA
Residing at RENO NV
Commission expires: 10-13-08

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 30

(Affidavit of Kismet A. Winslow)

K. W.

JOAN M. FISHER
Idaho State Bar No. 2854
Capital Habeas Unit
Federal Defenders of Eastern Washington & Idaho
201 North Main
Moscow ID 83843
Telephone: 208-883-0180
Facsimile: 208-883-1472

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO**

GERALD ROSS PIZZUTO, JR.)
)
 Petitioner,)
)
 v.)
)
 STATE OF IDAHO,)
)
 Respondent.)
 _____)

CASE NO. _____

AFFIDAVIT OF KISMET A. WINSLOW

STATE OF OREGON)
) **: ss**
County of Curry)

I, Kismet A. Winslow, a person over eighteen years of age and competent to testify, mindful of the penalty of perjury and being duly sworn under oath, declare and affirm as follows:

1. I am currently a resident of Gold Beach, Oregon and am the maternal aunt of Gerald Ross Pizzuto Jr. [hereinafter, "Jerry"].

K.W.

2. I have known Jerry since he was very young child, between the approximate ages of five (5) to nine (9) years of age. Most of my interaction with Jerry occurred while visiting his family while he was in the first through fourth grades.
3. My husband and I would visit Jerry's family; the Pizzuto family did not come visit us.
4. Jerry was a thin and undersized child; he seemed physically immature for his age. Jerry walked with an odd gait, as he appeared to favor leaning to a particular side.
5. I remember Jerry experiencing narcolepsy as a child. Jerry shook frequently; he had tremors.
6. When visiting Jerry's family, I observed that Jerry and his sister Renee, both of whom were born prematurely, were mentally very slow. Their slowness made them stand out among their siblings. I think they were retarded.
7. Jerry could not talk very well; he would point or gesture rather than articulate his needs.
8. When experiencing any stress – be it positive or negative – or duress, Jerry would either become unable to speak or stutter in a high voice. He sometimes whimpered, making noises like little animals who were being abused.
9. Under normal circumstances, Jerry spoke slowly, taking an unusually long time to get his words out.
10. Both Jerry's stepfather and his siblings teased him about his stuttering and overall inability to communicate appropriately.

A. W.

11. Out of all the Pizzuto children, Jerry was teased the most because he was mentally slow. He was prone to accidents which resulted in injury and that would exacerbate the teasing.
12. Jerry was a nice boy, though he was extraordinarily timid; many things terrified him. Jerry's fear of so many things now reminds me of several adults with mental retardation whom I have met; they shared the same vulnerability to terror. What scared Jerry and these adults would not scare those with all of their wits about them.
13. Despite being close to Jerry's age, – in fact, two out of three were younger than he – my children would not play with him. Jerry's level of play was much lower than that of his age group. My children could not relate to Jerry, and he could not keep up with them. When the other children shunned him, Jerry would either sit alone or come crawl into my lap. [Return to Petition Page 9](#)
16. Jerry was the *baby* among his siblings despite his being the second oldest.
17. Jerry lagged behind his sisters, all of whom assisted him with his grooming and other daily activities such as eating, a task at which he was poor when left to his own devices.
18. I cannot recall Jerry ever being fully dressed. He would be without a shirt, a sock, a shoe, or some article of clothing. [Return to Petition Page 10](#)
19. Jerry had poor hygiene. I remember Jerry frequently having a dirty, runny nose that he consistently neglected. In fact, he did not even appear to be aware of the mucous that ran and caked down his face. [Return to Petition Page 9](#)

A.W

- 20. When I visited the Pizzuto family, Jerry's sisters told me that Jerry ate bugs on more than one occasion. He was particularly fond of ants, they told me.
- 21. Jerry's sisters spent a significant amount of time helping Jerry get along in the world, helping him to hide his inadequacies.

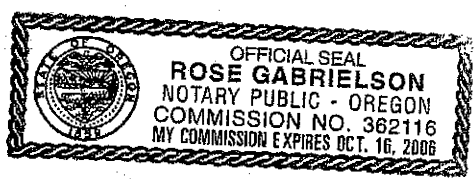
FURTHER YOUR AFFIANT SAYETH NOT.

Dated this 20th day of July, 2004.

Kismet A. Winslow

 Kismet A. Winslow

SUBSCRIBED AND SWORN TO before me this 20th day of July, 2004.



Rose Gabrielson

 NOTARY PUBLIC FOR OREGON
 Residing at
10-16-06
 Commission expires :

Gerald Ross Pizzuto, Jr.
Filed in Support of Application for
Clemency Hearing and Consideration

Exhibit 31

(Excerpt from testimony of Ruth Roath)

1 them by the sidewalk.

2 So we dug the appropriate -- each child
3 helped me dig. We got the water hose out. And
4 then I said, "Okay, we're going to put the plants
5 in the ground." And then I explained to them
6 my -- just to teach them something, you know,
7 "Photosynthesis will happen. The sun will come
8 down, and it will make the leaves spread, and it
9 will make it grow. And it will grow from the next
10 year, too."

11 And they all listened, and then we were
12 ready to go. And then Jerry ran in the house and
13 he came back out with marble, small marbles.

14 And I said, "What are you doing with
15 the marbles? We're planting."

16 He said, "Well, I want to make my
17 marbles grow."

18 I said, "They won't grow."

19 And he insisted, dug them in the dirt,
20 and poured them in.

21 And I said, "They just won't grow."

22 All the other children laughed at him.
23 I'm not sure if neighbor kids were there, but
24 generally, there was two boy neighbors hanging
25 around. Everybody laughed at him. But he didn't

1 seem to mind. He had it in his head that he was
2 going to make more marbles.

3 **Q.** What did Jerry look like at age 10,
4 when you were baby-sitting him?

5 **A.** He was thin. He did have a protruding
6 belly, thin arms and legs, a large head. His
7 mother always kept his hair -- every time I saw
8 him, it was very, very short, because he didn't
9 keep his appearance well. So, he looked like he
10 had a big head.

11 His eyes were a little wide apart, and
12 his mouth was always open with a gaping smile of
13 sorts, with the tongue hanging out.

14 **Q.** Other than the smile and the mouth,
15 what else do you remember about his mannerisms?

16 **A.** I just thought he was slow. He
17 was -- he was slow to grasp things. He was dirty,
18 no matter. I gave him a bath, but he -- if he was
19 engaged in something outside, he would mess his
20 pants and not say a word, and just walk around
21 that way.

22 And then I would catch him and see him,
23 or one of the other kids would tattle that he has
24 messed his pants. So he was just unkept. He was
25 not a child that you would want to hug a lot.

1 **Q.** What about the other Pizzuto children;
2 how was their personal hygiene compared to
3 Jerry's?

4 **A.** They were very normal. They all went
5 to the bathroom, even the littlest one, washed
6 their hands and, you know, kept their selves
7 clean, didn't like to be dirty. If they got soup
8 or something on them, they wanted to change.

9 But Jerry, but it didn't care to him
10 whether he was clean or dirty. It didn't seem to
11 make a difference.

12 **Q.** What was Jerry's interaction with his
13 siblings like?

14 **A.** Sometimes they were protective of him,
15 when they saw that he was going to be in danger
16 with -- with his parents. They told me that. But
17 a lot of times I could see they took advantage of
18 him. And they laughed. They thought it was funny
19 when he did bizarre activity.

20 And I would tell them, "That's not
21 right," you know. "This is your brother. You
22 shouldn't be laughing at your brother. You should
23 explain to your brother what he is doing wrong."

24 **Q.** When, in the time that you've known
25 Jerry Pizzuto, have you observed him with a paper

1 route? [Return to Petition Page 10](#)

2 **A.** It was during this time --

3 **Q.** Did you --

4 **A.** -- and he was -- I'm sorry?

5 **Q.** Did you observe the paper route
6 yourself, when he was visiting you or when you
7 were visiting them?

8 **A.** No. I actually did not see him doing a
9 paper route, but I --

10 **Q.** Okay.

11 **A.** -- heard about the paper route.

12 **Q.** Did you observe Jerry doing chores?

13 **A.** Yes. They all had chores, and they
14 knew what their chores were. They had a dog, a
15 large dog; and laundry and making the beds and
16 cleaning the bathroom.

17 They had strict rules of doing things,
18 and the mother told them what they should do while
19 she was gone, asked me to reinforce that.

20 And when I would try to have Jerry do
21 his chores, he didn't -- he couldn't complete them
22 with just one directive. He would get -- I would
23 say, "Go feed the dog."

24 He would go to the back pantry area,
25 get the bag of dog food, maybe got across the