

AFFIDAVIT OF DR. LYNNE ZAGER

Dr. Lynne Zager, being of lawful age, states the following:

1. I am an adult resident of Jackson, Madison County, Tennessee.
2. I am a clinical psychologist with experience in the forensic area.
3. I received my Bachelor of Arts degree from University of Tennessee-Knoxville in June 1976. I completed my Master's of Science and Doctoral work at Florida State University (FSU) in Tallahassee, FL (M.S. 1978; Ph.D. 1981).
4. My Pre-Doctoral Internship was accomplished at the University of Tennessee-Memphis Clinical Psychology Internship Consortium with funding through the Veteran's Administration Medical Center in Memphis TN. Although a year of Post-Doctoral supervision was not required at that time, I also elected to complete a year of Post-Doctoral supervision under the direction of John Hutson, Ph.D. from 1983 to 1984.
5. In 1983, I joined the staff at Midtown Mental Health Center (MMHC) in Memphis, TN. While there, I served as the Forensic Coordinator/Director from 1983 to 1988, and later as the Clinical Director of the agency from 1988 to 1998. I also have been an Assistant Clinical Professor and currently am an Associate Clinical Professor at the University of Tennessee-Memphis (the Medical School) in the Department of Psychiatry.
6. Until its closing in 2008, I served at MMHC as the Forensic Director, Midtown Counseling Center Director (a subsidiary of MMHC), and Director of Research and Development.
7. In addition to the above current responsibilities, I have maintained a private practice through Psychological Services since 1988 in my hometown of Jackson, Tennessee. I

have also been accepted as an expert witness in many civil, criminal and federal courts in Shelby County and throughout West Tennessee.

8. On October 22, 1985, as part of my responsibilities at MMHC, I evaluated Gaile Owens. The evaluation was court-ordered and was for the purpose of determining competency and mental condition at the time of the offense. I was not told prior to my evaluation of Ms. Owens that any question had been raised relating to battered women's syndrome. However, during my evaluation, Ms. Owens disclosed significant information about her relationship with her husband, including affairs, sexual humiliation and overall mistreatment of her, along with the impact his behavior had on her psychologically. Ms. Owens indicated she was depressed, insecure, fearful of him, and could not cope. Ms. Owens was fearful because her husband told her that if she asked for a divorce, he would take custody of the children and keep them from her. It was my impression Ms. Owens was a battered woman and that she could have attempted to assert that she had battered women's syndrome to explain her behavior at the time of the offense.

9. Battered women's syndrome is about power and control. It is a pattern of assaultive and coercive behavior, including psychological, sexual, and physical abuse. The syndrome is characterized by dominance and control exerted by the husband over the wife, leading to increasing entrapment of the wife, or what is often called "learned helplessness." A woman suffers from "learned helplessness" where the repetition of the cycle of violence over time linked to the undermining of a woman's self-belief, create a situation where the woman feels trapped in a miserable and often dangerous situation. A cluster of symptoms develop in the woman as a result and are used to identify a battered women's syndrome. These symptoms include: low self-esteem, self-blame, anxiety, depression, fear, suspiciousness and loss of belief in the possibility of change. At the time of my evaluation of Ms. Owens, she exhibited these

symptoms, including low self-esteem, anxiety, depression, and fear. In addition, she described the controlling and belittling behavior of her husband towards her.

10. Although Ms. Owens did not tell me that her husband physically and sexually abused her, her failure to reveal this information was not atypical. In fact, it is very normal for a woman who is abused by her husband to hide the abuse. Often, abused women, especially those who are married to their abusers, blame themselves for the abuse, believing that the violence is their fault. In addition, abused women also fear retaliation from their abusers if they tell. I am not at all surprised that Ms. Owens had not told anyone about her husband's physical, sexual, and psychological abuse or infidelity prior to her husband's murder.

11. Ms. Owens's attorneys never attempted to contact me to discuss my evaluation of Ms. Owens or to get my notes or any records I had relating to Ms. Owens. As a result, I never had the chance to tell them about my belief that Ms. Owens had been abused and was suffering from battered women's syndrome at the time of the offense. I did not relay this information to the Court as it was not responsive to the Court's order that I simply provide my opinion to the Court regarding Ms. Owens's competency and mental condition at the time. I recommended she be considered competent and I did not have sufficient data to make a recommendation regarding her mental condition at the time of the offense. However, based on all information available to me at this time, I do believe that the assertion of battered women's syndrome was warranted in her case.

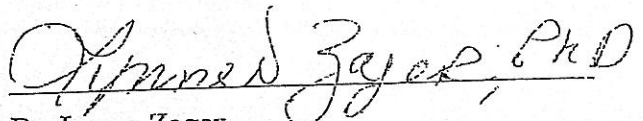
12. A letter in my file reflects that on November 15, 1985, I informed the Court that it was my opinion that Ms. Owens was competent to stand trial. Also, in my letter, I indicated that I had not been able to evaluate Ms. Owens's sanity at the time of the offense because Ms. Owens

was uncomfortable discussing the specifics of the crime until she had the chance to talk to one of her attorneys. I tried on several occasions to speak with her about the facts of the crime but she indicated she had not yet been able to speak with her attorneys. It was quite easy for me to meet with her because MMHC was provided office space in the Medical Department located in the Shelby County Jail at that time. As a result, an appointment was not necessary for the forensic team to continue the evaluation of Ms. Owens.

13. I read the Sixth Circuit Court of Appeals' opinion in Ms. Owens's case dated December 9, 2008. I was very disappointed to see that the opinion characterized Ms. Owens as "uncooperative" in relationship to my evaluation of her. The forensic team, including myself, did not perceive Ms. Owens to be uncooperative at all. Instead, as I stated in paragraph 8 above, Ms. Owens provided me with very personal and significant information relating to her unhappy marriage, her husband's affairs, and her depression and desperation in the months and years prior to the offense. Ms. Owens simply wanted to speak with her attorneys before discussing the specifics of the crime.

I declare, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Further affiant sayeth not.


Dr. Lynne Zager

Dated this 14th day of July, 2009.

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

sworn to and subscribed
before me on this the

