## APPENDIX D TO STEPHEN WEST'S RESPONSE TO STATE'S MOTION TO SET EXECUTION DATE

REPORT OF WILLIAM D. KENNER, M.D. DATED 5/17/10

## STATE OF TENNESSEE

## COUNTY OF DAVIDSON

Before me, the undersigned authority, personally appeared WILLIAM D.

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KENNER, M.D., who upon oath deposes and says:

- 1. My name is William D. Kenner, M.D. I am a physician licensed to practice in the State of Tennessee with specialty training in psychiatry, child psychiatry, and psychoanalysis. I maintain an office and private practice in Nashville, Tennessee, specializing in Child and Adult Psychiatry/Psychoanalysis. I have been qualified as an expert in psychiatry in State and Federal courts in Tennessee and many other states. My Curriculum Vitae has been previously provided to this Court and is attached to this Affidavit.
- 2. At the request of Attorney Stephen Ferrell, I have reviewed medical records compiled by medical personnel working on behalf of the Tennessee Department of Corrections. These records pertain to the treatment of Stephen Michael West, an inmate at Riverbend Correctional Institution in Nashville, Tennessee and are as recent as April, 2010. Although not the focus of this Affidavit, I have also reviewed mental health reports prepared by mental health experts and presented at various stages of post-trial litigation.
- 3. Doctors, working on behalf of the prison, have examined Mr. West and diagnosed him as suffering from a variety of mental illnesses. In March, 2001, prison staff expressed concerns about the state of Mr. West's mental health. Molly O' Toole, M.D. initially diagnosed him with major depressive disorder with psychotic features, and over the next five years his modifiers have ranged from moderate to severe. On September 12, 2001, Mr. West was experiencing auditory hallucinations, and Nurse Gilchrist wrote that Mr. West thinks "people are whispering about me ... mumbling and whispering in his 'head only when I'm around others." His affective diagnosis of major depressive disorder with psychotic features remained from 2001 to 2006.
- 4. In 2006, Ana Maria Sarasti, M.D. changed his diagnosis to "chronic paranoid schizophrenia." Dr. Sarasti described that Mr. West presented with "anxiety, depression and auditory hallucinations," and several months later, Dr. Renee L. Glenn, described that her patient "feels sad 'all the time'" in addition to "feeling paranoid."
- 5. In 2008, after a careful chart review, Susan O'Connor, M.D. changed Mr. West's diagnosis once again to schizoaffective disorder. In reviewing West's progress notes and evaluations, Dr. O'Connor saw that her patient has had both symptoms of schizophrenia, delusions and hallucinations, and those of a bipolar type 1 disorder, mania and depression.

- 6. Major depressive disorder with psychotic features, as diagnosed by Dr. O' Toole, is characterized by a disturbance of mood and loss of interest or pleasure in everyday activities. Symptoms may also include weight loss or gain, sleep disturbance, fatigue, inability to concentrate, feelings of worthlessness, thoughts or attempts of suicide. This disorder is not directly caused by a general medical condition or the use of substances, including prescription medications. The severity of these symptoms can range from mild to severe, with Mr. West experiencing moderate to severe symptoms.
- 7. Chronic paranoid schizophrenia, as diagnosed by Dr. Sarasti, is diagnosed in individuals who first qualify for the schizophrenic label and then have symptoms that put them into the paranoid subgroup. Schizophrenia is a group of psychotic disorders characterized by disturbances in thought, perception, affect, behavior, and communication that last longer than 6 months. Symptoms include delusions, hallucinations, disorganized or incoherent speech, severely disorganized or catatonic behavior. The paranoid type indicates Mr. West was preoccupied with threatening auditory hallucinations; as documented by the prison medical staff.
- 8. Current findings in schizophrenia research suggest that some prenatal or obstetrical insult damages the brain that then develops normally until the neuronal pruning process of adolescence occurs.<sup>1</sup> When that happens, particularly to genetically vulnerable individuals, normal brain development goes off its rails in adolescence such that by the end of adolescence, schizophrenic brains have decreased volume compared to healthy brains. As Paul J. Harrison wrote in *New Oxford Textbook of Psychiatry* (2003) about the structural changes in the brains of schizophrenic patients:

Despite the many uncertainties, there are now established facts about the neurobiology of schizophrenia. There is ventricular enlargement and decreased brain volume. Although the cellular correlates remain poorly understood, they involve the size, density, and organization of neurons and their synaptic connection. In vivo studies show differences in cerebral metabolism and other parameters of cerebral function, with a pattern indicative of aberrant connectivity between brain areas. (p 610)

9. To shed light on how the brain disorder is experienced by someone suffering with this severe mental illness, we can turn to a noted legal scholar, who has struggled with schizophrenia since her late adolescence. Professor Elyn R. Saks (University of Southern California Gould School of Law, San Diego) in her autobiography

<sup>&</sup>lt;sup>1</sup> Bloom, FE. Advancing a neurodevelopmental basis for schizophrenia. *Archives of General Psychiatry*. 1993;50(3):224-227.

The Center Cannot Hold, My Journey Through Madness (2007) described how her paranoia began, as her thoughts became frightening and disjointed:

Once, there'd been a time in my life when thoughts were something to be welcomed, and pored over, like pages in a favorite book. Just to idly think about things—the weather, the future, the subject of a paper I needed to write for a class, the friend I was going to meet for a cup of coffee—these things felt so simple, so taken-for-granted. But now thoughts crashed into my mind like a fusillade of rocks someone (or something) was hurtling at me—fierce, angry, jagged around the edges, and uncontrollable. I could not bear them, I did not know how to defend myself against them, and I could not bear to be near anyone when I was experiencing them. "You are a piece of shit. You don't deserve to be around people. You are nothing. Other people will see this. They will hate you. They will hate you and try to hurt you. They can hurt you. They are powerful. You are weak. You are nothing." (p. 83)

- 10. To understand Mr. West's latest diagnosis, schizoaffective disorder, it helps to picture someone with the disordered brain and symptoms of schizophrenia, hallucinations and delusions, at the same time he is riding the rollercoaster of bipolar disorder. Dr. O'Connor took a careful history from Mr. West that traced his auditory hallucinations at least to his adolescence. If those symptoms did start at that time, then that timing would fit with the usual onset of his illness, and his severe mental illness would have started years before his capital offense. In my opinion as a practicing psychiatrist, schizoaffective disorder is a severe mental illness.
- 11. In his years between adolescence and his incarceration, Stephen West's schizophrenic process had been hidden behind his self-medication with alcohol and marijuana. The confusion in his diagnosis and delay in recognition of his schizoaffective illness is also typical for both schizoaffective and bipolar disorders. Even in the free world, a decade often passes before an individual's manic symptoms will be recognized. If Dr. O'Connor had not done a careful chart review, Mr. West might still not be on mood stabilizing drugs.
- 12. In an attempt to control his severe mental illness, doctors working on behalf of the prison, have prescribed Mr. West a number of psychotropic medications. Beginning in 2001 and continuing to the present, Mr. West has been prescribed a number of different antidepressant and antipsychotic medications at normally prescribed levels that are used to treat severe mental illnesses. Those agents have included Haldol and Thorazine, both old line, or first generation, antipsychotic drugs, which have been described as "chemical straightjackets," not drugs to take

for the fun of it.<sup>2</sup> As of April 5, 2010, he was taking 900 mg of Thorazine daily. This is a very high dose of Thorazine. The impact and side effects of those two drugs are so unpleasant that less sick individuals and those faking mental illness will refuse to take them. Stephen West's antidepressant medications have included Paxil, Pamelor, Effexor, Trazodone (a sedating antidepressant used as much to induce sleep as to improve mood), and Wellbutrin. After Dr. O'Connor diagnosed him with the combined illness of schizoaffective disorder, she stopped his first generation antipsychotic and started him on a second generation or atypical antipsychotic, Respirdol that has significant mood stabilizing effects as well. Although the exact medication has varied, since 2001, Mr. West has been continually taking some form of medication to treat his severe mental illness, including antipsychotics.

- 13. Under the prevailing standard of care and the black box warnings in the *Physician's Desk Reference* or *PDR*, no psychiatrist should prescribe these antipsychotic medications unless the treating physician sincerely believes that the patient is indeed suffering from a severe mental illness.
- The records show no indications that prison doctors believe that Mr. West is, in 14. any way, malingering or "faking" the severity of his mental illness. If a doctor were to suspect malingering, the doctor typically indicates that in the patient's medical records. Mr. West has seen many mental health professionals in the prison, and if he were thought to be faking, then observations to that effect would appear in his medical records.

FURTHER AFFIANT SAYETH NOT.

William D. Kenner, M.J.

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NOTARY

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Sworn to and subscribed before me this **[]** day of May, 2010.

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<sup>&</sup>lt;sup>2</sup> Lahti AC, Weiler MA, Medoff DR, Tamminga CA, Holcomb HH. Functional effects of single dose first- and second-generation antipsychotic administration in subjects with schizophrenia. Psychiatry Research: Neuroimaging. 2005;139(1):19-30.

## ATY COMMISSION EXPRES: September 25, 2010 Notary Public

My Commission Expires: \_\_\_\_\_