

AFFIDAVIT

STATE OF TEXAS

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COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public, on this 23 day of Oct., 2003, personally appeared DR. EDWIN JOHNSTONE, who being sworn by me on his oath, deposed, and said the following:

It is my professional opinion that the drug Paxil prescribed to Barton Gainer induced in him an abnormal mental state characterized by a loss of concern over the consequences of his behavior, and by an associated defect in his capacity to exercise his usual degree of judgment.

In my opinion, the disinhibition played a significant role in his choosing to engage in criminal actions despite the consequences for his victims, his family, and himself. In my opinion, the same suspension of ability to appreciate the consequences of his choices more likely than not would have compromised his ability to fully appreciate the consequences of pleading guilty to the criminal charges. In other words, the

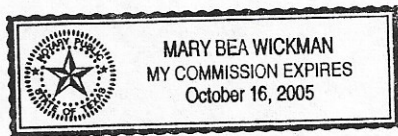
effects of Paxil, in my opinion, diminished
his competence to enter a guilty plea.

Edwin Johnstone

DR. EDWIN JOHNSTONE
2323 South Shepherd Drive
Houston, Texas 77019

SWORN TO AND SUBSCRIBED BEFORE ME, this 22 day of
Oct, 2003 to which witness my hand and seal of office.

Mary Bea Wickman
Notary Public, State of Texas



It is my professional opinion that the drug Paxil prescribed to Barton Gaines induced in him an abnormal mental state characterized by a loss of concern over the consequences of his behavior, and by an associated defect in his capacity to exercise his unusual degree of judgment. In my opinion, the disinhibition played a significant role in his choosing to engage in criminal actions despite the consequences for his victims, his family, and himself. In my opinion, the same suspension of ability to appreciate the consequences of his choices more likely than not would have compromised his ability to fully appreciate the consequences of pleading guilty to the criminal charges. In other words, the effects of Paxil, in my opinion, disinhibited his competence to enter a guilty plea.