

WESTFALL ★ PLATT ★ CUTRER
ATTORNEYS & COUNSELORS

GREG WESTFALL
BOARD CERTIFIED - CRIMINAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

910 MAULEY TOWER
ONE SEVENTH AVENUE
FORT WORTH, TEXAS 76102
TELEPHONE 817-677-1790
FAX 817-677-1710
westfall@wpo-lawfirm.com

March 4, 2002

Mary Connell, Ed.D.
100 E. 15th St.
Fort Worth, Texas 76102

Re: My Client: Barton Ray Gaines

Dear Dr. Connell:

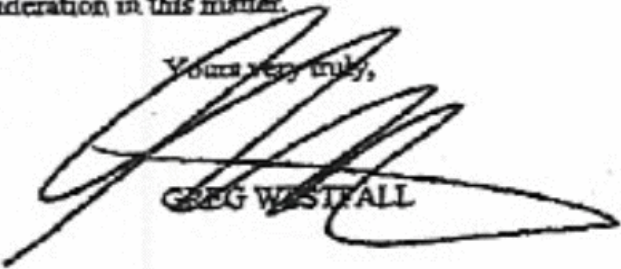
This letter will serve as our Employment and Agency Agreement whereby you are being employed as a consultant and agent for me in my representation of Barton Ray Gaines. As such, you will be exposed to confidential facts and information as well as confidential and privileged communications between me and my client.

By your approval of this Agreement, any information or facts that you receive as my agent and consultant will be the work product of the attorney and will be subject to the attorney/client privilege existing between me and my client. All facts that come to your knowledge by reason of this employment are within the attorney/client privilege and will be protected by said privilege and shall be kept confidential and not be disclosed.

You are requested to send billing statements to me at the above address, and I will promptly remit payment from my trust account. If this Agreement meets with your approval, please sign in the appropriate space below and return the original to me.

Thank you for your consideration in this matter.

Yours very truly,


GREG WESTFALL

APPROVED AND AGREED TO:


Mary Connell, Ed.D.

Ex 1.

104

Mary A. Connell, Ed.D., ABPP
Board Certified in Forensic Psychology

100 East 15th Street, Suite 635
Fort Worth, TX 76102-6566
(817) 334-0035 fax (817) 334-0297
email mconnell@child-custody.com

Greg Westfall, Attorney at Law
910 Mallick Tower
One Summit Avenue
Fort Worth Texas 76102

Billing For: Gaines, Barton

Date	Activity	Amount	Balance
05/01/02	Balance forward		0.00
05/02/02	Telephone Consultation, Greg Westfall	17.00	17.00
05/02/02	Document Review, Probation Records	100.00	117.00
05/02/02	Telephone Consultation, Ms. Adams	67.00	184.00
05/02/02	Telephone Consultation, Paula Thomas	34.00	218.00
05/03/02	Interview & Testing, Barton Gaines	550.00	768.00
05/04/02	Visit with Melissa & Cory Adams	350.00	1,118.00
05/06/02	Scoring & Interpretation	100.00	1,218.00
05/09/02	Document Review, letters	300.00	1,518.00
05/09/02	Telephone Consultation, Greg Westfall	50.00	1,568.00

Amount Due \$1,568.00

Texas Psychologist License Number 22010-HSP
Social Security Number 494-56-8753

Thank you.

Mary A. Connell, Ed.D., ABPP
Board Certified in Forensic Psychology

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Greg Westfall, Attorney at Law
910 Mallick Tower
One Summit Avenue
Fort Worth Texas 76102

Billing For: Gaines, Barton

Date	Activity	Amount	Balance
03/31/02	Balance forward		1,118.00
04/10/02	PMT - Greg Westfall, Attorney	-1,118.00	0.00

Amount Due \$0.00

Texas Psychologist License Number 22010-HSP
Social Security Number 494-56-8753

Thank you.

January, '02

- End of December, Bart gets a job he likes.
- Bart is working.
- Bart is coming home & staying home.
- Bart is making his own lunch.

124

Bart is:

- Shy, retiring.
- Very modest.
- Soft spoken.
- Gullible.
- Low average IQ (80s).
- Learning disabled, dyslexic.
 - Drops out of high school in ninth grade.
- Severely ADD/ADHD.
 - Never treated.
- Drug problems since age 13.
 - Primarily marijuana.

125

• Didn't care
NOT NORMAL FOR HIM TO BE
SHY OR INDIFFERENT

Bart Begins Using Paxil

- Bart is not on Cory's insurance because he is over 18.
- Missy is trying to get TRC to pay for the prescription.
- In mean time, she starts giving Bart Cory's Paxil.
- She starts him on Paxil about the first of February.
- He takes it every morning without fail.

125

December, '01

- Bart is having trouble holding a job and parents and grandmother worried about him.
- They take him to Texas Rehabilitation Commission.
- One psych (Ph.D) diagnoses as ADD/ADHD.
- Another psych (D.O.) diagnoses depression and prescribes Paxil.
- Doctors do not confer.

126

Saturday, Feb. 16

- Bart is obsessing about breaking up with his girlfriend, Tiffany.
- Bart's legs are bouncing.
- Bart is pulling on his hair.
- Bart is asking his mother to check him for STDs.
- Bart is talking faster than normal.

8

Paxil (paroxetine)

- Selective Serotonin Reuptake Inhibitor (SSRI).
- Changes chemical structure of brain.
- Serotonin is a "neurotransmitter".
- A "neurotransmitter" facilitates the electrical impulses in the brain.
- Paxil increases the available amount of serotonin, thus increases the number of electrical impulses in the brain.
- SSRIs are riskier for people with ADD/ADHD.

6

Sunday, Feb. 17

- Bart shows up at church where Tiffany and her aunt are.
- Bart is fidgeting, his legs are bouncing.
- Bart is whispering loudly and won't shut up and has to leave.
- Bart washes his truck at least three times.
- Bart cleans the garage and porch.
- Bart alternates between vigorously lifting weights and watching TV until he goes to bed.

9

February, 2002: Bart Begins to Change

- First week of February: Bart breaks up with Tiffany.
- February 14, 2002
 - Bart has a date.
 - Seems nervous.
 - Missy attributes it to being nervous and happy about the date.
- February 15, 2002
 - Bart goes to bank and consolidates loans.
 - He seems happier than normal, but Missy attributes it to feeling good about getting his finances in order.

7

Monday, Feb. 18

- Bart goes to work.
- Bart goes to Discount Tire buy rims and is turned down for credit.
- Bart comes home.
- Bart alternates between weights and TV.
- Bart goes to bed (works out).

130

Tuesday, Feb. 19

- Bart goes to work.
- Bart goes to Discount Tire to buy rims and is turned down for credit.
- Bart comes home.
- Bart alternates between weights and TV.
- Bart goes to bed (works out).

131

Thursday, Feb. 21

- Bart shoots Andrew Horvath and Michael Williams during a drug transaction.

134

Wednesday, Feb. 20

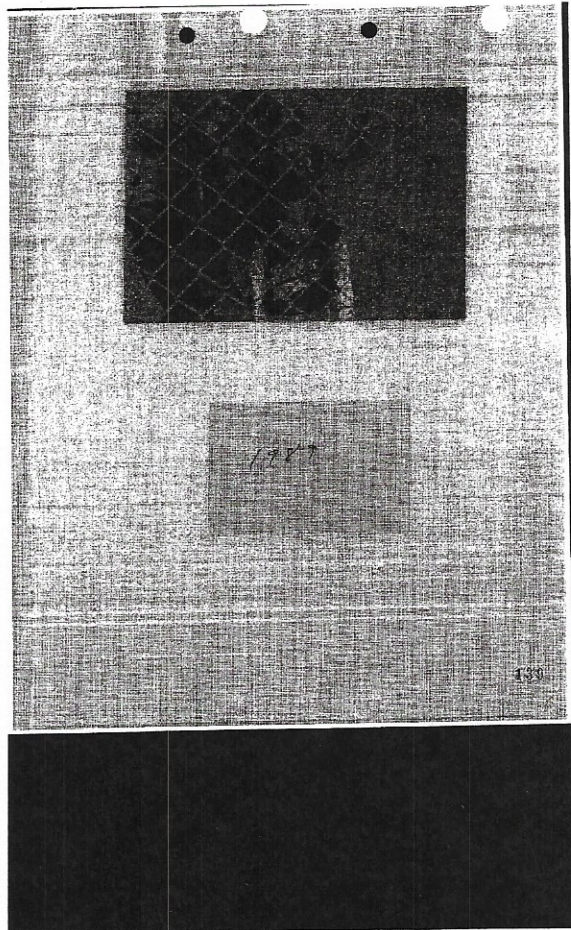
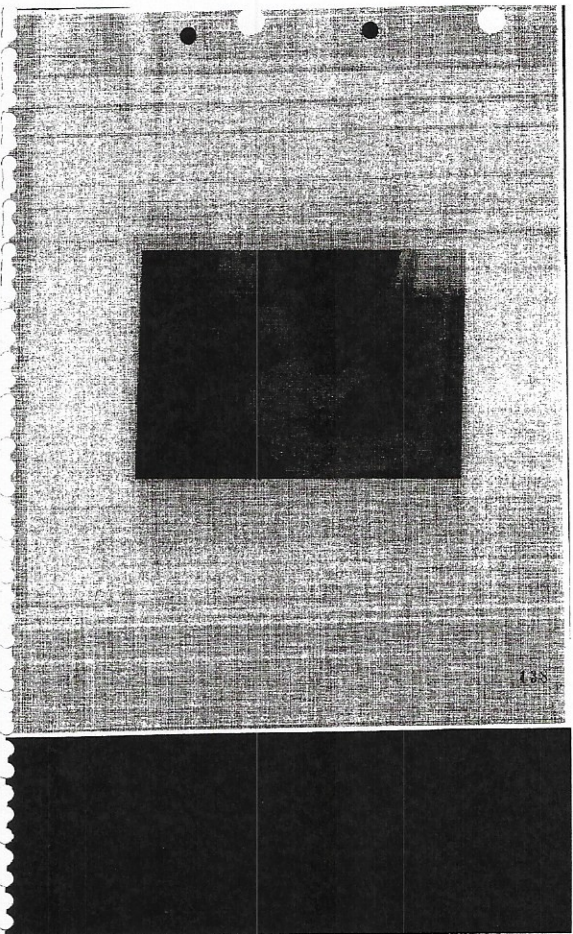
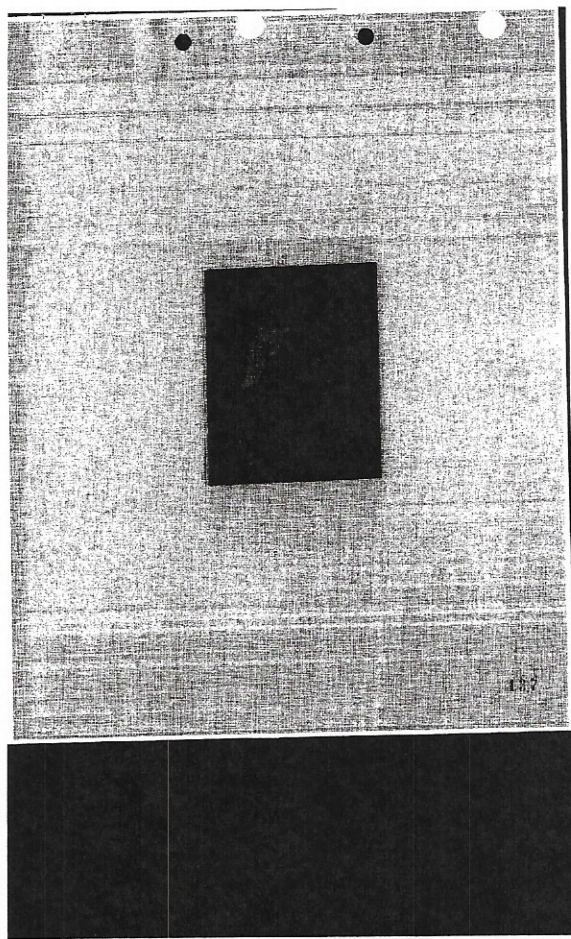
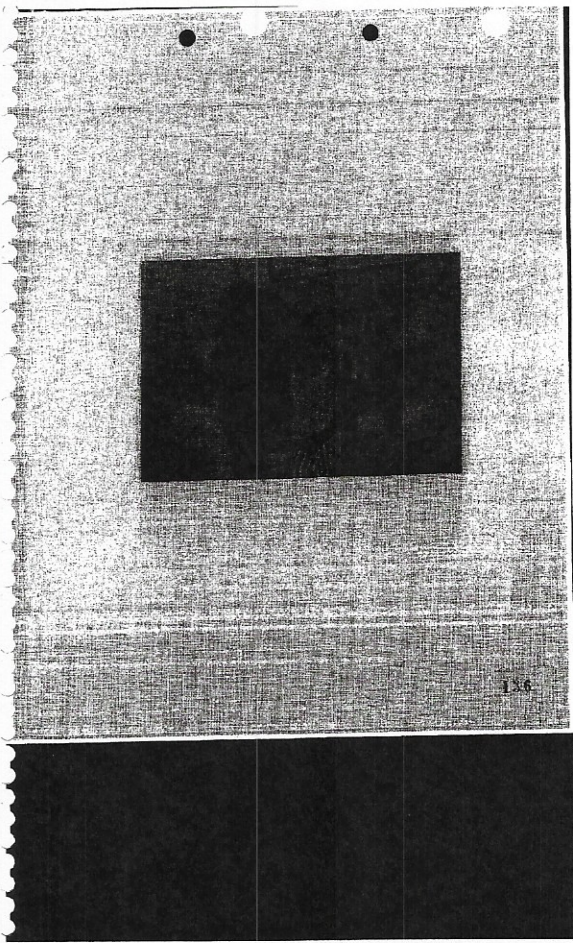
- Bart goes to work.
- Bart goes to Discount Tire to buy rims and is turned down for credit.
- Bart comes home.
- Bart alternates between weights and TV.
- Bart goes to bed (works out).
- This is last time Missy and Cory see Bart until Saturday morning.

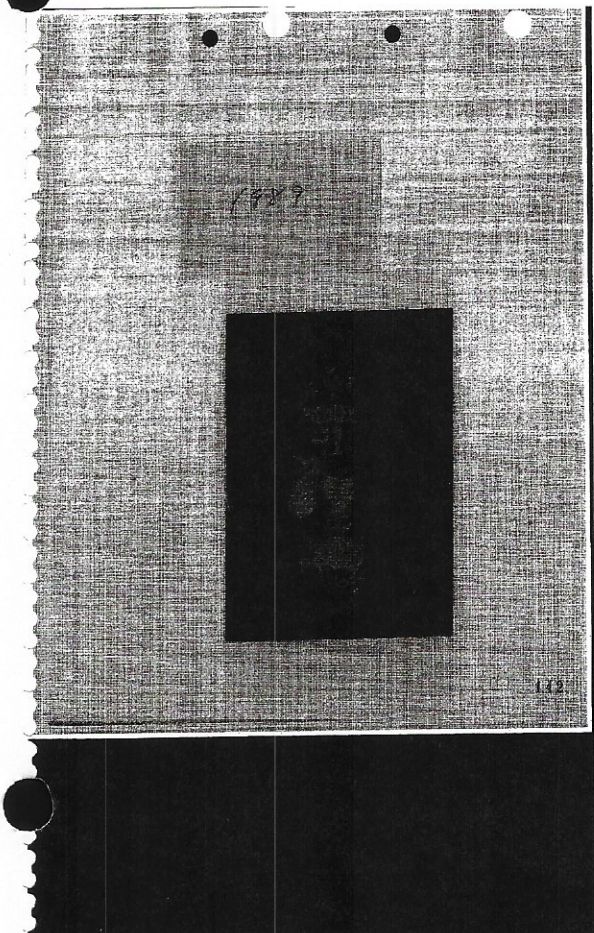
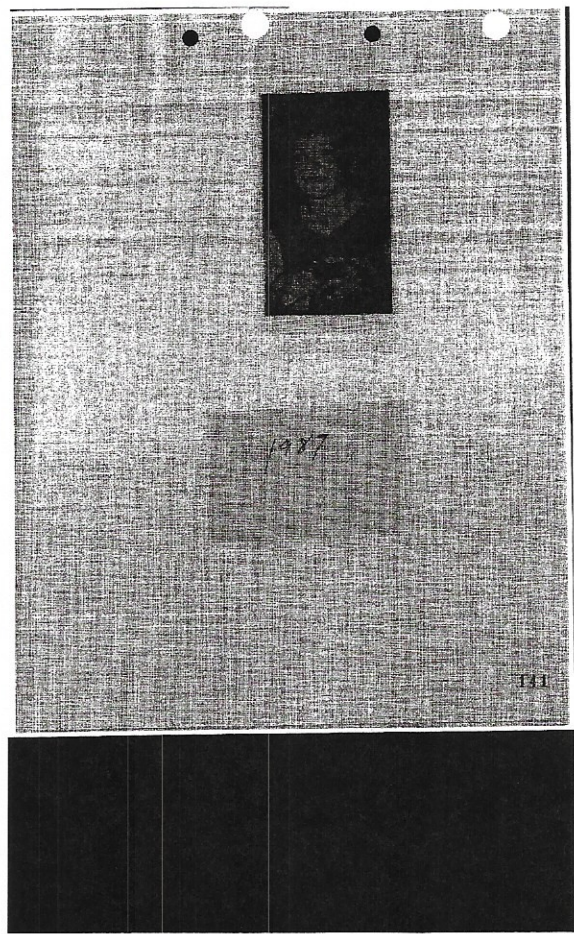
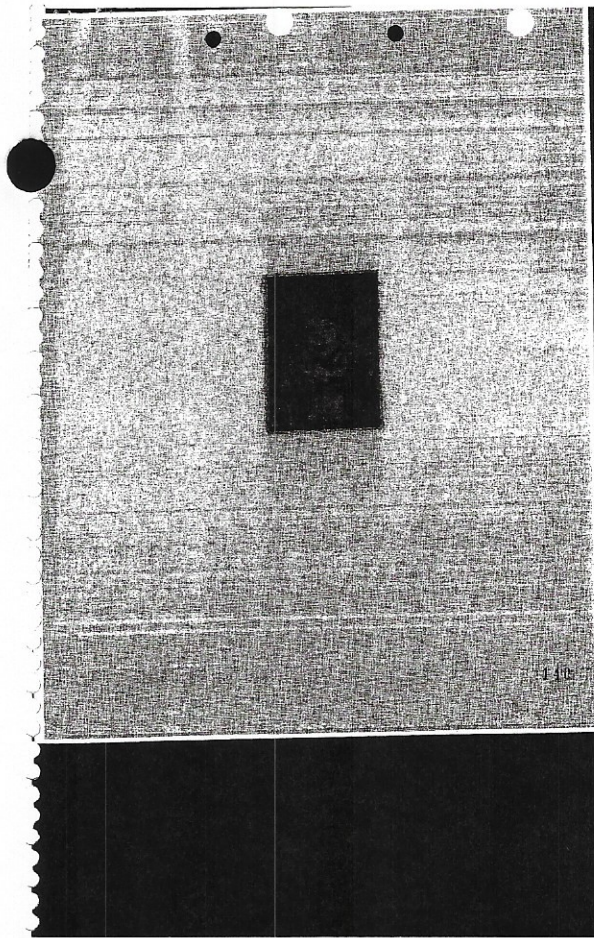
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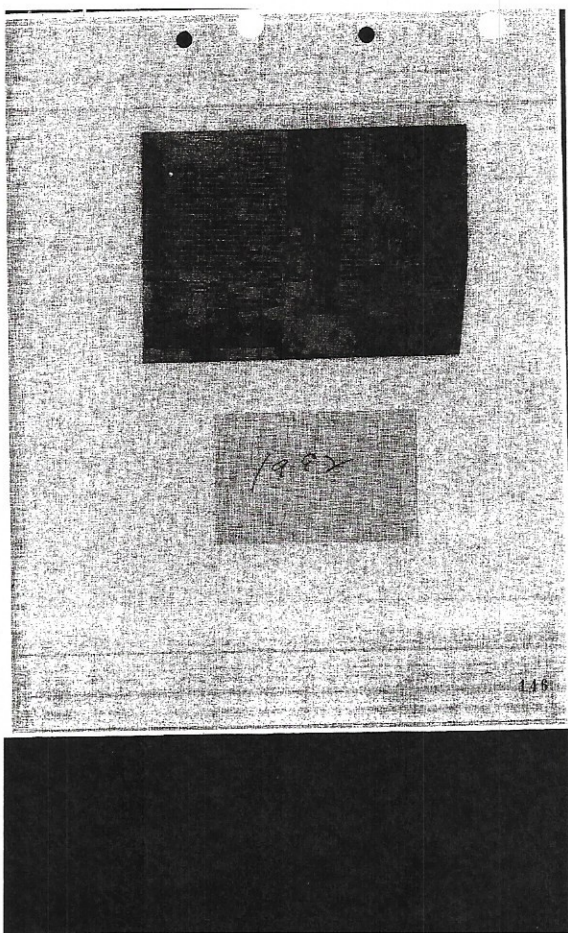
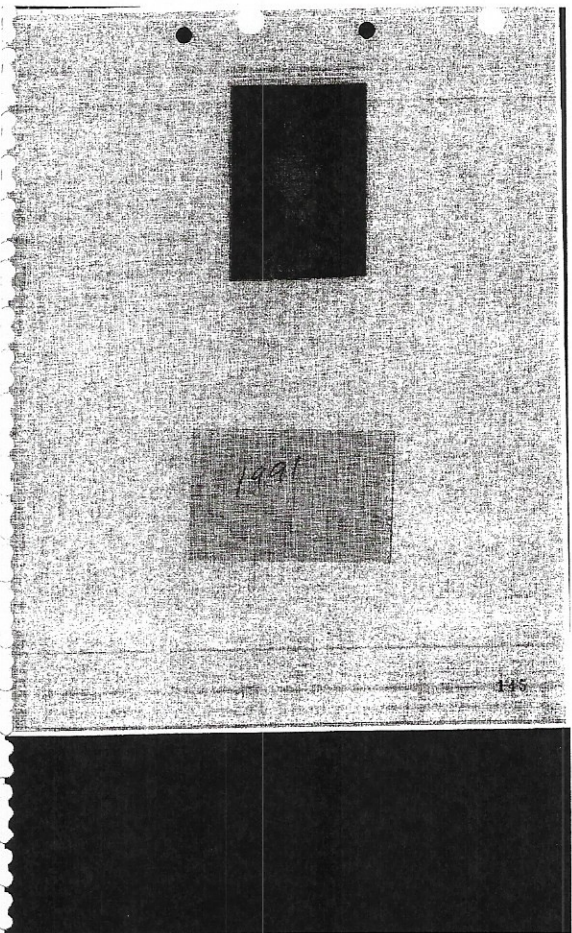
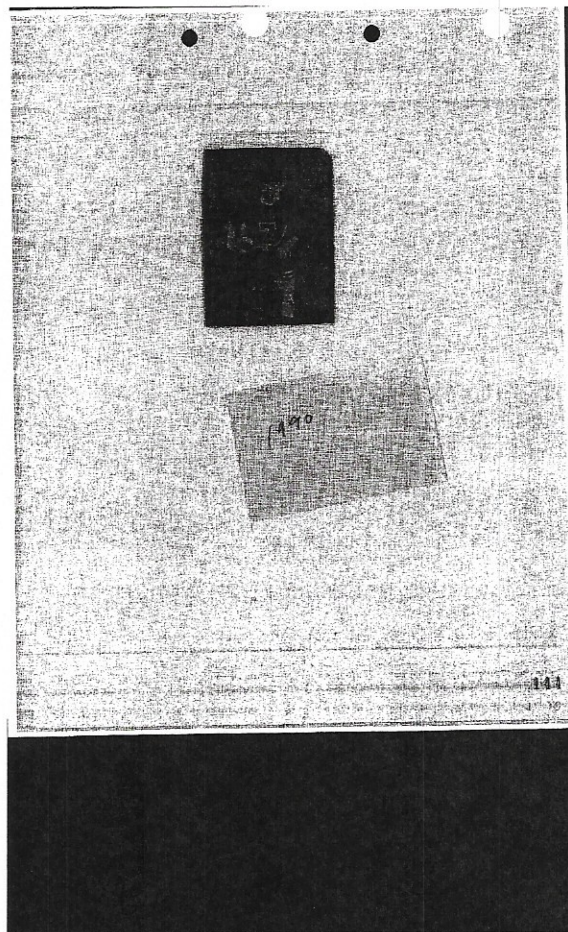
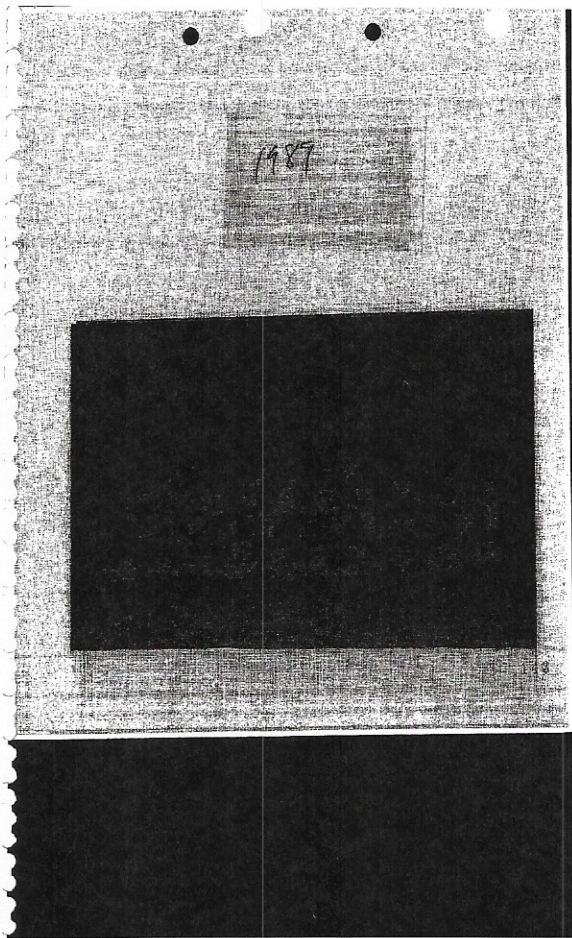
Bart's Demeanor by Wednesday

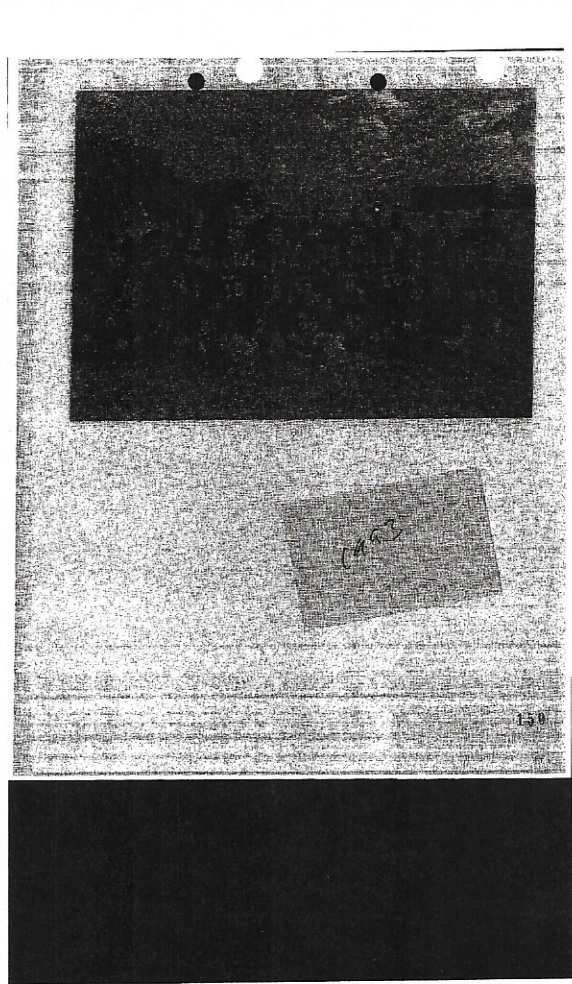
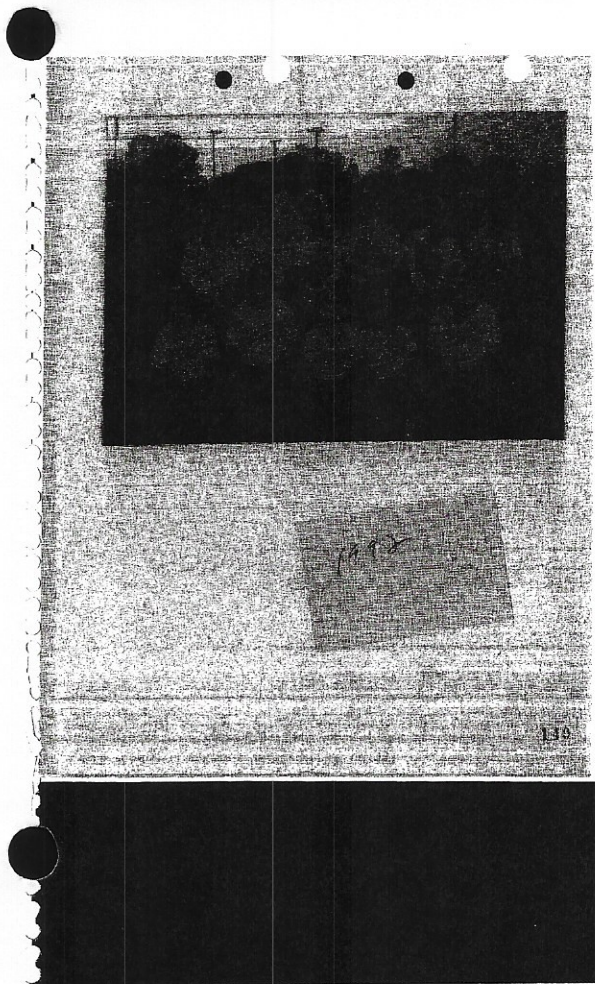
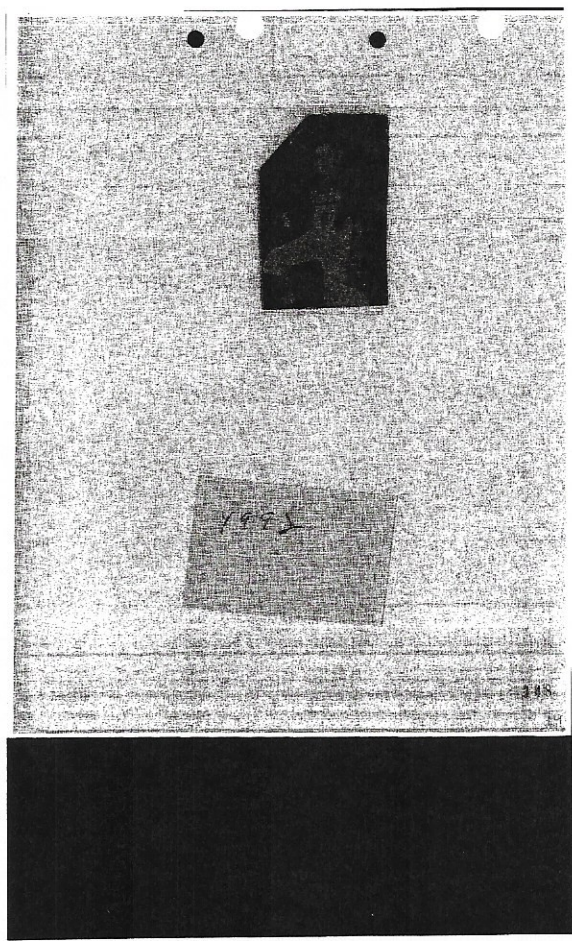
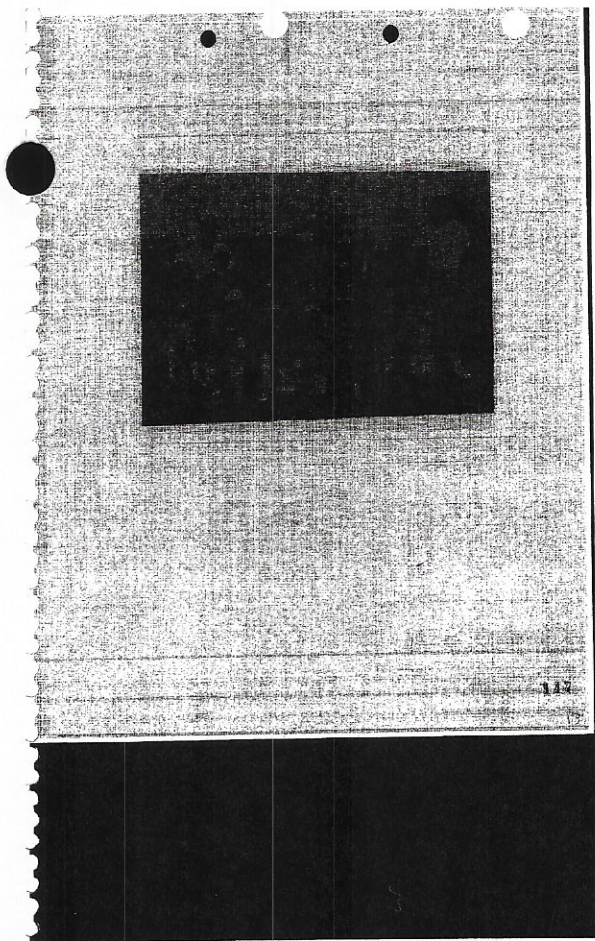
- Speech is very loud.
- Speech is very fast.
- Speech is slurred.
- Grandiose.
- Fidgety.
- Profane.
- Eyes like saucers.

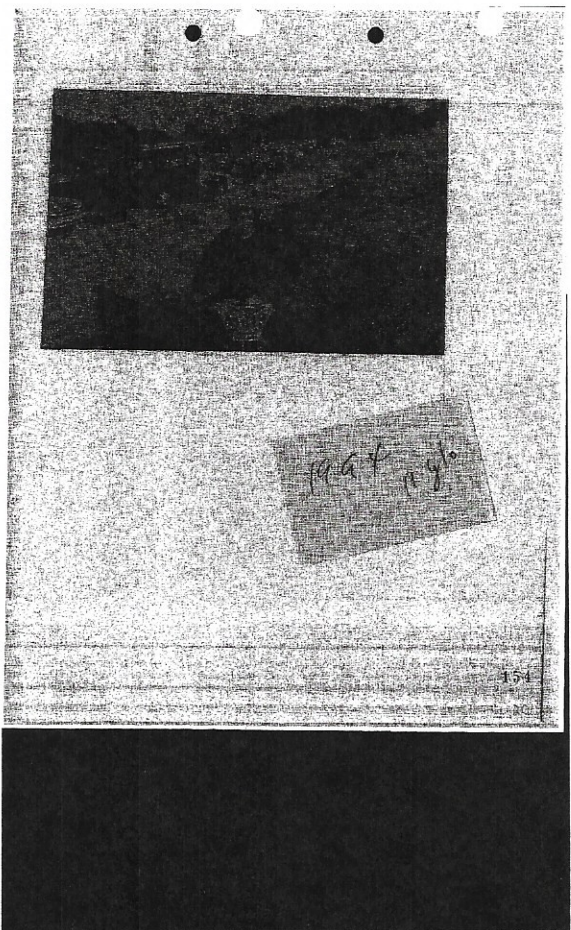
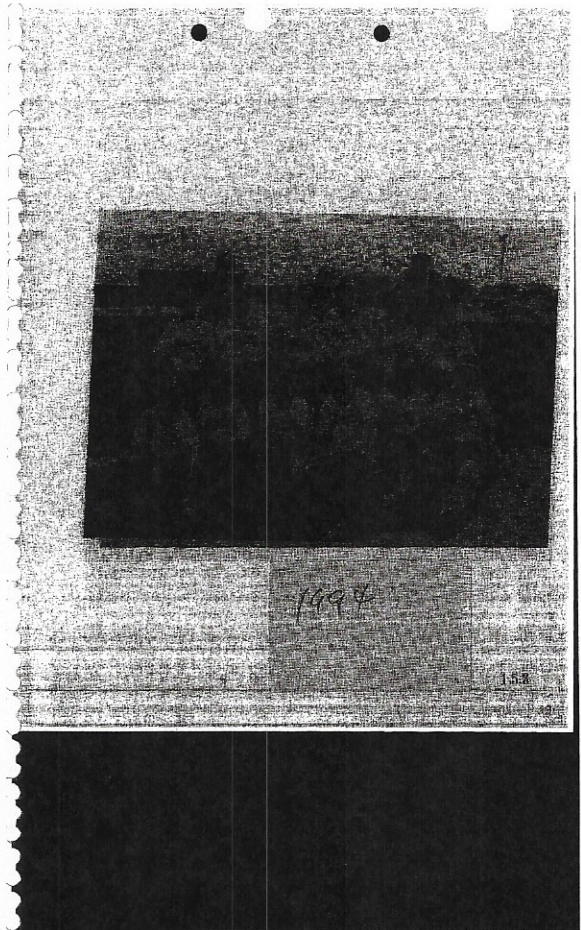
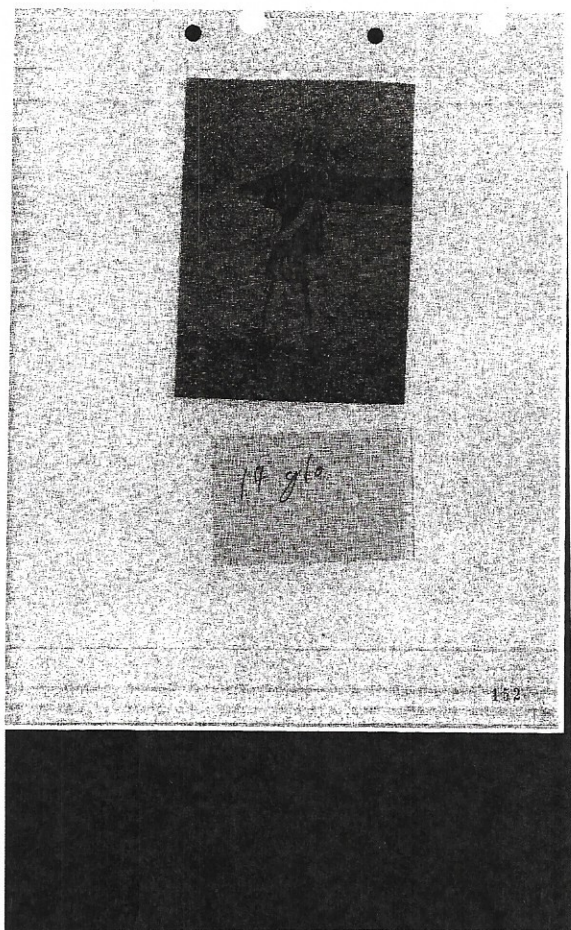
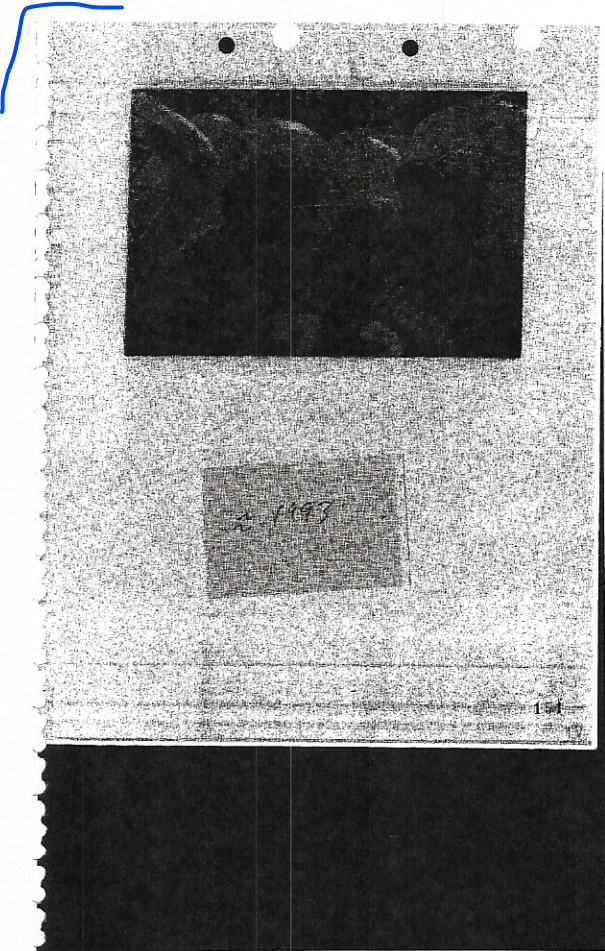
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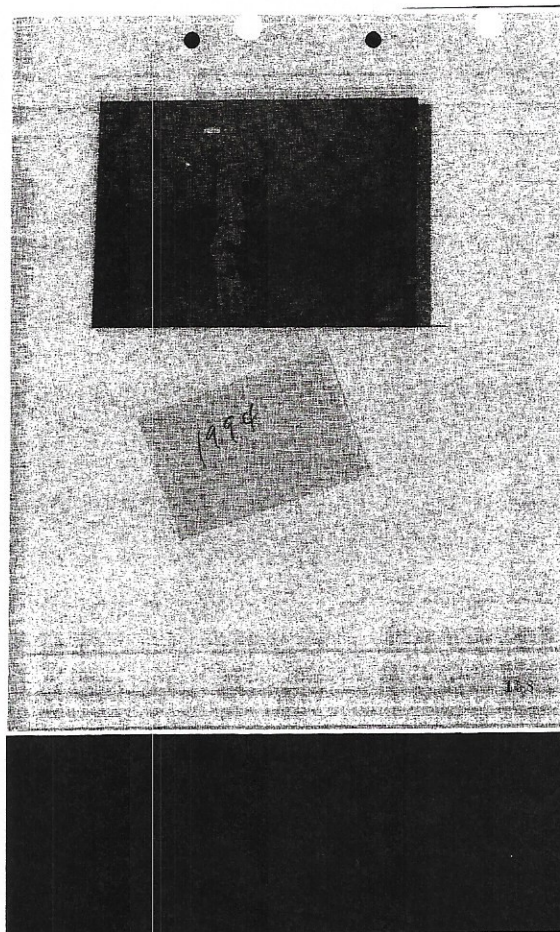
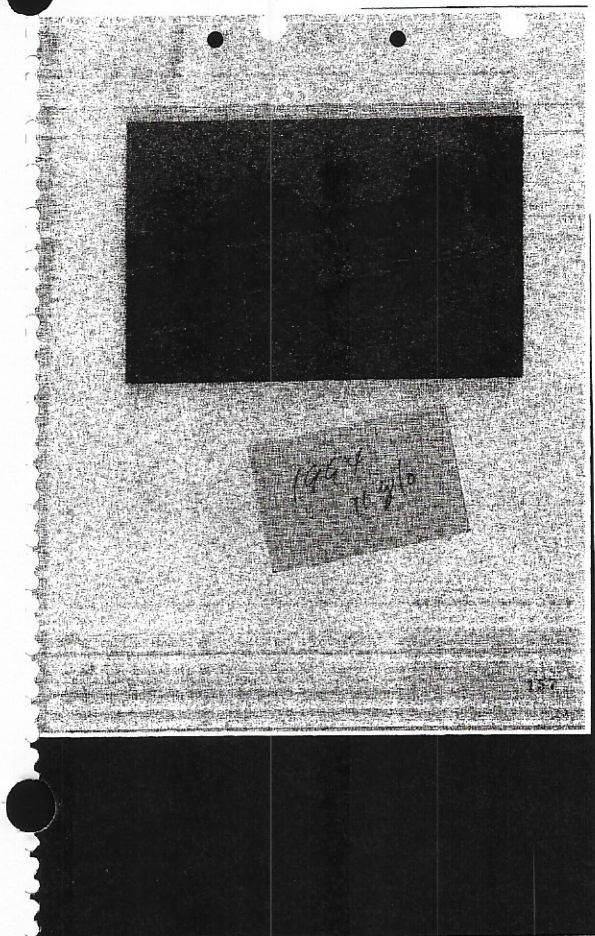
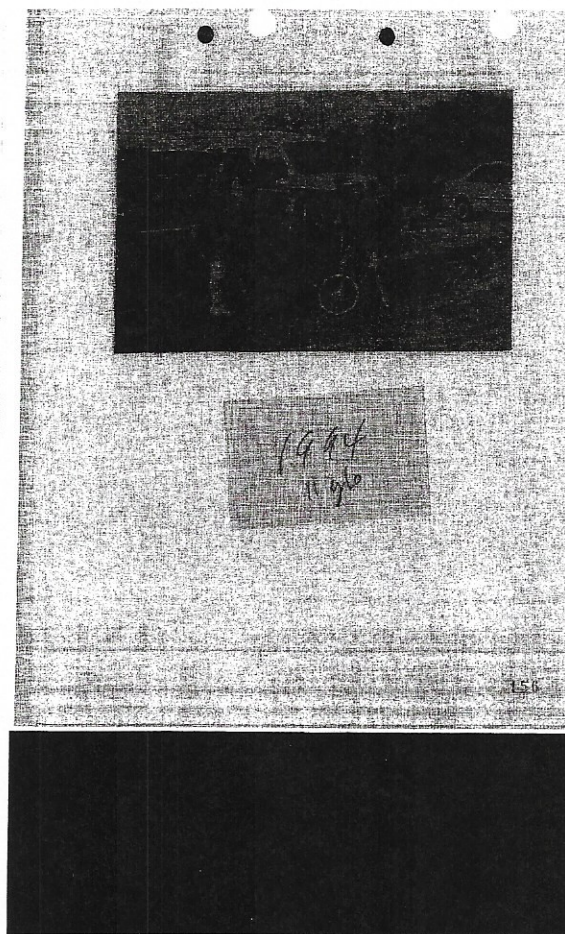
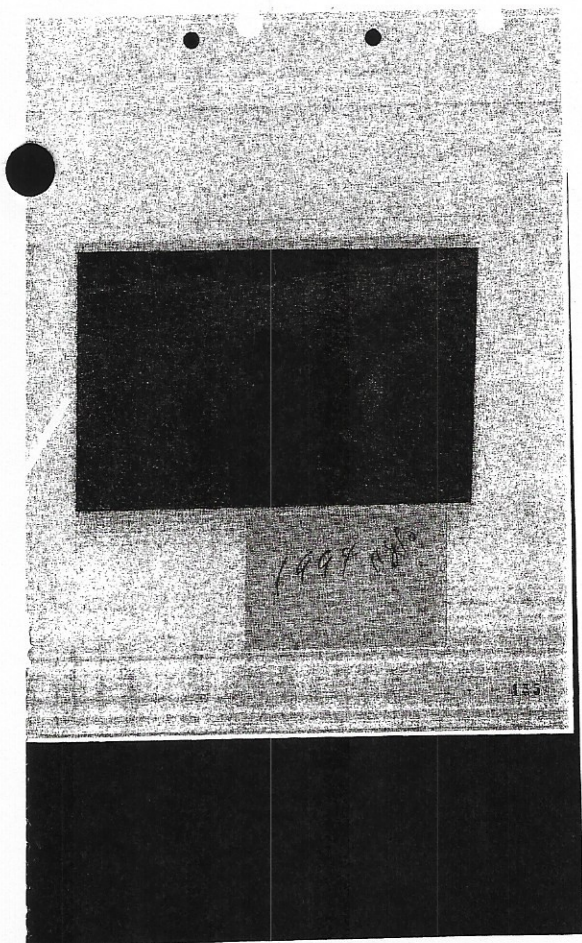


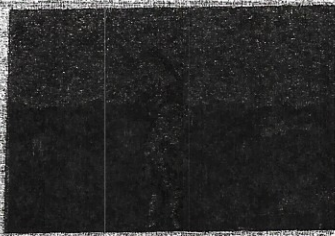




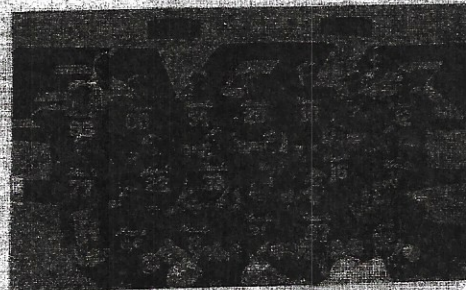








139



140



141

Missy

- ① Where born?
- ② Where grew up?
- ③ Tell about parents
 - Gail
 - Dad
 - Dads

* molestation

* moved out + married young

- ④ Barton Ray Gainer, Sr.
 - relationships

- ⑤ Barton Ray Gainer, Jr.

- how old were you when Bart was born? Ex 6
- what was Bart like?
- how did his father react?

162

⑥ End of marriage to Bert, Sr.

- circumstances

⑦ Bert, Sr. is killed

11-6-84

- circumstances

- Bert is 2 yrs old

⑧ 2nd Husband - Robert Hayton

- How old are you?

- How old is Bert?

*What is a normal day like
for you and Bert at the time?

⑨ Boyfriend: Dean Kolb

- what was he like?

- get drunk & beat her

- how old is Bert while
this is happening?

163

- continues to see Dean even
through next marriage to
Terry Stephens

- would take Bert with her
to Dean's house

⑩ Bert is often-times left at
Caili & Dalia's house.

⑪ Bert is 4 & starts to change

- up to now, what was Bert
like?

- at about 4, what changed?

- compulsively washed hands

- compulsively cleaned

- later, used screw
drivers cutlery

- drugs & scared

164

⑫ Bert starts school at 7 years old

- she is married to Terry
Stephens

*What is an average day
like at the time?

2nd - Terry, Missy & Bert live in
a trailer in Henderson

- she continues to mess around
with Dean

- Terry knows it

- Bert knows it

- Bert is 6 years old

165

⑬ 1991-1992 - Missy & Terry's marriage fails

- Bert is in 3rd grade at
Westcreek Elementary in Ft. Worth

3rd grade

- 1st semester, 1991

- 2nd semester, 1992

- Meadowcreek in CISD

*Teacher compliments?

~~that~~
CISD committee has to hold
Bert back in 3rd grade

Meadowcreek
- Fall, 1992 - Jackie Carlson
(1st 1/2)

- Bess Rouse
(2nd 1/2)

3 schools in 1 semester

6 residences in 2 years

166

(14) 8-15-92 Missy + Cory
are married

10-25-92 Bart turns 10

* tell us about an average day
during this time?

(15) Calls From Teachers

"What are they saying?"

newly * What is Bart like?

- Bart is 10

- Bart is in 4th grade

- it is 1993

167

(16) 10-25-96 Bart turns 13

- 13th year in Bart's life

- He starts getting into
drugs

- 2-10-96 Doc Meador is
arrested for child molestation

- Missy 1st applies for
Bart to be in special
education

(17) Bart's special ed

- dummy down his work

- would get frustrated
+ cry

168

(18) 1997 - Bart is 14
(10-25-96)

- Jimmy Ganes commits suicide

- Bart is in 8th grade

- ~~Meador is still~~

- starts dating Tiffany

- withdrawn from class
+ sent to Stepping Stone
School

↓
What happened there?

WHAT IS BART LIKE??

169

(19) Bart's drug problem

- what's Bart like?

- Excel Center

- Missy kicks him out

* Daniel Clark kills himself

* Bart quits school

* Bart OBs a Klonopin

* Missy + Cory give up adoption
of foster children

(20) What is wrong with Bart?

- Dr. Healy

- Dr. Chantry

- Excel Center

170

very tired
disorder
for people
to people

- ① Background / experience
- ② Parents - data relied upon
- ③ Hired + how much
- ④ Talk about Bart's personality
+ psychological makeup
 - ADD/ADHD
 - not just psych report but school as well
 - hard working
 - ability to keep jobs
 - what is ADHD
 - how is it treated?
 - did you see any treatment for ADHD? Pals? Feb 17?

②1 BART Working
- jobs, etc

- TRC

* Fax 1

~~Handwritten scribble~~

Time line From 2-2-02 on

Probation Eligibility

Transitional Personality Disorder

- what is it?
- can it be treated?
how?
- has it been?
- Low Average IQ
what does this mean for a person?
- Drug Use
- WHAT ELSE??

⑤ Social Inhibition Factors

- explain DEFINE
- what are they?
- what is normal?

~~what would someone in Bart's position be like?~~

~~characteristics~~

sort of if you get drunk + pop off to someone you would not if sober -

what is that called?

- impulsivity
- impulsiveness

⑦ Paxil

- what is it?
- theory
- side effects
 - hypomania
- persons at high risk for Paxil
- ADD/ADHD

* He has prescribed Paxil

→ what should the doctor do?

THE RECORDS

177

⑧ What can happen if a high risk person takes Paxil?
 → how long does it take for side effects to manifest?

⑨ Hypomania - what is it?
 → what causes it?

→ what role do stressors play? * SNOWBALL EFFECT

→ if the stressors are removed, can hypomania terminate?

178

⑩ Documented risk factor of Paxil = Hypomania

⑪ Hypothetical: Burt was in hypomanic state
 re: degree of medical certainty

Survivor stressors
 → needed Paxil?

What's different about jail?

→ stressors removed after initial period

Erratic behavior seen in jail - does it surprise you?

179

VERIFICATION

Before me, the undersigned notary, appeared Greg Westfall who, after being duly sworn, deposed and stated as follows:

"My name is Greg Westfall. I am counsel of record in the above cause. I have read the above Motion for Continuance, and the factual allegations therein are true and correct to the best of my knowledge and belief."

Greg Westfall

Subscribed and sworn before me on the 20th day of August, 2002.



Michelle Pitt
 Notary Public in and for the State of Texas

CERTIFICATE OF SERVICE

This is to certify that a copy of this motion was hand delivered to Assistant District Attorney Robert Foran at 401 W. Belknap St., Ft. Worth, TX 76196 on the 20th day of August, 2002.

Greg Westfall

MOTION FOR CONTINUANCE

Page 4

184

TEXAS ONCOLOGY
DR. MARK REDROW, MD
755 EIGHTH AVENUE
FORT WORTH, TEXAS 76104

FACSIMILE TRANSMITTAL SHEET

TO: <u>Greg Westfall</u>	FROM:
DATE:	
FAX NUMBER: <u>817-877-1710</u>	TOTAL NO. OF PAGES INCLUDING COVER:
PHONE NUMBER: <u>817-332-7394</u>	SENDER'S PHONE NUMBER:
TE: <u>817-335-1934</u>	SENDER'S FAX NUMBER:
☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE	

185

Texas Oncology, P.A.

August 19, 2002

Greg Westfall
Attorney at Law
Fax: 817-877-1710

Dear Mr. Westfall:

Cell Isom is currently under my care for the treatment of breast cancer diagnosed May 10th, 2002. Her current treatment regimen requires chemotherapy every three weeks. Due to the toxicity of her treatment she takes several different medications which also have side effects and she requires frequent rest periods. She is scheduled to receive four cycles and has completed two of these. Her expected completion date will be September 19th.

In light of the above, I would request that any court appearances be delayed until her treatment is complete and she is no longer on all of these medications. If you have any questions or I can be of any further assistance, please contact my office.

Sincerely,

Mark Redrow
Mark Redrow, M.D.

MWR/hrs

755 Eighth Avenue, Suite 850, Fort Worth, Texas 76104 817-332-7394 Fax 817-335-1934

CAUSE NOS. C-213-007907-0836979-A; C-213-007908-0836985-A

EX PARTE BARTON RAY GAINES

IN THE 21ST DISTRICT COURT
OF TARRANT COUNTY, TEXAS

CORRECTION TO
AFFIDAVIT OF GREG WESTFALL

STATE OF TEXAS §
COUNTY OF TARRANT §

THOMAS A. WILSON DIST. CLERK
TARRANT COUNTY, TEXAS
JAN - 4 2001
Time 3:07
By [Signature] Deputy

BEFORE ME, the undersigned Notary, personally appeared Greg Westfall, who, after being given an oath by me to tell the truth, stated as follows:

As it turns out, I did have a death penalty case in 2002 and not in 2003. The case was *State v. Jamien Demon Nickerson*, Cause No. 0791370 out of the 371st District Court. We started picking the jury in approximately the beginning of September, 2002 and not September, 2003.

Three weeks into jury selection, the state waived the death penalty and the judge declared a mistrial. We tried the case as a death penalty waiver in the first week of November, 2002. The trial took 3-4 days, as I recall.

Further, affiant sayeth not.

Greg Westfall
Greg Westfall

186

VERIFICATION

SUBSCRIBED AND SWORN BEFORE ME, the undersigned Notary, on this, the 4 day of January, 2007.



seal

Michelle Pitt
Notary Public in and for the State of Texas

CAUSE NOS. C-213-007907-0836979-A; C-213-007908-0836985-A
Ex Parte Barton Ray Gaines
Correction to Affidavit of Greg Westfall

Page 2

187