

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
07 CVS _____

)	BRIEF
)	OF AMICI CURIAE
IN RE:)	CAROLINA LEGAL ASSISTANCE
)	AND THE ARC OF NORTH CAROLINA
)	IN SUPPORT OF
FLOYD LEE BROWN)	APPLICATION FOR WRIT
)	OF HABEAS CORPUS

Interest of Amici Curiae

1. Carolina Legal Assistance ("CLA") is North Carolina's designated Protection and Advocacy System ("P&A") authorized under federal law to protect and advocate for the rights of individuals with disabilities. *See* 42 U.S.C. §10801 *et seq.*; 42 U.S.C. § 15041 *et seq.* CLA is mandated to "protect the legal and human rights of individuals with developmental disabilities" and to "pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation." 42 U.S.C. §15041, 15043.
2. The case of Floyd Brown ("Mr. Brown"), who has mental retardation¹, is of particular interest to CLA because of CLA's long commitment to the equitable treatment of persons with mental retardation when they encounter the criminal justice system, whether as a victim, witness, or defendant. Mr. Brown's fourteen-year confinement to Dorothea Dix Hospital – without a trial on the charge that confines him – highlights a troubling system capable of abuse by law enforcement and State officials. Mr. Brown

has suffered unequal treatment and violation of his rights because his mental retardation renders him incapable to stand trial. For fourteen years Mr. Brown has been committed to a psychiatric institution for treatment to “gain” capacity when he has mental retardation, a condition from which he cannot “recover.” Without relief by this Court, Mr. Brown will remain confined at a psychiatric hospital as long as the criminal charge against him is not dismissed with prejudice – a fate that violates basic notions of fair play and Mr. Brown’s right to due process under the law. *See* U.S. Const, Amendment 14; N.C. Const, art. I, § 19; *Jackson v. Indiana*, 406 U.S. 715 (1972).

3. The Arc of North Carolina (“The Arc”) is a statewide membership organization which is incorporated as a non-profit corporation under Chapter 56B of the General Statutes of North Carolina. The mission of The Arc is to secure “for all people with mental retardation and other developmental disabilities the opportunity to choose and realize their goals of where and how they learn, live, work and play.” The Arc has 45 local chapters throughout North Carolina and approximately 4500 members, the great majority of whom are people with mental retardation or other developmental disabilities and their family members.

4. The goal of equitable treatment of people with mental retardation in the criminal justice system has been a priority of The Arc for many years. For example, Arc members and staff were actively involved in the legislative effort leading the passage of Senate Bill 173 in 2001 which created N.C. Gen. Stat. §15A-2005, prohibiting application of the death penalty to a defendant with mental retardation.

¹ Many professionals now use the term “intellectual disabilities” instead of “mental retardation.”

Source of Authority to File

5. *Amici* have filed with the Court a Motion for leave to file this Brief in support of Mr. Brown's Application for the Writ of Habeas Corpus.

Argument

6. It is well settled that it is fundamentally unfair for the State to proceed against a defendant who is not competent to stand trial. *Drope v. Missouri*, 420 U.S. 162, 172 (1975). North Carolina's Criminal Procedures Act ("Chapter 15A") expressly prohibits trying, convicting, sentencing or punishing a criminal defendant "for a crime when by reason of mental illness or defect he is unable to understand the nature and object of the proceedings against him, to comprehend his own situation in reference to the proceedings or to assist in his defense in a rational or reasonable manner." N.C. Gen. Stat. § 15A-1001(a). "The objective of the statute is to ensure that a defendant will not be tried or punished while mentally incapacitated." *State v. Aytche*, 98 N.C. App. 358, 361, 39 S.E.2d 43, 45 (1990). The bar against trying an incompetent defendant is deemed "fundamental to an adversary system of justice." *Drope* at 172. The principle promotes the individual's interest in avoiding an unjust conviction as well as the societal interest in the reliability of the criminal process. *See State v. McRae*, 139 N.C. App. 387, 389, 533 S.E.2d 557, 559 (2000).

7. In 1993, Mr. Brown was found incapable of proceeding to trial based upon a report of Robert Rollins, M.D. ("Dr. Rollins"), then Director of the Forensic Psychiatry Division of Dorothea Dix Hospital ("Dorothea Dix"). In his report, Dr. Rollins opined

that Mr. Brown's "mental retardation impairs his ability to understand his position with regard to the law, understand the nature and object of the proceedings against him, conduct his defense in a rational manner, and cooperate with his attorney." Def's Ex. 2 (Competency Evaluation dated 8/11/93) (emphasis added)². Dr. Rollins further concluded in 1993 that "[e]verything considered," he did not "foresee there is going to be any significant improvement in Mr. Brown's situation." *Id.*

8. Based upon Dr. Rollins's report, the trial court found Mr. Brown incapable of proceeding to trial. Def's Ex. 4 (Order dated 8/17/93). Under Chapter 15A, if a trial court determines a defendant is incapable of proceeding, the trial court then "shall determine whether there are reasonable grounds to believe the defendant meets the criteria for [civil] involuntary commitment under Part 7 of Article 5 of Chapter 122C of the General Statutes." N.C. Gen. Stat. § 15A-1003(a).

If the [trial court] finds reasonable grounds to believe that the defendant meets the criteria, [the trial court] shall make findings of fact and issue a custody order in the same manner, upon the same grounds and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122C-261. Proceedings thereafter are in accordance with Part 7 of Article 5 of Chapter 122C

Id.

9. The trial court failed to make findings as to whether Mr. Brown met the criteria for involuntary commitment under Chapter 122C. Rather, the trial court merely concluded Mr. Brown was a "House Bill 95 patient" and committed Mr. Brown to Dorothea Dix for "such treatment as will enable him to become competent to proceed." Def's Ex. 4 (Order dated 8/17/93). The trial court further ordered that Mr. Brown could not be released "except under a Court Order finding him capable of proceeding." *Id.*

² Throughout this Brief, *Amici* will refer to and incorporate by reference Defendant Floyd Brown's Exhibits to his Application for the Writ of Habeas Corpus.

10. The trial court also failed to order Dorothea Dix staff to report on the likelihood of Mr. Brown's gaining capacity to proceed as required by Chapter 15A. See N.C. Gen. Stat. § 15A-1004(a). However, a review of Mr. Brown's psychiatric evaluations and Chapter 122C evaluations from 1993 to 2000 reveal multiple determinations by physicians that Mr. Brown will never gain the capacity to proceed to trial. In Dr. Rollins's initial forensic psychiatric evaluation in August 1993, Dr. Rollins stated he could not "foresee there is going to be any significant improvement in Mr. Brown's situation." Def's Ex. 2 (Competency Evaluation dated 8/11/93). In his September 1993 psychiatric evaluation, Dr. Rollins stated he "[did] not believe he will regain competency for trial." Def's Ex. 6 (Competency Evaluation dated 09/28/92). In March 1995 and again in July 1996, Freerk Wouters, M.D. ("Dr. Wouters"), the attending psychiatrist at Dorothea Dix, opined Mr. Brown "[w]ill never regain competence to proceed due to M[ental] R[etardation]." Amici Ex. 1 (Examination and Recommendation dated 3/30/95); see Amici Ex. 2 (Examination and Recommendation dated 7/1/96) (emphasis added). In March 2000, Dr. Rollins again opined it was "unlikely that Mr. Brown ever will regain competency for trial." Amici Ex. 3 (Forensic Outpatient Summary dated 3/16/00).

11. Mr. Brown is diagnosed with mild mental retardation. Contrary to its name, mild mental retardation is a substantial disability. Every individual with mental retardation has, as acknowledged by the Supreme Court, "major cognitive and behavioral deficits, i.e., 'subaverage intellectual functioning' and 'significant limitations in adaptive skills such as communication, self-care, and self-direction.'" *Atkins v. Virginia*, 536 U.S. 304, 318 (2002). These cognitive and adaptive limitations leave the person who has mental

retardation with “a reduced ability to cope with and function in the everyday world.” *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 442 (1985). Moreover, the Supreme Court in *Atkins* recognized the vulnerability of this population in the criminal justice system, when the Court ruled it was cruel and unusual punishment to apply the death penalty to persons with mental retardation. *Atkins* at 317 (noting “some characteristics of mental retardation undermine the strength of the procedural protections that our capital jurisprudence steadfastly guards”).

12. Since he was a small child, Mr. Brown’s IQ has consistently been determined to be in the low 50s, placing him at the lowest level of mild mental retardation and on the border of moderate mental retardation.³ When he reached age 16, Mr. Brown continued to function at the level of a kindergartener, academically and socially. Def’s Ex. 28 (Mr. Brown’s School Records, p 38). At age 16, Mr. Brown was unable to tell time, handle money, write his own name and address, and read and understand basic words such as “exit” and “stop.” Def’s Ex. 32 (Mary Helen Gaddy Affidavit ¶¶ 5-13); Def’s Ex. 33 (Shirley Lindsey Affidavit ¶ 6-15); Def’s Ex. 28 (Mr. Brown Brown’s School Records, p 53); Def’s Ex. 31 (Order Declaring Defendant to be Mentally Retarded ¶ 19). At age 26, four months before his arrest on the pending charge, Mr. Brown was evaluated by the McLaurin Vocational Training Center, a sheltered workshop for people with developmental disabilities that Mr. Brown attended from 1988 until his arrest in 1993. That evaluation placed Mr. Brown’s IQ at 54 and reported that Mr. Brown continued to have substantial functional limitations in self-direction, language, and mobility, and he

³ People with mental retardation are classified in a system of four categories: mild, moderate, severe, and profound. “Mild” mental retardation is typically used to describe people with an IQ level of 50-55 to approximately 70. “Moderate” mental retardation is typically used to describe people with an IQ level of

continued to be unable to tell or understand time. Def's Ex. 35 (McLaurin Center Records, pp 14-15, 22-23). The McLaurin Center evaluation is consistent with Dr. Rollin's initial evaluation of Mr. Brown, in which Dr. Rollins noted that, after his arrest, Mr. Brown did not know dates and had poor vocabulary. Def's Ex. 7 (Competency Evaluation dated 12/1/94).

13. The mental health staff at Dorothea Dix agree that, due to Mr. Brown's mental retardation, he was not capable of making the confession the District Attorney alleges Mr. Brown made. Dr. Rollins described the confession as "too educated, too sophisticated, too relevant, too cohesive for Mr. Brown." Def's Ex. 37 (Hearing on Motion to Suppress, Vol 1 pp 164, 167). Mark Hazelrigg, Ph.D., a psychologist who has worked with Mr. Brown since 2001, averred that "[t]he alleged confession is not representative of the way Mr. Brown speaks. . . . As a whole, the alleged confession is too detailed and organized for even a normally intelligent person." Def's Ex. 38 (Mark Hazelrigg Affidavit ¶ 5, 11). Research on adaptive skills and personality characteristics of persons with mental retardation indicates those persons are highly suggestible to leading questions and false information supplied by interrogators and are more likely to respond to coercion and pressure than the average typically-functioning individual. Solomon M. Fulero & Caroline Everington, *Assessing the Capacity of Persons with Mental Retardation to Waive Miranda Rights: A Jurisprudent Therapy Perspective*, 28 Law & Psychol. Rev. 53, 55 (2004). Moreover, the Supreme Court has noted the heightened vulnerability of defendants with mental retardation to making false confessions. *Atkins* at 320.

35-40 to 40-55. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* 42 (4th ed., 2000).

14. Mr. Brown is indeed in a “cruel legal limbo.” Def’s Application for Writ of Habeas Corpus, ¶ 1; *see also* Scott Michaels, *Man Held Without Trial for 14 Years* (Oct. 2, 2007), *available at* <http://abcnews.go.com/TheLaw/story?id=3673696&page=1> (attached as Amici Ex. 4). Based solely on the alleged confession, the Anson County District Attorney has refused to dismiss the charge with prejudice, instead dismissing the charge with leave to reinstate should Brown gain capacity to proceed to trial. Despite medical opinion and legal findings that Mr. Brown does not have capacity to proceed to trial, the trial court also has refused to dismiss the charge, as would be permitted by N.C. Gen. Stat. § 15A-1008. For the fourteen years the charge has remained viable, Mr. Brown has remained a “House Bill 95” patient at Dorothea Dix, a status prohibiting the mental health staff from releasing Mr. Brown to an appropriate, supervised placement.

15. Mr. Brown’s continued confinement at Dorothea Dix violates his rights to due process and equal protection under Article I, Section 19 of the North Carolina Constitution, the Fourteenth Amendment, and *Jackson v. Indiana*, 406 U.S. 715 (1972). In *Jackson*, the Supreme Court considered the very question presented by Mr. Brown’s case: the due process and equal protection rights of individuals who are committed to institutions because they are not capable of proceeding to trial. The Court found that the United States Constitution requires that, at a minimum, “the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.” *Id.* at 738. The Court therefore held that due process prohibits a state from continuing to confine a person charged with a criminal offense for more than a reasonable period to determine whether there is a substantial likelihood that he may be restored to capacity to stand trial in the foreseeable future and, further, that the state must

demonstrate that the person is making progress toward that goal. *Id.* The Court also held that the state deprived Jackson, who would never be restored to competency to stand trial, of equal protection by subjecting him to a more lenient commitment standard and to a more stringent standard of release than those available under civil commitment. *Id.* at 724.

16. *Amici* contend that the designation of Mr. Brown as a “House Bill 95” patient, and his subsequent indefinite confinement without any reasonable likelihood of becoming competent, violate the principles of *Jackson*. *Amici* acknowledge the procedural difference between *Jackson* and the present case – namely, that after being committed under a criminal statute, Mr. Brown was then committed pursuant to our civil commitment statutes. *Amici* contend, however, that the “House Bill 95” designation renders that procedural difference meaningless.

17. Under N.C. Gen. Stat. § 122C-277, the attending physician of a mental health facility must unconditionally discharge a civilly committed patient once the physician determines the patient is no longer in need of inpatient commitment. However, if the patient was initially committed “as the result of conduct resulting in his being charged with a violent crime for which he was found . . . incapable of standing trial” the physician cannot discharge the patient but instead must notify the Clerk of Superior Court that the physician recommends release, and a hearing must be held to determine the appropriateness of release under Chapter 122C. N.C. Gen. Stat. § 122C-277.

18. Upon information and belief, a “House Bill 95” patient cannot be recommended for release from Dorothea Dix as long as a charge of a violent crime is pending against that patient, and regardless of whether the patient (i) no longer poses a risk of danger to

self or others or (ii) is incapable of standing trial. This policy is evidenced by the 122C forms in Mr. Brown's file entitled "Examination and Recommendation to Determine Necessity for Involuntary Commitment." As far back as June 18, 1995, Dr. Wouters opined on the form that Brown was "ready for discharge" but the legal process and Thomas S. process were "both slow." Amici Ex. 5 (Examination and Recommendation dated 6/18/95). Despite being "ready for discharge," Dr. Wouters still checked the box indicating Brown was dangerous to others "because of an accompanying [to his mental retardation] behavior disorder," thus keeping Brown involuntarily committed. *Id.* On August 22, 1996, Dr. Wouters noted that Brown had "exemplary behavior" but the same "dangerous" box was checked. Amici Ex. 6 (Examination and Recommendation dated 8/22/96). On February 14, 2001, B.D. Worf, M.D. noted Brown had been behaviorally stable "for some time" and yet, again, the "dangerous" box was checked. Amici Ex. 7 (Examination and Recommendation dated 2/14/01). From February to May 2001, two different physicians noted on the reports that Brown's treatment team recommended placement in a "safe, structured, supervised group home if approved by the legal system." Amici Ex. 8 (Examination and Recommendation dated 4/10/01) (emphasis added); *see* Amici Ex. 7 (Examination and Recommendation dated 2/14/01); Amici Ex. 9 (Examination and Recommendation dated 5/23/01) (noting Mr. Brown "has improved but remains HB-95 status. He may be able to proceed with placement at a closely supervised group home setting if allowed by court") (emphasis added).

19. In 1984 our appellate court upheld the constitutionality of § 122C-277 (formerly § 122-58.13) based on the understanding that people were not "committed indefinitely" as proscribed by *Jackson*. *See In re Rogers*, 63 N.C. App. 705, 306 S.E.2d 510 (1983), *disc.*

rev. denied, appeal dismissed, 309 N.C. 633, 308 S.E.2d 716 (1983), *appeal dismissed*, 465 U.S. 1095, 80 L.Ed.2d 117 (1984) (upholding constitutionality of former G.S. 122-58.13). In the present case, given our mental health facilities' policy and practice of not recommending release for House Bill 95 patients under Chapter 122C and instead continuing to recommend involuntary commitment, *amici* posit that Mr. Brown is in fact committed indefinitely, absent judicial inquiry and intervention.

20. Dorothea Dix psychologist Elizabeth Donegan issued a report in February 2003 that, after taking "competency classes" for ten years, Mr. Brown was capable of proceeding to trial. Def's Ex. 14 (Evaluation dated 2/10/03). Unfortunately, her report did not end Mr. Brown's stalemate in the process. Once in court, it was apparent to the trial court that Mr. Brown was in fact unable to participate. The trial court found Mr. Brown incapable of proceeding to trial once again and he was returned to Dorothea Dix, where he remains today.

21. Despite Floyd Brown's clear incapacity to stand trial and his fourteen years of confinement, the District Attorney will not dismiss the charge. In Mr. Brown's case, as in *Jackson*, there is a "denial of due process inherent in holding pending criminal charges indefinitely over the head of one who will never have a chance to prove his innocence." *Jackson* at 740.

Conclusion

22. In a case such as this, where a defendant with mental retardation has remained confined for fourteen years on a questionable charge with no opportunity to stand trial, our system must address whether Mr. Brown is entitled to some chance for freedom.

Amici contend this case is appropriate for habeas relief to determine the lawfulness of Mr. Brown's continued confinement under Chapters 15A and 122C of our General Statutes.

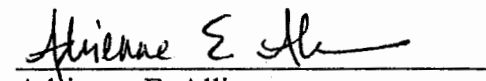
Respectfully submitted, this the 4th day of October, 2007.

CAROLINA LEGAL ASSISTANCE

Counsel for *Amici*

By:


John Rittelmeyer
NC Bar # 17204
jrittelmeyer@clanc.org


Adrienne E. Allison
NC Bar # 33796
aallison@clanc.org

2626 Glenwood Ave.
Suite 550
Raleigh, NC 27608
(919) 856-2195
(919) 856-2244 (fax)

STATE OF NORTH CAROLINA

EXAMINATION AND RECOMMENDATION TO DETERMINE
NECESSITY FOR INVOLUNTARY COMMITMENT

File # _____

Film # _____

NAME OF RESPONDENT: <u>Floyd Brown</u>	AGE <u>30</u>	BIRTHDATE <u>5-6-64</u>	SEX <u>M</u>	RACE <u>B</u>	M.S. <u>S</u>
ADDRESS (Street, Apt., Route, Box Number, City, State, Zip - Use facility address after 1 year in facility) <u>Brother's Hospital</u> <u>820 S. Boylan Ave, Raleigh N.C. 27603-2126</u>			County <u>Wake</u>		
LEGALLY RESPONSIBLE PERSON <input type="checkbox"/> NEXT OF KIN (Name and address) <u>Floyd Brown</u> <u>RT 2 Box 199 Polkton N.C. 28135</u>			Relationship <u>Guardian</u>		
PETITIONER (Name and Address)			Phone <u>826-8221</u>		
			Relationship		
			Phone		

The above-named respondent was examined on 3/30, 1995 at 1630 o'clock m. at
DDH Included in the examination was an assessment of the respondent's:
(1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self
others as defined in G.S. 122C-3 (11"); (3) ability to survive safely without inpatient commitment, including the availability of supervision
in family, friends or others; and (4) capacity to make an informed decision concerning treatment. ☐ (1) current and previous substance
abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11"). The follow-
ing findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

1st Exam-Physician or Psychologist) 2nd Exam-Physician only)

attent. It is my opinion that the respondent is: ☐ mentally ill; ☐ dangerous to self; ☐ dangerous to others
☒ mentally retarded; ☐ and, because of an accompanying behavior disorder, is
dangerous to others
☐ none of the above

patient. It is my opinion that: ☐ the respondent is mentally ill
☐ the respondent is capable of surviving safely in the community with available supervision
☐ based upon the respondent's treatment history, the respondent is in need of treatment in order
to prevent further disability or deterioration which would predictably result in dangerousness
as defined by G.S. 122C-3(11")
☐ the respondent's current mental status or the nature of his illness limits or negates his ability to
make an informed decision to seek treatment voluntarily or comply with recommended treatment
☐ none of the above

Substance Abuse. It is my opinion that the respondent is: ☐ a substance abuser
☐ dangerous to himself or others
☐ none of the above

1st Exam-Physician or Psychologist; 2nd Exam-If 1st
exam done by Physician, 2nd exam may be done by Qual. Prof.)

SECTION II - DESCRIPTION OF FINDINGS

Description of findings (findings for each criterion checked above in Section I must be described):

Pt here on HB 95 + LD & Homeide
Change - Will never regain competence
to proceed due to M.R. - Is
"Thomas 5" but no action has been
taken - In the presence of an adequate
placement plan the changes can probably be
handled

(Over)

Notable Physical Conditions

Current Medications (medical and psychiatric)

Risperidone

Impression/Diagnosis

MIR - Behavior disorder

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☒ Inpatient Commitment for 30 days (respondent must be mentally ill **and** dangerous to self or others; **OR** mentally retarded, and because of an accompanying behavior disorder, is dangerous to others)
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)
- Proposed Outpatient Treatment Center or Physician: (Name) _____
- (Address and Phone Number) _____
- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section 1, Substance Abuse)
- ☐ Release respondent pending hearing-Referred to: _____
- ☐ Hold respondent at 24-hour facility pending hearing-Facility: _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding; therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- ☐ Other (Specify) _____

[Signature]

M.D.

Physician-Signature

Signature/Title-Eligible Psychologist/Qualified Professional

[Signature]

Print Name of Examiner

Address or Facility

City and State

Telephone Number

This is to certify that this is a true and exact copy of the Examination and Recommendation For Involuntary Commitment

Original Signature-Record Custodian

Title

Address or Facility

Date

NOTE: Only copies to be introduced as evidence need to be certified.

Original: Medical Record

CC: Clerk of Superior Court where petition was initiated (initial hearing only)

Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised

Respondent and State's Attorneys, when applicable

Proposed Outpatient Treatment Center or Physician (Outpatient Commitment)/Area Program or Physician (Substance Abuse Commitment)

NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

STATUTORY DEFINITIONS

"Dangerous to himself"-Within the recent past: (a) the individual has acted in such a way as to show: (1)that he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, or actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself; or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

"Dangerous to others"-Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.

"Mental illness"-When applied to an adult, an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control; and (b) when applied to a minor, a mental condition, other than mental retardation alone, that so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

"Mentally retarded with accompanying behavior disorder"-An individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.

"Substance abuse"-An individual who engages in the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Such abuse may include a pattern of tolerance and withdrawal.

STATE OF NORTH CAROLINA
EXAMINATION AND RECOMMENDATION TO DETERMINE
NECESSITY FOR INVOLUNTARY COMMITMENT

File #

Film #

RESPONDENT:

AGE

BIRTHDATE

SEX

RACE

M.S.

ADDRESS (Street, Apt., Route, Box Number, City, State, Zip. Use facility address after 1 year in facility)

County

Phone

LEGALLY RESPONSIBLE PERSON

NEXT OF KIN

(Name and address)

Relationship

Phone

PETITIONER

(Name and Address)

Relationship

Phone

The above-named respondent was examined on 7/1/96, 1996 at 1300 o'clock m. at

Included in the examination was an assessment of the respondent's:
(1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self or others as defined in G.S. 122C-3 (11"); (3) ability to survive safely without inpatient commitment, including the availability of supervision from family, friends or others; and (4) capacity to make an informed decision concerning treatment. (1) current and previous substance abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11"). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

Inpatient. It is my opinion that the respondent is:

☐ mentally ill; ☐ dangerous to self; ☐ dangerous to others

1st Exam-Physician or Psychologist

☐ mentally retarded; ☐ and, because of an accompanying behavior disorder, is dangerous to others

2nd Exam-Physician only)

☐ none of the above

Outpatient. It is my opinion that:

☐ the respondent is mentally ill

Physician or Psychologist)

☐ the respondent is capable of surviving safely in the community with available supervision

☐ based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3(11")

☐ the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment

☐ none of the above

Substance Abuse. It is my opinion that the respondent is:

☐ a substance abuser

1st Exam-Physician or Psychologist; 2nd Exam-If 1st

☐ dangerous to himself or others

exam done by Physician, 2nd exam may be done by Qual. Prof.)

☐ none of the above

SECTION II - DESCRIPTION OF FINDINGS

Description of findings (findings for each criterion checked above in Section I must be described):

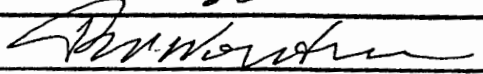
Pt is HB 95 + LD - MR $\frac{E}{1}$ will never be competent to proceed. Has had a year of exemplary behavior - Request permission to ① Go off grounds supervised by staff e.g. State Lake, van Rides, hospital activities ② on grounds supervised by Thomas S. personnel from Community -

Responsible

Impression/Diagnosis:

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☐ Inpatient Commitment for _____ days (respondent must be mentally ill **and** dangerous to self or others; **OR** mentally retarded, and because of an accompanying behavior disorder, is dangerous to others)
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)
- Proposed Outpatient Treatment Center or Physician: (Name) _____
- (Address and Phone Number) _____
- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section 1, Substance Abuse)
- ☐ Release respondent pending hearing-Referred to: _____
- ☐ Hold respondent at 24-hour facility pending hearing-Facility: _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding, therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- ☒ Other (Specify) See Records



Physician-Signature M.D.

This is to certify that this is a true and exact copy of the Examination and Recommendation For Involuntary Commitment:

Signature/Title-Eligible Psychologist/Qualified Professional

Original Signature-Record Custodian

K W Wouters

Print Name of Examiner

Title

DOROTHEA DIX HOSPITAL

Address or Facility

Address or Facility

RALEIGH, N. C. 27603

City and State

Date

919-733-5510

Telephone Number

NOTE: Only copies to be introduced as evidence need to be certified.

Original: Medical Record

CC: Clerk of Superior Court where petition was initiated (initial hearing only)

Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised

Respondent and State's Attorneys, when applicable

Proposed Outpatient Treatment Center or Physician (Outpatient Commitment)/Area Program or Physician (Substance Abuse Commitment)

NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

"STATUTORY DEFINITIONS"

"Dangerous to himself"-Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself; or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

"Dangerous to others"-Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.

"Mental illness"-(a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control; and (b) when applied to a minor, a mental condition, other than mental retardation alone, that so lessens or impairs the youth's capacity either to perceive or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

"Mentally retarded with accompanying behavior disorder"-An individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.

"Substance abuser"-An individual who engages in the habitual use of abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. But abuse may include a pattern of tolerance and withdrawal.

**NORTH CAROLINA DIVISION OF MENTAL
HEALTH/DEVELOPMENTAL DISABILITIES/
SUBSTANCE ABUSE SERVICES**

**DDH
39-79-62
PROT BMS
05-06-64**

**WARD 2 NORTH
BROWN FLOYD
IMH 09-01-93
ANSON**

**Dorothea Dix Hospital
Raleigh, NC**



I interviewed Mr. Brown 3-15-00 on the Ward 2 North for an update Forensic Opinion. Also present at the interview was Ms. Amy Taylor, Senior Forensic Case Specialist. I informed Mr. Brown of the lack of confidentiality and the possibility that a report might be sent to court. Mr. Brown gives his birth date as May 6, 1964 and his age as 34. He did not know his height and estimates his weight to be in excess of 100 lbs. He reports that he takes 5 pills each day, "to calm me down." However, he relates that he does not need the medicine and believes he can do without the medication. He reports that on occasions he does get upset. Mr. Brown interjects regarding the charge against him, "they framed me for a charge I didn't commit, set me up. them guys lied on me, a charge I didn't commit."

Mr. Brown reports he is on a double portion diet, sleeps well, smokes when he has the means, and occasionally has an upset stomach. He works at the laundry and gets along okay there.

Mr. Brown was born in Anson County and has two brothers and two sisters. One brother died as an infant. Mr. Brown reports that he gets along with his mother and his sister "pretty good." He states that he was kicked out of school in the tenth grade. He had a job working in a green house. He has no children and has never been married. He denies alcohol or drug abuse although he reports he uses "some beer". Mr. Brown denies other arrests. Mr. Brown reports he was arrested "last year sometime" and says that "Detective railroaded me and lied on me. . . . they say I murdered somebody, but it ain't in me."

Mr. Brown is unable to give the year, but correctly identifies the month as March. He reports he "can't think of the President's name", but identifies Clinton and Martin Luther King as recent Presidents. He is able to identify Michael Jordan and Michael Jackson, identifies Mr. Rogers a singer, Ronald McDonald as a singer, and Elvis as a singer. Mr. Brown is able to identify none of three objects after several minutes, but on a subsequent memory test cannot identify any of the three stimulus items, but goes back and identifies two of the items from the first memory test. He cannot interpret similarities. When asked to name three large cities, not states, he replies "Charlotte, New York, Mississippi." In general, Mr. Brown is not able to explain common sayings. When asked why we celebrate Christmas, he replies, "to have a good Christmas." When asked why we celebrate Mother's Day he replies, "get your parents something nice for Mother's Day."

Mr. Brown states, "I want to go home."

Mr. Brown was last admitted to the hospital 9-1-93. Present medications are Trazodone, Olanzapine, Valproic Acid, and Ativan. Current diagnoses are Mild Mental Retardation, Organic Personality Syndrome, and Bipolar Disorder. Recent progress notes confirmed that at times Mr. Brown has difficulty with impulse control, judgement, and behavior.

SENSITIVE INFORMATION
When Requested By Consumer Must Be
Shown And/Or Interpreted By A Competent
Clinician. Redislosure Prohibited By Law
Without Client Consent.

NORTH CAROLINA DIVISION OF MENTAL
HEALTH/DEVELOPMENTAL DISABILITIES/
SUBSTANCE ABUSE SERVICES

DDH
39-79-62
PROT BMS
05-06-64

WARD 2 NORTH
BROWN FLOYD
IMH 09-01-93
ANSON

Broothea Dix Hospital
Raleigh, NC

Mr. Brown is not competent for trial in that his mental disorders and impairment prevent him from understanding the nature and object of the proceedings against him, comprehending his situation in reference to the proceedings, and assisting in his defense in a rational and reasonable manner.

At this time it seems unlikely that Mr. Brown ever will regain competency for trial.



Robert Rollins, MD
Director, Forensic Psychiatric Division
(919) 733-9142

13-16-00DD
13-17-00DT

R:mdj

cc: Anna Baird, Attorney General Office-Stone House; Rob Stranahan-Hope House; Defense Attorney

Man Held Without Trial for 14 Years

Prosecutors Won't Release Mentally Retarded Man, but He Can't Be Brought to Trial

By SCOTT MICHELS

Oct. 2, 2007 —

Floyd Brown's psychiatrists in Dorothea Dix Hospital say he can't tell time or the difference between right and left. He has trouble handling money, naming the day of the week or remembering the name of the mental institution where he has been held against his will for the last 14 years.

But, according to his regular psychiatric reports, family members and lawyers, the 43-year-old has been consistent about two things as the years have passed: He didn't kill Katherine Lynch 14 years ago and he wants to go home.

Brown, who is mentally retarded, is stuck in what his lawyers call a "cruel legal limbo." He has been locked up without trial in Dorothea Dix, in Raleigh, N.C., since his arrest, charged with a murder he says he did not commit.

Because he can't understand the legal process, Brown can't be brought to trial and the evidence against him can't be tested in front of a jury. Prosecutors have said Brown is dangerous and refuse to release him.

But an ABC News review of Brown's court, psychiatric and school records and interviews with his family, attorneys and some of the police officers involved in his case raise questions about Brown's guilt.

There were no known witnesses to Lynch's murder and no physical evidence links Brown to her death. Much of the physical evidence in the case, which could potentially prove Brown's guilt or innocence, has disappeared.

Confession

The only evidence against Brown, investigators who worked on his case and spoke to ABC News acknowledge, is a confession given after he signed away his constitutional rights in a scrawl, "FLOYD OBWN." But at least three forensic psychiatrists and several of Brown's former special education teachers say the words in the confession are not those of a man with the IQ of a 6-year-old.

"That's not his language," state forensic psychiatrist Bob Rollins said of the confession. "That's not Mr. Brown."

A state psychological exam taken five days after the confession said Brown wasn't mentally capable of waiving his Miranda rights when he spoke to police. Two of the officers who investigated his case have since served jail time on unrelated federal racketeering charges. Court records show the cops extorted

cash from suspects in exchange for not filing charges against them.

According to Brown's lawyers, prosecutors last year offered Brown what is known as an Alford plea □ meaning he would admit there was enough evidence to convict him, while still maintaining his innocence □ but Brown couldn't accept the deal because he could not understand it.

As the years have passed, attempts to get Brown out of the mental institution have been denied by the courts. Now, after media reports on his story, the North Carolina Department of Justice is examining the case. A Superior Court judge next week will hold a hearing in what is probably Brown's last chance at freedom.

Limited Understanding

"It's gotten to be a nightmare," Brown's sister Frances Staton told ABC News. "He's sitting there for something he didn't do and not even understanding why they're holding him."

It was clear from an early age that Brown was, as his family puts it, "slow." One of five children born to a mentally retarded mother, Brown's IQ has measured between 50 and 57, giving him the mind of a 6-year-old.

His family says he can't tell time or read. When he was 15, one of his schoolteachers had to ask other students to show Brown how to bathe himself. His grandmother nicknamed him "Spooky," Staton said.

School records show that as a teenager, Brown didn't understand words like "exit" and "stop." The vocational center where he worked at the time of his arrest said Brown could not "express personal opinions, request assistance when needed and protect himself from exploitation or personal harm from others."

Brown often hung around the county courthouse in Wadesboro, a small town in rural Anson County. He made a little money by planting flowers at a greenhouse and worked at a vocational center for mentally disabled adults, a psychiatric report said. When he was arrested, in July 1993, Brown lived in a ramshackle house with his mother with no shower or bathtub.

Records say that Brown used to drink a lot and that he'd been picked up by police more than 20 times for public drunkenness. He also got into trouble for shoplifting and trespassing and was once charged with a misdemeanor for pulling a knife on a police officer. School and medical records say Brown is sometimes paranoid and given to sudden outbursts. He can be violent and exhibits inappropriate behavior toward women, according to the records.

His father, Cleveland Cash, told ABC News that Brown was not dangerous. "He wouldn't mess with nobody. He's scared of other people," he said.

Murder Case

On the morning of July 9, 1993, sheriff's deputies found 80-year-old Katherine Lynch's bloody body in her bedroom. She'd been beaten to death with her own walking stick.

Police records show that two men at what was referred to as a "drink house" said that a man who hung around the courthouse knew something about the murder. That led police officers to Brown.

On July 15, police searched Brown's house and spoke to him. Staton said Brown later told her police had taken him to Lynch's house and told him to pick up a stick.

Two detectives involved with the case denied that ever happened.

"I'm a Christian. I'm all for helping people, not hurting people," said former Detective Robert Poplin. "I don't have no vendetta against Floyd Brown."

Roland "Bud" Hutchinson, listed in police records as the lead investigator on the case for the sheriff's office, said he was not involved in the investigation. "I don't know anything about Floyd Brown," he said. "I was not involved in the case at all."

The next day, according to court records, investigators picked up Brown at the vocational center and took him to the police station. Cash, Brown's father, told ABC News that he went to the police station and was told police only wanted to talk to Brown.

The police gave Brown a sandwich and a soda and he signed a waiver of his right to remain silent. Then two agents from the State Bureau of Investigation interrogated Brown for two hours, according to police records.

There are no notes or recordings of the interrogation, but at the end, Mark Isley, one of the SBI agents, typed out a confession, which he has testified was a "verbatim" transcription of what Brown said.

'No Coercion'

Isley, now head of the SBI's Medicaid Criminal Investigations Unit, did not return several messages left at his office. Bill Lane, a former SBI agent who was present for the interrogation, said he didn't remember the details of the questioning, but said that the written statement was accurate.

"There wasn't any coercion at all," he said. "There was no water pouring down his nose or anything. I don't do business that way."

Asked whether it was appropriate to interrogate a mentally retarded man, Lane said, "He was over the age of 18. He seemed to understand and know what he was doing."

Hutchinson and Poplin were convicted in 1998 of racketeering for shaking down criminal suspects. Court records show that the two extorted money from criminal suspects in exchange for not filing or dropping charges against them.

"They were as dirty as anyone I've seen," said David Ramsey, a former SBI agent who investigated their case. "They could have done anything."

Hutchinson and Poplin both deny doing anything improper in Brown's case, and there is no evidence they did anything illegal in his case.

"They want to imply that they picked up this poor fella and plotted against him to fabricate a confession," said Sheriff Tommy Allen. "None of that is true. That's just absurd to think that."

'Hit Her on the Neck'

But, Brown's psychiatrists at Dorthea Dix, another psychiatrist hired by his lawyers and Brown's special education teachers say he could not have written the confession. They say the three-page confession uses words that Brown does not know and shows a pattern of logical thinking that is beyond Brown's mental abilities.

The confession begins, "On Friday, July 19, 1993, my mama woke me up at 6 a.m., in the morning."

Psychiatrists say Brown does not understand time and has difficulty with dates. Brown's psychological reports say he speaks in short, repetitive sentences. The confession contains complete sentences that flow logically from one to another.

"It's too educated, too sophisticated, too relevant, too cohesive for Mr. Brown," state forensic psychiatrist Rollins said.

The confession goes on to say that after Brown asked Lynch for a dollar, "When Ms. Katherine told me she didn't have a dollar, I hit her on the neck with a stick that I brought into the house. & I hit Ms. Katherine again, but this time, on the right arm."

It says Brown brought her into the bedroom and checked her breathing, a skill his lawyers say doesn't have. It ends, "I'm sorry for hitting her. I told you I made a mistake."

Forensic psychologist Mark Hazelrigg, one of Brown's doctors at Dorthea Dix, said, "Mr. Brown could not be trained or coached to talk in the same manner as the alleged confession."

'Too Detailed'

"As a whole, the alleged confession is too detailed and organized for even a normally intelligent person," Hazelrigg wrote in a sworn statement.

Mary Gaddy, one of Brown's teachers, said in a sworn statement that Brown can't use correct tenses or use words that are in the statement such as "located" and "heartbeat."

The prosecutor's office declined to comment, but a Superior Court judge, in granting a hearing for Brown, recently wrote that the allegation of a false confession "appears to have gone unrebutted by the prosecution."

Brown was arrested and sent to Dorthea Dix. A month later he was declared mentally incompetent. He has been there ever since.

As the years have passed, lawyers have attempted to free Brown, with no success. Tim Rogers, chief assistant district attorney in Anson County, declined to comment on the case.

But, in 1998, District Attorney Michael Parker wrote in a letter to the state attorney general's office that "Mr. Brown is a danger to the community," and said that he would seek the death penalty if Brown was found fit to stand trial. Under a Supreme Court decision issued after the letter, Brown is not eligible for the death penalty because of his mental retardation.

"If he is well enough to be released, then he should be well enough to stand trial," the letter said.

In 2003, a doctor at Dorthea Dix said Brown was now fit to stand trial. When his lawyers tried to get the

physical evidence in the case, they hit a snag □ most of it was missing.

- Records show that the physical evidence, including the murder weapon, was sent to a state lab for analysis and that it was mailed back. But, much of the evidence has disappeared, and no one involved in case seems to be able to explain what happened to it.

Missing Evidence

"If we knew what happened, we would be able to find it," said Allen.

According to Ramsey, the former SBI agent, the Anson County Sheriff's Office at the time "had no procedures whatsoever" for maintaining evidence. The evidence room "was open so anyone could walk in. Anyone could have access to it," he said. "We found money missing, drugs missing."

Allen, who was not the sheriff between 1994 and 2002, said the evidence procedures in Anson County have since been improved. "One of the reasons I ran for sheriff again was because this place was such a mess," he said.

Asked in a court hearing what he did to recover the evidence when he learned that it was missing, Allen testified, "I didn't do anything." He told ABC News that not all of the evidence had disappeared, but he would not say which evidence was still there.

Lab reports show that no blood was ever found on Brown's clothes and that fingerprint tests on the murder weapon were inconclusive.

With Brown's trial set for September 2006, Brown's lawyers say the district attorney's office offered Brown a plea deal that would let him out of the mental institution with time served. Under the agreement, Brown would plead guilty, but could still assert his innocence.

Court records say that Brown could not be made to understand the agreement and that he was once again declared incompetent to stand trial. He went back to Dorthea Dix.

Early this month, a Durham County judge will hear what is probably Brown's last chance at freedom. His lawyers argue that keeping him confined in Dorthea Dix violates his due process rights.

The North Carolina Justice Department is also examining the case, but a spokeswoman would not elaborate on the details of the investigation.

"He says he wants to come home," said his sister Staton. "He wants to know why they're keeping him. He's always wanted to come home."

Copyright © 2007 ABC News Internet Ventures

STATE OF NORTH CAROLINA
EXAMINATION AND RECOMMENDATION TO DETERMINE
NECESSITY FOR INVOLUNTARY COMMITMENT

Record # 39-79-62

NAME OF RESPONDENT: <u>Floyd Brown</u>	AGE <u>30</u>	BIRTHDATE <u>2-6-64</u>	SEX <u>M</u>	RACE <u>B</u>	M.S. <u>S</u>
ADDRESS (Street, Apt. Route, Box Number, City, State, Zip - Use facility address after 1 year in facility) <u>North Dix Hosp. Bldg. 820 S. Bryan Ave, Raleigh N.C.</u>			County <u>Wake</u>		
LEGALLY RESPONSIBLE PERSON <input type="checkbox"/> NEXT OF KIN (Name and address) <u>Francis Brown Rt 2 Box 199, Polkton, N.C. 28135</u>			Phone <u>733-5275</u>		
PETITIONER (Name and Address)			Relationship <u>Guardian</u>		
			Phone		

The above-named respondent was examined on 6/18/75, 19 75 at 0900 o'clock 9 m. at D.D.H.
Included in the examination was an assessment of the respondent's:
(1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self or others as defined in G.S. 122C-3 (11"); (3) ability to survive safely without inpatient commitment, including the availability of supervision in family, friends or others; and (4) capacity to make an informed decision concerning treatment. ☐ (1) current and previous substance abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11"). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

patient. It is my opinion that the respondent is: ☐ mentally ill; ☐ dangerous to self; ☐ dangerous to others
(1st Exam-Physician or Psychologist) ☒ mentally retarded; ☐ and, because of an accompanying behavior disorder, is dangerous to others
(2nd Exam-Physician only) ☐ none of the above

patient. It is my opinion that: ☐ the respondent is mentally ill
(Physician or Psychologist) ☐ the respondent is capable of surviving safely in the community with available supervision
☐ based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3(11")
☐ the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment;
☐ none of the above

Substance Abuse. It is my opinion that the respondent is: ☐ a substance abuser
(1st Exam-Physician or Psychologist; 2nd Exam-If 1st ☐ dangerous to himself or others
exam done by Physician, 2nd exam may be done by Qual. Prof.) ☐ none of the above

SECTION II - DESCRIPTION OF FINDINGS

Description of findings (findings for each criterion checked above in Section I must be described):

PT is HB 95 + L. D. Homicide
Charge - PT is ready for his charge but
legal process + Thomas "S" process
are both slow -

Risperidone

Impression/Diagnosis

MR, Organic Pers. Sys.

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☒ Inpatient Commitment for one days (respondent must be mentally ill **and** dangerous to self or others; **OR** mentally retarded, and because of an accompanying behavior disorder, is dangerous to others)
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I. Outpatient)
Proposed Outpatient Treatment Center or Physician: (Name) _____
(Address and Phone Number) _____
- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section 1, Substance Abuse)
= Release respondent pending hearing-Referred to: _____
= Hold respondent at 24-hour facility pending hearing-Facility: _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding; therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- ☐ Other (Specify) _____

[Signature] M.D.
Physician-Signature

Signature/Title-Eligible Psychologist/Qualified Professional

[Signature]
Print Name of Examiner

Address or Facility

City and State

Telephone Number

This is to certify that this is a true and exact copy of the Examination and Recommendation For Involuntary Commitment

Original Signature-Record Custodian

Title

Address or Facility

Date

NOTE: Only copies to be introduced as evidence need to be certified.

Original: Medical Record

CC: Clerk of Superior Court where petition was initiated (initial hearing only)

Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised

Respondent and State's Attorneys, when applicable

Proposed Outpatient Treatment Center or Physician (Outpatient Commitment)/Area Program or Physician (Substance Abuse Commitment)

NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

"STATUTORY DEFINITIONS"

"Dangerous to himself"-Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself; or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

"Dangerous to others"-Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated or that there are previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.

"Mental illness"- (a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control; and (b) when applied to a minor, a mental condition, other than mental retardation alone, that so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

"Mentally retarded with accompanying behavior disorder"-An individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.

"Substance abuser"-An individual who engages in the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Such abuse may include a pattern of tolerance and withdrawal.

39-79-62

EXAMINATION AND RECOMMENDATION TO DETERMINE
NECESSITY FOR INVOLUNTARY COMMITMENT

OF RESPONDENT: <i>Clayton Brown</i>	AGE <i>32</i>	BIRTHDATE <i>5-6-64</i>	SEX <i>M</i>	RACE <i>B</i>	M.S. <i>5</i>
ADDRESS (Street, Apt., Route, Box Number, City, State, Zip - Use facility address after 1 year in facility) <i>Dorothea Dix Hospital 820 S. Barton Ave, Raleigh NC 27603-2176</i>			County <i>Wake</i>		
LEGALLY RESPONSIBLE PERSON <input type="checkbox"/> NEXT OF KIN (Name and address) <i>Frances Staton Rt 2 Box 199 Polkton N.C. 28135</i>			Relationship <i>Guardian</i>		
PETITIONER (Name and address)			Phone <i>826-8271</i>		
			Relationship		
			Phone		

The above-named respondent was examined on 8/22/19 at 1030 o'clock AM at DDH. included in the examination was an assessment of the respondent's:

☐ (1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self or others as defined in G.S. 122C-3 (11*); (3) ability to survive safely without inpatient commitment, including the availability of supervision from family, friends, or others; and (4) capacity to make an informed decision concerning treatment. ☐ (1) current and previous substance abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11*). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

Inpatient. It is my opinion that the respondent is: ☐ mentally ill; ☐ dangerous to self; ☐ dangerous to others
(1st Exam - Physician or Psychologist) ☒ mentally retarded; ☐ and, because of an accompanying behavior disorder, is dangerous to others
(2nd Exam - Physician only) ☐ none of the above

Outpatient. It is my opinion that: ☐ the respondent is mentally ill
(Physician or Psychologist) ☐ the respondent is capable of surviving safely in the community with available supervision
☐ based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3 (11*)
☐ the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment
☐ none of the above

Substance Abuse. It is my opinion that the respondent is: ☐ a substance abuser
(1st Exam - Physician or Psychologist; 2nd Exam - If 1st exam done by Physician, 2nd exam may be done by Qual. Prof.) ☐ dangerous to himself or others
☐ none of the above

SECTION II - DESCRIPTION OF FINDINGS

Clear description of findings (findings for each criterion checked above in Section I must be described):

Pt is MR. Incompetent to proceed to trial due to low IQ. Has had exemplary behavior for 4 years - Hope to make progress in resolving charges

(over)

Impression/Diagnosis:

MR

Responsible

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☒ Inpatient Commitment (respondent must be mentally ill and dangerous to self or others; or mentally retarded, and because of an accompanying behavior disorder, is dangerous to others) *1 year*
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)
- Proposed Outpatient Treatment Center or Physician: (Name) _____

(Address and Phone Number) _____

- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse)
- ☐ Release respondent pending hearing - Referred to: _____
- ☐ Hold respondent at 24-hour facility pending hearing - Facility _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding; therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- ☒ Other (Specify) *Renew Privileges*

[Signature]

M.D.

Physician Signature

Signature/Title - Eligible Psychologist/Qualified Professional

[Signature]

Print Name of Examiner

DOROTHEA DIX HOSPITAL

Address or Facility

RALEIGH, NORTH CAROLINA 27603

City and State

(919) 733-5510

Telephone Number

This is to certify that this is a true and exact copy of the Examination and Recommendation for Involuntary Commitment

Original Signature - Record Custodian

Title

Address or Facility

Date

NOTE: Only copies to be introduced as evidence need to be certified.

Original: Medical Record

CC: Clerk of Superior Court where petition was initiated (initial hearing only)
Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised
Respondent and State's Attorneys, when applicable
Proposed Outpatient Treatment Center or Physician (Outpatient Commitment/Area Program or Physician (Substance Abuse Commitment))

NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

*STATUTORY DEFINITIONS

"Dangerous to himself". Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a *prima facie* inference that the individual is unable to care for himself; or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

"Dangerous to others". Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.

"Mental illness": (a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control; and (b) when applied to a minor, a mental condition, other than mental retardation alone, that so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

"Mentally retarded with accompanying behavior disorder". An individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.

"Substance abuser". An individual who engages in the illegal use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

NAME OF RESPONDENT: <u>Floyd Brown</u>	AGE <u>36</u>	BIRTHDATE <u>05-06-64</u>	SEX <u>M</u>	RACE <u>B</u>	M.S. <u>S</u>
ADDRESS (Street, Apt., Route, Box Number, City, State, Zip - Use facility address after 1 year in facility) <u>3601 MAIL SERVICE CENTER, Raleigh NC 22699-3601</u>			County		
LEGALLY RESPONSIBLE PERSON <input checked="" type="checkbox"/> NEXT OF KIN (Name and address) <u>ROSE BROWN</u> <u>HIGHWAY 742 NORTH WADE BORO NC 28170</u>			Relationship <u>MOTHER</u>		
PETITIONER (Name and address) <u>DO WORK MO</u>			Relationship <u>Psychiatrist</u>		
			Phone <u>733 9277</u>		

The above-named respondent was examined on 2-14, 2001 at 4:30 o'clock PM at DOIT. Included in the examination was an assessment of the respondent's:

☐ (1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self or others as defined in G.S. 122C-3 (11*); (3) ability to survive safely without inpatient commitment, including the availability of supervision from family, friends, or others; and (4) capacity to make an informed decision concerning treatment. ☐ (1) current and previous substance abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11*). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

Inpatient. It is my opinion that the respondent is:

(1st Exam - Physician or Psychologist) ☒ mentally ill; ☒ dangerous to self; ☒ dangerous to others

(2nd Exam - Physician only) ☐ In addition to being mentally ill is also mentally retarded

☐ none of the above

Outpatient. It is my opinion that:

(Physician or Psychologist) ☐ the respondent is mentally ill

☐ the respondent is capable of surviving safely in the community with available supervision

☐ based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3 (11*)

☐ the respondent's current mental status or the nature of his illness limits or negates his/her ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment

☐ none of the above

Substance Abuse. It is my opinion that the respondent is:

(1st Exam - Physician or Psychologist; 2nd Exam - If 1st exam done by Physician, 2nd exam may be done by Qual. Prof.) ☐ a substance abuser

☐ dangerous to himself or others

☐ none of the above

SECTION II - DESCRIPTION OF FINDINGS

Clear description of findings (findings for each criterion checked above in Section I must be described):

Patient remains HB 95 status but has been behaviorally stable for sometime. He has participated well in therapeutic activities and has had no episodes of aggressive behavior. Hopefully he can be placed in a safe structured, supervised group home setting and additional outpatient time is needed for trial placement.

(over)

reflux
early WRO

Depakote
Olanzapine
trazodone
Prozac, others

Impression/Diagnosis:

Psychotic disorder NOS / impulse control dis NOS moderate mental retardation

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☒ Inpatient Commitment for 45 days (respondent must be mentally ill and dangerous to self or others)
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)
- Proposed Outpatient Treatment Center or Physician: (Name) _____
(Address and Phone Number) _____
- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse)
- ☐ Release respondent pending hearing - Referred to: _____
- ☐ Hold respondent at 24-hour facility pending hearing - Facility _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding; therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- ☐ Other (Specify) _____

B. D. Worf M.D.

M.D.

Physician Signature

Signature/Title - Eligible Psychologist/Qualified Professional

B. D. Worf M.D.

Print Name of Examiner

DOROTHEA DIX HOSPITAL

Address or Facility

RALEIGH, NORTH CAROLINA 27603

City and State

☐ (919) 733-5510 or ☐
(919) _____

Telephone Number

This is to certify that this is a true and exact copy of the
Examination and Recommendation for Involuntary Commitment

Original Signature - Record Custodian

Title

Address or Facility

Date

NOTE: Only copies to be introduced as evidence need to be certified.

Original: Medical Record

CC: Clerk of Superior Court where petition was initiated (initial hearing only)
Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised
Respondent and State's Attorneys, when applicable
Proposed Outpatient Treatment Center or Physician (Outpatient Commitment/Area Program or Physician (Substance Abuse Commitment)

NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed; the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

*STATUTORY DEFINITIONS

"Dangerous to himself". Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a *prima facie* inference that the individual is unable to care for himself; or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given; or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

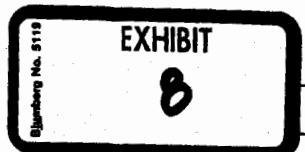
"Dangerous to others". Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct.

"Mental illness": (a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control; and (b) when applied to a minor, a mental condition other than mental retardation alone, that so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

"Substance abuser". An individual who engages in the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Substance abuse include a pattern of tolerance withdrawal.

County ANSON
Client Record # _____

STATE OF NORTH CAROLINA
EXAMINATION AND RECOMMENDATION TO DETERMINE
NECESSITY FOR INVOLUNTARY COMMITMENT



NAME OF RESPONDENT: <u>FLOYD BROWN</u>	AGE <u>36</u>	BIRTHDATE <u>05-06-64</u>	SEX <u>M</u>	RACE <u>B</u>	M.S. <u>S</u>
ADDRESS (Street, Apt., Route, Box Number, City, State, Zip - Use facility address after 1 year in facility) <u>3601 MAIL SERVICE CENTER RD</u> <u>Raleigh NC 27699-3601</u>			County <u>ANSON</u>		
LEGALLY RESPONSIBLE PERSON <input checked="" type="checkbox"/> NEXT OF KIN (Name and address) <u>ROSE BROWN</u> <u>HIGHWAY 742 NORTH, WAREBORO NC 28170</u>			Relationship <u>MOTHER</u>		
PETITIONER (Name and address)			Phone <u>704-694-5756</u>		
			Relationship		
			Phone		

The above-named respondent was examined on 4/10/2001 at 11:55 o'clock A.M. at Clark Bully
DDH included in the examination was an assessment of the respondent's:

☐ (1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self or others as defined in G.S. 122C-3 (11*); (3) ability to survive safely without inpatient commitment, including the availability of supervision from family, friends, or others; and (4) capacity to make an informed decision concerning treatment. ☐ (1) current and previous substance abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11*). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

Inpatient. It is my opinion that the respondent is:
(1st Exam - Physician or Psychologist) ☒ mentally ill; ☐ dangerous to self; ☐ dangerous to others
(2nd Exam - Physician only) ☒ mentally retarded; ☐ and, because of an accompanying behavior disorder, is dangerous to others
☐ none of the above

Outpatient. It is my opinion that:
(Physician or Psychologist) ☐ the respondent is mentally ill
☐ the respondent is capable of surviving safely in the community with available supervision
☐ based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3 (11*)
☐ the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment
☐ none of the above

Substance Abuse. It is my opinion that the respondent is:
(1st Exam - Physician or Psychologist; 2nd Exam - If 1st exam done by Physician, 2nd exam may be done by Qual. Prof.) ☐ a substance abuser
☐ dangerous to himself or others
☐ none of the above

SECTION II - DESCRIPTION OF FINDINGS

Clear description of findings (findings for each criterion checked above in Section I must be described):

Rt. remains HB-95. He has been free of aggressive or assaultive behavior. He has been diagnosed with mental retardation. Intermittent episodes of agitation, irritability and anxiousness noted. The Rt. is, however, participating in different activities. His treatment team recommended placement in a safe, structured, supervised group home if approved by the legal system. The further inpatient commitment would be utilized in the plan for a 30 day trial placement in the event placement would be authorized by court. (over)

AD

Impression/Diagnosis:

Psychiatric disorder
Mental Retardation, mild

Diagnosis
Olanzapine
Pepcid
Alcohol

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☒ Inpatient Commitment for 60 days (respondent must be mentally ill and dangerous to self or others; or mentally retarded, and because of an accompanying behavior disorder, is dangerous to others)
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)
- Proposed Outpatient Treatment Center or Physician: (Name) _____
- (Address and Phone Number) _____
- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse)
- ☐ Release respondent pending hearing - Referred to: _____
- ☐ Hold respondent at 24-hour facility pending hearing - Facility _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding; therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- Other (Specify) _____

A. Alamy M.D.
Physician Signature

Signature/Title - Eligible Psychologist/Qualified Professional

Abdullah O. Askan, MD
Print Name of Examiner

DOROTHEA DIX HOSPITAL

Address or Facility

RALEIGH, NORTH CAROLINA 27603

City and State

(919) 733-5510

Telephone Number

This is to certify that this is a true and exact copy of the Examination and Recommendation for Involuntary Commitment

Original Signature - Record Custodian

Title

Address or Facility

Date

NOTE: Only copies to be introduced as evidence need to be certified.

Initial: Medical Record

Clerk of Superior Court where petition was initiated (initial hearing only)

Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised

Respondent and State's Attorneys, when applicable

Proposed Outpatient Treatment Center or Physician (Outpatient Commitment/Area Program or Physician (Substance Abuse Commitment))

- E: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

*STATUTORY DEFINITIONS

"dangerous to himself". Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable without care, supervision, and the continued presence of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations or to satisfy his needs for food, shelter, or medical care, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation or injury in the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself. or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given, or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation. "dangerous to others". Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this behavior will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerousness.

"Mental Illness": (a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control, and (b) when applied to a minor, a mental condition, including mental retardation alone, that so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or discretion in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control. "Mentally Retarded with accompanying behavior disorder". An individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property. "Substance Abuser". An individual who engages in the pattern of use or abuse of alcohol, drugs in a way or to an extent that produces an impairment in occupational function. Substance abuse may include a pattern of tolerance or withdrawal.

EXAMINATION AND RECOMMENDATION TO DETERMINE
NECESSITY FOR INVOLUNTARY COMMITMENT
 County _____
 Client Record # 397962

NAME OF RESPONDENT: <u>FLOYD BROWN</u>	AGE <u>37</u>	BIRTHDATE <u>5-6-64</u>	SEX <u>m</u>	RACE <u>B</u>	M.S. <u>S</u>
ADDRESS (Street, Apt., Route, Box Number, City, State, Zip - Use facility address after 1 year in facility) <u>3601 MSC Center</u> <u>RALEIGH NC 27699-3601</u>			County _____		
LEGALLY RESPONSIBLE PERSON <input checked="" type="checkbox"/> NEXT OF KIN (Name and address) <u>ROSE BROWN</u> <u>HIGHWAY 742 North, WADES BORO NC 28770</u>			Relationship <u>mother</u> Phone <u>904-694-5756</u>		
PETITIONER (Name and address) <u>Bruce Allorf mo</u>			Relationship <u>the psychiatrist</u> Phone <u>433-9077</u>		

 The above-named respondent was examined on 5-23 1981 at 0700 o'clock PM at DDH

_____ included in the examination was an assessment of the respondent's:

☐ (1) current and previous mental illness or mental retardation including, if available, previous treatment history; (2) dangerousness to self or others as defined in G.S. 122C-3 (11*); (3) ability to survive safely without inpatient commitment, including the availability of supervision from family, friends, or others; and (4) capacity to make an informed decision concerning treatment. ☐ (1) current and previous substance abuse including, if available, previous treatment history; and (2) dangerousness to himself or others as defined in G.S. 122C-3 (11*). The following findings and recommendations are made based on this examination. *See Statutory Definitions on Reverse Side.

SECTION I - CRITERIA FOR COMMITMENT

Inpatient. It is my opinion that the respondent is:

(1st Exam - Physician or Psychologist) ☒ mentally ill; ☒ dangerous to self; ☒ dangerous to others

(2nd Exam - Physician only) ☐ mentally retarded; ☐ and, because of an accompanying behavior disorder, dangerous to others

☐ none of the above

Outpatient. It is my opinion that:

(Physician or Psychologist) ☐ the respondent is mentally ill

☐ the respondent is capable of surviving safely in the community with available supervision

☐ based upon the respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness as defined by G.S. 122C-3 (11*)

☐ the respondent's current mental status or the nature of his illness limits or negates his ability to make an informed decision to seek treatment voluntarily or comply with recommended treatment

☐ none of the above

Substance Abuse. It is my opinion that the respondent is:

(1st Exam - Physician or Psychologist; 2nd Exam - If 1st exam done by Physician, 2nd exam may be done by Qual. Prof.) ☐ a substance abuser

☐ dangerous to himself or others

☐ none of the above

SECTION II - DESCRIPTION OF FINDINGS

Clear description of findings (findings for each criterion checked above in Section I must be described):

Patient with psychiatric diagnoses of impulse control disorder not and psychotic dis not who is also moderately mentally retarded, has improved but remains HB-95 status. He may be able to proceed with placement at a closely supervised group home setting if allowed by court however

(over)

valproate
trazodone
chlorzepine

Impression/Diagnosis:

Psychotic dis nos, Impulse Control Disnos, Mod mental retardation

SECTION III - RECOMMENDATION FOR DISPOSITION

- ☒ Inpatient Commitment for 60 days (respondent must be mentally ill and dangerous to self or others; or mentally retarded, and because of an accompanying behavior disorder, is dangerous to others)
- ☐ Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)
Proposed Outpatient Treatment Center or Physician: (Name) _____
(Address and Phone Number) _____
- ☐ Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse)
☐ Release respondent pending hearing - Referred to: _____
☐ Hold respondent at 24-hour facility pending hearing - Facility _____
- ☐ Respondent does not meet the criteria for commitment but custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and that he was found not guilty by reason of insanity or incapable of proceeding: therefore, the respondent will not be released until so ordered following the court hearing.
- ☐ Respondent or Legally Responsible Person Consented to Voluntary Treatment
- ☐ Release Respondent and Terminate Proceedings (insufficient findings to indicate that respondent meets commitment criteria)
- ☐ Other (Specify) _____

Bruce Wolf MD
Physician Signature

M.D.

Signature/Title - Eligible Psychologist/Qualified Professional

Bruce Wolf MD
Print Name of Examiner

DOROTHEA DIX HOSPITAL

Address or Facility

RALEIGH, NORTH CAROLINA 27603

City and State

(919) 733-5510

Telephone Number

This is to certify that this is a true and exact copy of the
Examination and Recommendation for Involuntary Commitment

Original Signature - Record Custodian

Title

Address or Facility

Date

NOTE: Only copies to be introduced as evidence need to be certified.

Original: Medical Record

Clerk of Superior Court where petition was initiated (initial hearing only)

Clerk of Superior Court where 24-hour facility is located or where outpatient treatment is supervised

Respondent and State's Attorneys, when applicable

Proposed Outpatient Treatment Center or Physician (Outpatient Commitment/Area Program or Physician (Substance Abuse Commitment))

NOTE: If it cannot be reasonably anticipated that the clerk will receive the copies within 48 hours of the time that it was signed, the physician or eligible psychologist/qualified professional shall communicate his findings to the clerk by telephone.

*STATUTORY DEFINITIONS

dangerous to himself. Within the recent past: (a) the individual has acted in such a way as to show: (1) that he would be unable without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations or to satisfy his needs for nourishment, personal or medical care, shelter, or self-protection and safety; and (2) that there is a reasonable probability of his suffering serious physical debilitation in the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is clearly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for himself, or (b) the individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given, or (c) the individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given. NOTE: Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

dangerous to others. Within the recent past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this act will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerousness to others.

mental illness. (a) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control; and (b) when applied to a minor, a mental condition, other than mental retardation alone, that so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or discretion in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

mentally retarded with accompanying behavior disorder. An individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.

substance abuser. An individual who engages in the physical use or abuse of alcohol or drugs in a way or to an extent that produces an impairment in his social, occupational, or educational functioning. Substance abuse may include a pattern of tolerance or withdrawal.

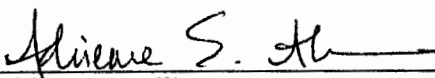
CERTIFICATE OF SERVICE

The undersigned certifies that this Brief of Amici Curiae has been served on District Attorney Michael D. Parker and counsel for Dorothea Dix Hospital, Richard Slipsky, by facsimile and by depositing a copy of it with the United States Postal Service with sufficient postage affixed addressed as follows:

Michael D. Parker
District Attorney
20th Prosecutorial District
Stanly County Office
P.O. Box 1241
Albemarle, North Carolina 28002
(704) 982-5763 (fax)

Richard Slipsky
Special Deputy Attorney General
Human Services / Medical Facilities Section
Office of the Attorney General
114 West Edenton Street
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
(919) 716-6756 (fax)

This the 4th day of October 2007.



Adrienne E. Allison