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14 **IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
15 **IN AND FOR THE COUNTY OF FRESNO**

16  
17 THE PEOPLE OF THE STATE OF  
CALIFORNIA,

18 Plaintiff,

19 v.

20 DOUGLAS RAY STANKEWITZ,

21 Defendant.

Case No. CF78227015

**NOTICE OF SENTENCING  
MEMORANDUM, MOTION TO  
DISMISS THE SPECIAL  
CIRCUMSTANCES PURSUANT TO  
PC 1385, AND IMPOSITION OF A  
DETERMINATE SENTENCE AND  
"TIME SERVED" OR LIFE WITH  
THE POSSIBILITY OF PAROLE**

**Date: May 1, 2025**

**Time: 9:00**

**Judge: Hon. Arlan Harrell**

22  
23  
24  
25  
26 **TO THE HONORABLE JUDGE, ARLAN HARRELL, AND TO THE**  
27 **DISTRICT ATTORNEY FOR FRESNO COUNTY, LISA SMITTCAMP AND HER**  
28 **DEPUTY, ALANA SMITH:**

{7611/002/00822156.DOC}

1           On May 1, 2025, or as soon thereafter as it may be heard, Defendant, Douglas Ray  
2 Stankewitz, by and through his counsel, Peter M. Jones, will move this Court to dismiss the  
3 special circumstances at the time of his sentencing hearing, and impose life in prison with the  
4 possibility of parole or sentence him to time served. Mr. Stankewitz is a Monache Native  
5 American man, a federally recognized tribe. (Exhibit 30j Tribal Enrollment letter). His  
6 grandfather, Sam Sample, was a medicine man and tribal chief.

7           This motion is being made pursuant to Penal Code Section 1385, which provided a  
8 sentencing court with the discretion, on cases arising prior to 1990, to strike or dismiss special  
9 circumstance findings and impose, in the interest of justice, a sentence of life in prison with the  
10 possibility of parole or time served, rather than life without the possibility of parole.

11           The basis for this motion is: (1) The extensive and extremely mitigating circumstances  
12 that have been well-established regarding Mr. Stankewitz's social history and personal  
13 challenges; (2) his age at the time of the offense; (3) the fact he was under the influence of  
14 heroin at the time of the offense; (4) the circumstances of the offense, when properly viewed as  
15 a collective effort, and the way in which the co-defendants were treated; (5) the amount of time  
16 that he has already served; and (6) his performance in prison over the past two decades.

17           Mr. Stankewitz, has served OVER 47 years in maximum confinement, 46 of those years  
18 have been on California's death row at San Quentin State Prison. He was 19 years old at the  
19 time of the offense. The co-defendant's, who were older than Mr. Stankewitz (with the  
20 exception of Billy Brown) all received extraordinarily lenient plea deals that did not even  
21 require them to testify or cooperate in any way. Indeed, a strong argument can be made that  
22 their testimony was unwanted and only would have undermined the one person the prosecution  
23 decided they needed in order to make their case against the Defendant and obtain a death  
24 verdict, Billy Brown. Marlin Lewis and Teena Topping each served about 6 years in prison for  
25 manslaughter. Christina Menchaca served less than 3. Billy Brown received complete  
26 immunity. Marlin Lewis was more than 4 years older than the Defendant. Christina Menchaca  
27 was more than 5 years older.

1           The circumstances in mitigation are truly extensive and overwhelming. The District  
2 Attorney’s Office even cited those circumstances in its decision to ask the court to impose life  
3 in prison, though without parole. The circumstances in aggravation have been overstated; and  
4 the circumstances of the offense have been augmented by new and previously unknown, or  
5 unanalyzed, evidence in ways that further mitigate the Defendant’s role in the crime/s.

6 **I. INTRODUCTION**

7           As the Court is aware, the Fifth District Court of Appeal in docket F079560 remanded  
8 Mr. Stankewitz’ case for resentencing after the trial Court entered a sentence of life without  
9 possibility of parole (“LWOP”), plus seven years, on May 3, 2019. In its decision the District  
10 Court highlighted that the trial Court was not in fact bound by Penal Code § 1381.1, which was  
11 added by Proposition 115 in 1980, and was, therefore, in a position to revisit the question of  
12 the application of Penal Code § 1385 to Mr. Stankewitz’ case.

13 **II. MR. STANKEWITZ IS ENTITLED TO A FULL RESENTENCING**

14 **A. Memorandum of Points and Authorities**

15           A trial court has several duties with respect to sentencing when deciding what sentence  
16 to impose. *People v. Clancy* (2013) 56 Cal.4th 562, 581. As the Supreme Court of California  
17 provided “[i]t is essential that trial courts, even at the earliest stages of a case, take seriously  
18 their duty to fashion a sentence in accordance with the general objective of sentencing (Cal.  
19 Rules of Court, rule 4.410) and to take due account of the crime and defendant’s criminal  
20 history (*id.*, rules 4.414, 4.421, 4.423).” *Id.*, citing *People v. Superior Court (Romero)* 13  
21 Cal.4th 497, 530-31. When a defendant is to be sentenced, they are “entitled to sentencing  
22 decisions made in the exercise of the ‘informal discretion’ of the sentencing court.” *People v.*  
23 *Yanaga* (2020) 58 Cal.App.5th 619, 626 citing *People v. Tirado* (2022) 12 Cal.5th 688, 694.  
24 When hearing a sentencing during a resentencing, the Court is to apply the “full resentencing  
25 rule.” This rule “allows a court to revisit all prior sentencing decisions when resentencing a  
26 defendant.” *People v. Valenzuela* (2019) 7 Cal.5th 415, 425-426 citing *People v. Buycks*  
27 (2018) 5 Cal.5th 857, 893 and *People v. Navarro* (2007) 40 Cal.4th 668, 681. Specifically,  
28 “[i]t is well settled that when a case is remanded for resentencing after an appeal, the defendant

1 is entitled to ‘all the normal rights and procedures available at his original sentencing ....’  
2 *Yanaga*, 58 Cal.App.5th at 625 citing *Dix v. Superior Court* (1991) 53 Cal.3d 442, 460. The  
3 Court is likewise to permit new changes to laws that benefit a defendant at a resentencing to be  
4 applied, so long as they are retroactive. *Valenzuela*, 7 Cal.5th at 422-423. Furthermore, the  
5 Court is to look at the entire sentencing scheme. *People v. Stankewitz* (2022 5DCA) CAL.  
6 APP. UNPUB. LEXIS 4060, citing *People v. Hill* (1986) 185 Cal.App.3d 831, 834.

7 **B. Argument**

8 Since Mr. Stankewitz is entitled to a full resentencing, he prays, by and through his  
9 counsel, that the Court consider all relevant case law, argument, and evidence as may be  
10 presented within this and further motions as well as mitigation submitted to the Court.

11 **III. MOTION TO STRIKE THE SPECIAL CIRCUMSTANCES**  
12 **PURSUANT TO PENAL CODE SECTION 1385**

13 **A. Memorandum of Points and Authorities**

14 The trial Court in 2019 was correct that Penal Code § 1381.1, added by Proposition  
15 115, removed a trial court’s ability to strike special circumstances. However, the changes to  
16 the laws regarding sentencing involving a special circumstance homicide are not retrospective  
17 and did not apply in Mr. Stankewitz’ case. In *People v. Tapia*, a 1991 Supreme Court of  
18 California case which addressed this issue, the Supreme Court of California provided for such  
19 a rule. 53 Cal.3d 282, 287-299. Specifically, the Court provided that such sentencing statutes  
20 modified by Proposition 115 “may only be applied to the prosecutions of crimes committed on  
21 or after June 6, 1990.” *Id.* At 299. The Court in *Tapia* reasoned that applying these changes  
22 retroactively would, in effect, “violate the rule against ex post facto legislation, since each of  
23 these provisions appear to define conduct as a crime, to increase punishment for a crime, or to  
24 eliminate a defense. *Id.*, at 288, citing *Weaver v. Graham* (1981) 450 U.S. 24 and *People v.*  
25 *Weidert* (1985 39 Cal.3d 836; see also U.S. Const., art. I § 1; Cal Const. art. I, §9. Case law  
26 makes it clear that since Mr. Stankewitz’ commission of the offenses predated the June 6,  
27 1990, date as provided for in *Tapia*, the Court is not bound by Proposition 115’s addition of  
28 Penal Code § 1381.1’s restrictions on striking special circumstances.

1           When the Court in turn, looks to the sentencing scheme at the time of the commission  
2 of the offense, it is permitted to strike special circumstance findings in Mr. Stankewitz' case.  
3 In its decision remanding Mr. Stankewitz' case for resentencing, the Fifth District Court of  
4 Appeal specifically provided “[c]onsistent with the parties’ claims on appeal, the trial court  
5 was nonetheless authorized to strike the special circumstance findings once Stankewitz was  
6 sentenced to life without the possibility of parole.” The court is to look at the entire sentencing  
7 scheme. *People v. Stankewitz* (2022 5DCA) CAL. APP. UNPUB. LEXIS 4060, citing *People*  
8 *v. Hill* (1986) 185 Cal.App.3d 831, 834. In 1981, the Supreme Court of California held in  
9 *People v. Williams*, that a special circumstance finding under Penal Code §§ 190-190.5 could  
10 be dismissed under Penal Code § 1385 by a sentencing court, allowing the court to impose a  
11 sentence of life with the possibility of parole. 30 Cal.3d 470, 490. *Williams* expressly  
12 provided that special circumstances can be dismissed pursuant to Penal Code § 1385 as, since  
13 1850, the statute has expressly permitted a court to “order any action, after indictment, to be  
14 dismissed” so long as it is in the interests of justice and a long line of cases supporting this  
15 rule. *Id.* at 482, 487-488.

16           Penal Code § 1385 in its current form provides when it is in the interests of justice, a  
17 judge can order an action dismissed based on one or more enumerated factors in PC 1385(a).  
18 Cal. Pen. Code § 1385(a). Subdivision (b) provides that if a court has authority to strike or  
19 dismiss an enhancement, it can, provided it is in the interests of justice, strike the punishment  
20 portion of the enhancement so long as it is permitted in subdivision (a). Cal. Pen. Code §  
21 1385(b)(1)-(2).

22           Pursuant to Cal. Pen. Code Sect. 1385(c)(2), absent a finding that dismissal would  
23 endanger public safety, a court retains the discretion to impose or dismiss enhancements  
24 provided that it assigns significant value to the enumerated mitigating circumstances when they  
25 are present. *People v. Walker*, 16 Cal. 5th 1024, 1024 (2024).

26           Therefore, the striking of special circumstances in Mr. Stankewitz' case would be based  
27 on an “interest of justice” finding and need not be based on a determination that the jury’s  
28 finding as to the special circumstances was in error.

1 **IV. CIRCUMSTANCES IN MITIGATION**

2 If famed novelist, Stephen King, were to apply himself to write a story that  
3 encompassed the most egregious childhood upbringing imaginable, he might want to read the  
4 defendant's social history for inspiration (Exhibit 30i, Vince Schiraldi's Social History report,  
5 exhibit to Motion for Relevant Data under the Racial Justice Act, filed with this court).

6 Douglas Ray Stankewitz was born on May 31, 1958. He was the sixth of 11 siblings of  
7 Native American ancestry. His family resided on and off the Big Sandy reservation when the  
8 children were growing up. The children were frequently placed in foster care due to abuse and  
9 neglect and their parents' repeated incarcerations. Social Service reports are replete with  
10 descriptions of abject poverty, abuse, squalor, three-four children of varying ages sleeping in  
11 the same bed, and likely sexual abuse (Exhibit 30k, 1967 Social Service Report; Exhibit 30i,  
12 *supra*). The first child, Frank, was born in 1951 and the last was born in 1966. Marion  
13 Stankewitz was the mother to all 11 children. The first child had one father, the second and  
14 eleventh children shared another, and children numbering from three years to ten had yet  
15 another. Douglas fell into this latter group, being the sixth born child. His father was William  
16 AKA "Sonny", Stankewitz. In addition to being in and out of prison for mostly violent  
17 offenses, he also had two children with another woman at the same time he was having  
18 children with Marion Stankewitz. Marion Stankewitz also had a violent record even before her  
19 arrests for the two violent beatings of the defendant in 1964 and 1965, and her manslaughter  
20 conviction in 1971 (Exhibit 30l, Marian Stankewitz Rap Sheet).

21 Seven of the eleven children have already died. Their deaths resulted from murder  
22 (Rhonda and, likely, Gary), drug overdose or alcohol and drug abuse (Johnny, Roger, Glenda,  
23 Frank) and accident (Wilma). Johnny had also been shot in the back and rendered a paraplegic  
24 several years before his death. The defendant's father died of a heart attack in his 40s and his  
25 mother died of liver disease, related to her long-term alcoholism, and diabetes, at the age of 60.  
26 Ten of the eleven children served time in state prison. The lone exception, Wilma, died at age  
27 22, in an automobile accident. Five of the eleven children were sentenced to life in prison or to  
28 death. Indeed, Mr. Stankewitz's three remaining siblings are all serving life sentences in

1 California prisons (William, Theodore and Rodney). His oldest brother, Frank died in prison,  
2 while serving a life sentence, from kidney and liver failure.

3 Mr. Stankewitz himself, almost certainly, suffered from Fetal Alcohol Syndrome as  
4 asserted by his older sister, Glenda. Consistent reports from his siblings, other relatives, and  
5 Marion Stankewitz, herself, document that she drank very heavily during her pregnancy with  
6 Douglas. His multiple evaluations consistently confirm an overall IQ score in the 77-85 range,  
7 and significant neurological damage involving the temporal lobe of his brain (Exhibit 30m).  
8 Dyslexia was noted in several reports along with an obvious speech impediment.

9 His mother said he “wrote his letters reversed and backwards” and was teased because  
10 he “had a speech impediment which prevented him from pronouncing his words properly”. She  
11 also noted, “Doug was clumsy and tripped over his own feet a lot. He was slow to learn  
12 physical things as a baby. He walked later than my other children. Both Doug and Johnny, who  
13 was born a year after Doug, were hyperactive and were put on medication. Doug could not sit  
14 still and watch television like everyone else.” School attendance was sporadic and always  
15 short-lived. His mother described how when she first put him in school he would get up and  
16 walk out of classrooms and his siblings would be asked to go find him and bring him back.

17 His longest stint in a school lasted for four months when he was living with Mrs.  
18 Bollmeyer in the NAPA area. Initially, he went for one hour a day, and then for the whole  
19 morning; toward the end, before he was removed from her home, he was attending full days.  
20 His third grade teacher, Nancy Hunt, was interviewed, on videotape, by Mark Sanchez, and  
21 described a “damaged” boy who needed affection, and was prone to random extreme outbursts.  
22 He was several years older than the other third graders and a “head taller”. He referred to  
23 himself in the third person and initially was at a kindergarten level of learning. He showed an  
24 eagerness to learn, and was progressing well, in her opinion: “Within a period of four months  
25 that boy went from kindergarten to first grade.” Although she had been warned not to touch  
26 him, a recommendation she initially followed, he would take her hand and put it on his  
27 shoulder or take her by the wrist and walk next to her.

1 Mrs. Hunt also mentioned that his foster mother was as wide as she was tall and had  
2 problems with her legs. She said “Douglas” found a book about ballerinas and thought it would  
3 help his “mom” with her legs. He told Mrs. Hunt, “Douglas wanna bring this book home for  
4 my mom to see, to make her legs better.” Sadly, Mrs. Hunt described how he would randomly  
5 start rocking in his desk, making noises, and huffing and puffing, to the point his classmates  
6 became afraid and ran behind her desk. Several parents complained, resulting in the principal  
7 transferring Douglas to another school, where he was prematurely placed in the fourth grade.  
8 Hunt said he didn’t last two weeks there. She heard he was being returned to his mother not  
9 long after that, a circumstance she felt was a major mistake, based on everything she’d heard  
10 (Mrs. Bollmeyer told her he still had scars from the beatings he had received from her). The  
11 next time she heard from him was when she learned he was on death row, and they began  
12 writing to one another (Exhibit 30n, Nancy Hunt Interview).

13 The most significant circumstance in his social history was the savage and bloody  
14 beatings inflicted by his mother. The last of these was so violent he was said to have been  
15 covered in blood and taken to the hospital where he remained for 11-14 days before being  
16 delivered to Napa State Hospital (NSH). There were attempts initially to place him in foster  
17 care, but his out-of-control, traumatized behavior, rendered him unmanageable. The Napa  
18 commitment was initially for a 90-day observation which commenced in March of 1965.

19 Due to the severity of his emotional disturbance, he remained at Napa for a full year.  
20 During this time no one from his family came to see him. Reports from Napa at that time noted  
21 that Douglas would cry on Sundays when the other children there had visitors, but he never  
22 did, and he waited alone for family members who never came (Exhibit 30o, Douglas  
23 Stankewitz NSH reports, dated 1967). Upon his discharge, placement in foster care in the Napa  
24 area was attempted so that psychiatrists at NSH could monitor his behavior. At NSH he had  
25 begun receiving intra-muscular injections of Mellaril and Thorazine to control his behavior  
26 (behavior that included, chewing through his restraints when he was tied to chairs and beds,  
27 enuresis, out-of-control tantrums, feces smearing and property damage). It was determined  
28 these injections needed to continue after his release.

1           After several attempts to place him failed due to his out-of-control behavior, a woman  
2 was finally located who agreed to try to care for him. He ended up staying with Mrs.  
3 Bollmeyer for nearly four years, from ages seven to eleven. During this time no one from his  
4 family came to visit him. When he was removed from this placement he was placed back home  
5 with his mother. His father was in prison for armed robbery at the time. His mother, however,  
6 was charged with murder in 1971 (less than a year after his return) so he was placed with an  
7 aunt who had a criminal record and whose own children had been previously removed from  
8 her custody. He was also, very briefly (20 days), placed with his father after his father's release  
9 from prison, but ran away after his father brutally beat his brother Johnny. None of these  
10 placements worked out and at age 13, with no record, Douglas was committed to "juvenile  
11 hall" for simply being "out of control".

12           A continuing theme of Mr. Stankewitz's development when he was young was the  
13 recurring out of control tantrums which were diagnosed as a direct result of a severe emotional  
14 disturbance, caused by extreme physical abuse. His sister, Glenda Padilla, was interviewed by  
15 undersigned counsel and Mark Sanchez, on videotape, about a month before she died of liver  
16 and kidney failure at the age of 61 (Exhibit 30p, Glenda Padilla Interview, dated November,  
17 2016). She described the final beating of her brother when he was six years old, as follows:

18           Glenda: My mother, she would hit us with whatever was around her. It didn't matter if  
19 it was a hose or a piece of wood, um, an ironing cord, it really didn't matter, whatever  
20 she could pick up.

21           Mark Sanchez: Do you remember the day the authorities came to take Douglas away?

22           Glenda: Yes.

23           Mark Sanchez: Where was Douglas when the police came, or when the authorities  
24 came? Do you remember that?

25           Glenda: [Glenda becomes very emotional and is fighting back tears]. Yes, we found  
26 him in a yard, and he was laying on the ground praying and crying [momentary pause  
27 to give Glenda time to compose herself], and he was all bloody. But it took us a long  
28 time to find him. The neighbor was looking for him and the police, but we finally did

1 find him. They took him from my mom. Took him to the hospital. And I didn't see him  
2 no more after that.

3 Mark Sanchez: Do you remember why he was so bloodied?

4 Glenda: [Still very emotional, wiping away tears], Cause my mom spanked him.

5 Mark Sanchez: Was it just a spanking?

6 Glenda: No, she hit him with the ironing cord. And, uh, she first started hitting him, and  
7 then I don't know where the ironing cord came from at the time, but we were in the  
8 front room and I was telling my mom to leave him alone. And she was just so angry she  
9 wasn't listening to me. So then my brother also was telling my mom to stop, and she  
10 wouldn't stop. So me and my brother ran over there. She was already, had, already  
11 been hitting him with it. And he got on his knees and he was praying to her to stop  
12 [momentary pause to give Glenda time to compose herself], and me and my brother  
13 got, one in the back and one got in front, and then we got hit instead of him. But I told  
14 him to run and he ran. And we did find him. But he was just really sobbing and crying,  
15 and he didn't deserve that treatment.

16 As a result of this beating, Mrs. Stankewitz was arrested and charged with felony child  
17 abuse. Her other children were removed from the home and placed in foster care. She served  
18 approximately four months in jail for this offense. Douglas was taken to Community Hospital  
19 where he remained for two weeks. He was then transferred to Napa State Hospital where he  
20 was hospitalized for mental and emotional treatment for one year (he was "discharged in  
21 December of 1965; however, he had to remain in the hospital four more months due to an  
22 inability to place him, in light of his mental/emotional conditions. Between April of 1965 and  
23 1970 he was under the supervision of NSH in Northern California. No one in his family came  
24 to visit or otherwise contact him. Not long after he was returned to his mother's care, in 1971,  
25 she was arrested and charged with murder for shooting a man in a bar who slapped her when  
26 she refused to buy him a drink. She took a deal for manslaughter and was sent to prison.

27 Both in the womb and as a young child, Mr. Stankewitz was exposed to extreme  
28 violence in the form of his father brutally beating his mother. In a declaration signed under

1 penalty of perjury, that was made in 1991 (four years before she died), Marion Stankewitz  
2 made the following statements:

3           “William and I both went to a two-day party while I was still pregnant with Doug. We  
4 started talking and decided to get back together. However, during the party he became very  
5 drunk and beat me very badly. He kicked me four times very hard in the stomach. He broke my  
6 nose, pulled my hair and knocked me down on the ground. He was making his usual  
7 accusations that this was not his child, and everyone was too scared to interfere. I was drinking  
8 a great deal when I was pregnant with Doug. On average I would drink all evening twice a  
9 week. I would consume either four six-packs of beer or between one and two fifths of whiskey.  
10 The other days of the week I would sometimes have a glass of whiskey to keep my mother-in-  
11 law company when she was drinking, before she got sick. Sometimes I would drink all day and  
12 half the night. Other times I would party continuously for three days, Friday through Sunday,  
13 and consume large quantities of alcohol....William often threatened to kill me when he beat  
14 me up. He would say he was going to kill me so no one else would have me. The children  
15 witnessed William beating me. One night when the kids were all asleep they were awakened  
16 because I was being beaten. They came out into the living room and stood there watching. I  
17 told them to go back to bed. All of them did except for Doug, who was about five years old at  
18 the time. Doug stood there and watched his father beat me until I finally told Doug to go back  
19 to bed. The children also saw William try to run me over with a car after he had knocked me to  
20 the ground. This made them all cry...When I was pregnant with Teddy, who was born  
21 February 12, 1964, William beat me so badly I couldn't speak and my eyes couldn't open. The  
22 doctor at the hospital said I had a broken jawbone. William stayed away a couple years after  
23 this incident...After Teddy was born, William came to the house in the middle of the night  
24 with a gun threatening to kill Teddy, saying it was not his child. My sister Margaret was there  
25 at the time with all of her children, too. Margaret went in and threw a blanket over the crib so  
26 William wouldn't find Teddy. I called the police who arrived and saw that I had been beaten  
27 up. The police advised me that it was in my best interest to leave, even though it was my home.  
28 Margaret and I then took all the children and went to another woman's house. After a few

1 hours we sent my son Willie back to see if William was still there. Willie came back and  
2 reported William had left, but that he had smashed up some things including the television.  
3 William once shot a gun several times between my legs to scare me. He also used to come  
4 home in the middle of the night, wake me up, and then berate and terrorize me.”

5       Regarding her manslaughter conviction she said, “I went to prison for involuntary  
6 manslaughter in about 1971. The incident happened in North Fork during the third day of  
7 partying at a powwow when a man slapped me in a bar. Although I was used to my husband  
8 slapping me, this was the first time any other man had hit me. I reacted by shooting him with a  
9 gun I had. The man’s wife, sister-in-law and brother-in-law took the gun away, beat me up and  
10 shot me.” Needless to say, being a previously convicted felon, she should not have been in  
11 possession of a gun (neither then, nor on the day of the Theresa Graybeal murder).

12       Regarding her son Doug, she did echo the sentiment his teacher Mrs. Hunt expressed,  
13 “Doug was much more affectionate than any of the other children. He constantly wanted to be  
14 hugged and cuddled. If I was too busy doing household chores, he would go to Glenda for  
15 affection. Doug was never mean to animals and was very loving to the dog that he had.” Sadly,  
16 his own mother’s victimization, anger, alcoholism and cruelty, among so many other  
17 circumstances, significantly dimmed that kind, loving childhood trait.

18       A mitigating circumstance that is really the “elephant in the room”, is the long shadow  
19 cast over California’s Native American tribes by over a century of state-imposed poverty,  
20 racism, oppression, murder, rape and relocation. As discussed in Defendant’s Racial Justice  
21 Act motions filed with this Court, the effects of this shadow continue to this day. California’s  
22 first governor, Peter H. Burnett, in his Second Annual Message to the state legislature, said in  
23 1851, “A war of extermination will continue to be waged between the races, until the Indian  
24 race becomes extinct. The inevitable destiny of the race is beyond the power or wisdom of man  
25 to avert.” California Senator, John B. Weller (who became governor in 1858) told the state  
26 senate in 1852, “California Indians will be exterminated before the onward march of the white  
27 man.” Policies that flowed from these genocidal beliefs “continued with successive state  
28 governmental administrations for several decades, which offered US\$10 to US\$25 for evidence

1 of dead natives. For example, in 1851 Shasta City began offering \$5 for every severed Indian  
2 head delivered (An American Genocide, Benjamin Madley, 2016). Some of the more  
3 successful exterminators were rewarded with positions in the state government. There is no  
4 record any were ever prosecuted. Senator Weller, himself, was a former prosecutor.

5         The cause of the abject poverty found on Native American reservations in California in  
6 the 1950s and 60s, was not lost on the memory of tribal elders. A placement report prepared by  
7 Fresno Deputy Probation Officer, Joe Walden, on December 8, 1965 (after the defendant had  
8 served his 3<sup>rd</sup> 90 day commitment to NSH, described the living conditions at the Big Sandy  
9 Rancheria, where his mother resided, as one basis not to return Douglas to his mother:  
10 “Placement of the minor with his natural parents is out of the question at this time. The minor’s  
11 mother is currently living on the Indian reservation in Auberry in a sub-standard dwelling  
12 without electricity or running water. The whereabouts of the minor’s father are unknown.” In  
13 a letter written several years later, Officer Walden opined that returning Douglas to his family  
14 under any circumstances would literally doom him (Exhibit 30q, Officer Walden Report, dated  
15 March 30, 1972).

16         Mr. Stankewitz’s age at the time of the offense, warrants serious consideration for a  
17 sentence of life with the possibility of parole or less. The studies and research on the  
18 development of the brain relied upon to pass the Youthful Offender Act, Penal Code § 3051,  
19 support the inescapable conclusion that the brain continues to develop and mature through age  
20 25. Vincent Schiraldi explains this in his declaration. (Exhibit 30i, Declaration of Vincent  
21 Schiraldi., paras 171 – 176). In October of 2022, the Second District Court of Appeal in  
22 California held that P.C. 3051 (the “Youthful Offender Act”) applied to defendants whose  
23 offense occurred when they were between the ages of 18 and 25 and sentenced to serve life in  
24 prison without the possibility of parole, *People v. Hardin* (2022) 84 Cal.App.5<sup>th</sup> 273.

25         The basis for this holding was the finding that PC 3051, to the extent it allowed  
26 offender’s under the age of 18 serving LWOPP to seek a modification of their sentence to life  
27 with parole, should likewise permit those who were ages 18 to 25 at the time of their offense,  
28 serving life without the possibility of parole, to also seek parole consideration after the

1 completion of 25 years of their sentence. Not to allow this, the court found, would violate the  
2 Equal Protection Clause of the Fifth Amendment. While Mr. Stankewitz would fall within the  
3 purview of that decision, the California Supreme Court reversed that holding, *People v. Hardin*  
4 (2024) 15 Cal.5<sup>th</sup> 834. A substantially similar result, more recently, was reached by the First  
5 District Court of Appeal in *People v. Briscoe* (1DCA, Div. 4 2024) 105 Cal. App. 5<sup>th</sup> 479.  
6 This decision considered the application of a “Franklin Hearing” to a defendant who was 21 at  
7 the time of the offense. *People v. Franklin* (2016) 63 Cal. 4<sup>th</sup> 261.

8         These cases are not cited herein as authority to support this motion. They are cited to  
9 highlight the ongoing evolution of science (See Exhibit 30i, Declaration of Vince Schiraldi,  
10 paras 121, 130 – 161) and the debate regarding the broad application of LWOPP to all  
11 individuals that fall within the age range of the Youthful Offender Act, and how this research  
12 and debate lends additional support to Defendant’s 1385 motion to have his special  
13 circumstances stricken. Being age 19 (emotionally even younger), coupled with his deficits,  
14 disabilities, his victimization, and any semblance of a healthy upbringing by any competent  
15 definition, if anyone should be considered for the requested relief, it would be Douglas  
16 Stankewitz.

17         The fact the defendant was clearly under the influence of heroin at the time of the  
18 offense is undisputable. Both prosecutors at trial challenged this fact and did everything they  
19 could to minimize and refute it; but the facts are the facts. Ms. Menchaca said she obtained 3  
20 dime bags of heroin and she and Ms. Topping and the defendant injected the heroin  
21 intravenously, immediately prior to driving to Calwa. Mr. Brown described obvious symptoms  
22 of heroin intoxication. Topping provided a declaration under penalty of perjury that she had, in  
23 fact, injected the defendant with heroin right before they went to Calwa. (Exhibit 30r, Co-  
24 defendant statements and Tina Topping Declaration regarding Douglas Stankewitz heroin use,  
25 various dates). Of course, the jury never heard from Menchaca or Topping. In his closing  
26 argument at the second trial in 1983, ADA Robinson told the jury the evidence did not support  
27 intoxication based simply on a couple of vague symptoms Mr. Brown described—which was  
28 all the defense offered to support their theory.

1 **V. CIRCUMSTANCES IN AGGRAVATION**

2 The defendant's incarcerations began early in his juvenile years. Although he had  
3 committed no crime, at age 11 he was committed to "Juvenile Hall" for 90 days and placed on  
4 probation for a year, for simply being "out of control".

5 On August 12, 1971, at the age of 13, while on probation for being "out of control", the  
6 defendant was arrested and charged with assault with the intent to commit robbery. On April 4,  
7 1972, he was committed to California Youth Authority (CYA). The details of this offense  
8 indicate the defendant was more than 30 years younger than the other three Native American  
9 defendants (one of them was his uncle who he was living with, briefly), and Douglas appears  
10 to have been merely tagging along with them, when they initiated the strong-armed robbery of  
11 the 65-year-old victim. Mr. Stankewitz may have reached into one of the victim's pockets  
12 during the assault. (Exhibit 30s, 1972 Police Report).

13 Mr. Stankewitz was paroled from CYA in January of 1973 at the age of 14. On April  
14 24, 1973, still 14, he was in the company of a friend, Eddie Davis, age 17, and his brother  
15 Johnny Stankewitz, age 13 (Exhibit 30t, 1973 Police Report and Johnny Stankewitz  
16 Statement). On this day they were alleged to have broken into a home where they stole a  
17 number of firearms and ammunition. They then physically assaulted an older man and stole his  
18 car. When the Highway Patrol gave chase they were fired at by someone in the stolen vehicle.  
19 Pellets from a shotgun shell grazed an officer in one of the pursuing vehicles. He was taken to  
20 the hospital and was determined not to have been seriously injured.

21 Eddie Davis was shot dead when he exited the stolen car, with a gun in hand. Johnny  
22 Stankewitz ran from the car and was located hiding in some nearby bushes and placed under  
23 arrest. The defendant was observed running from the stolen vehicle and also placed under  
24 arrest. The prosecution argued during the Defendant's 1983 Penalty Phase that there were only  
25 two individuals in the stolen vehicle, Eddie Davis and the defendant, and since Davis was  
26 driving, *only the defendant could have fired the shot gun at Officer Reid*, wounding him.

27 After he was arrested, however, Johnny provided a detailed statement. He said he was  
28 in the back seat of the stolen vehicle; his brother Doug was in the front passenger seat and

1 Eddie Davis was driving. The officers maintained that the shots were fired through the rear  
2 window by someone in the back seat. Although Johnny claimed he was loading guns for Eddie,  
3 who fired at the officers while he was driving, it is more likely the shotgun was fired by him,  
4 from the back seat (Johnny was committed to CYA on this offense). The interview of Johnny  
5 begs the question: Whether or not defendant's trial counsel had been provided the report of this  
6 interview, and the report indicating Johnny had been arrested at the scene.

7         The prosecution's argument was knowingly false and designed to buttress the appeal to  
8 the jury to impose a sentence of death. The defendant was recommitted to CYA for this offense  
9 and released on parole in February of 1977 at the age of 18. In April of 1977, he was arrested  
10 on a robbery charge and while being processed, he fought with the booking officer, who  
11 knocked his hat off. This conflict resulted in the officer receiving a one inch cut to his chin.  
12 Mr. Stankewitz was sentenced to a year in the Sacramento County Jail for battery on a peace  
13 officer. He was released in January 1978 and reinstated on parole.

14         During his lengthy incarceration at Juvenile Hall and California Youth Authority, the  
15 defendant received a number of write-ups for fighting, being out of control and refusing to  
16 follow institutional rules.

17         It would be pointless to argue Douglas Stankewitz ever had a chance to reform and  
18 begin living a law-abiding life. From his fetal alcohol exposure and in utero physical abuse, to  
19 his helplessly violent upbringing, isolation from family, mental hospital commitment at age  
20 six, intramuscular injections of powerful psychotropic drugs, obvious post-traumatic stress  
21 disorder, significant learning disabilities, parental, older sibling and older peer role modeling—  
22 Douglas Stankewitz never had a chance. Douglas Stankewitz was in every way a **victim**. His  
23 first offense, at 13, came after a 90-day commitment to juvenile hall for being "out of control",  
24 and was with much older individuals. His next offense, at age 14, was also with an older peer.  
25 The offense for which he now faces sentencing was with older peers, as well; and, at a time, he  
26 was clearly under the influence of heroin.

## 27 **VI. CIRCUMSTANCES OF THE OFFENSE**

1 Douglas Stankewitz was found guilty by two juries of being the actual killer of Theresa  
2 Graybeal who voted to have him be put to death. His convictions, and death sentences,  
3 however, were based upon evidence that was clearly tainted. He was a young man of 19, who  
4 had experienced a horrific upbringing and was under the influence of heroin at the time of the  
5 offense (as even noted by Probation Officer, Sam Obwald, in his 1978 probation report). He  
6 was in the company of four, mostly older, companions. He, himself, was a victim of extreme  
7 violence and emotional abuse during the formative years of his childhood. His only role  
8 models, for all practical purposes, were a mother and father who modeled and inflicted  
9 violence, older brothers who were criminals, older friends he accompanied when they  
10 committed violent crimes, and the many older inmates that he served time with from the age of  
11 11. On the day of the offense, in Manteca, his mother provided the group a gun and told them  
12 they had to find their own way back to Fresno—she could only afford bus tickets for herself,  
13 Roger and an older relative.

14 A thoughtful and thorough review of the actual evidence, however, does not confirm  
15 the circumstances of the offense presented to the jury.

16 To say that Billy Brown was the heart and soul of the Prosecution’s case would be an  
17 understatement. Unknown to either jury that heard the defendant’s trials in 1978 and 1983, the  
18 fourteen-year-old Brown already had a criminal record, was on probation for three separate  
19 theft offenses and vandalism at the time of the offense and had a felony burglary petition  
20 pending in juvenile court (Exhibit 30u, Billy Brown Juvenile Record). Like the defendant, he  
21 came from a family with a criminal history (His father, Willis Brown, was one of the two men  
22 who planted the bomb that blew up Harvey’s Casino Hotel in Lake Tahoe in 1980). Another  
23 fact that the jury never heard, perhaps because no one had investigated their backgrounds, was  
24 that Billy Brown and Marlin Lewis were members of the same Native American tribe, the  
25 Choinumni (Exhibit 30v, Interviews Regarding Billy Brown & Marlin Lewis tribal  
26 connection).

27 The jury never heard from Christina Menchaca, Teena Topping or Marlin Lewis, even  
28 though they had been given inordinately lenient deals that resulted in Topping and Lewis being

1 released after serving only six years in custody and Menchaca after serving less than three.  
2 They were not required to enter into a cooperation agreement for these plea bargains. Indeed,  
3 they would have impeached Mr. Brown's evolving tale, and would likely have hurt the  
4 prosecution's case had they testified (none of them recalled, for example, hearing the  
5 defendant say "did I drop her".) They would have also told the jury that Mr. Stankewitz was  
6 definitely under the influence of heroin during the time in question—a circumstance the  
7 prosecution sought to refute at both trials. PC 190.3 (H) makes being under the influence at the  
8 time of the offense a factor in mitigation and also weighs in on an individual's capacity to form  
9 required intents, including premeditation.

10 Before looking at the co-defendant's statements, it is important to look at Billy Brown's  
11 very first statements to law enforcement provided on the night of the crime. The Defendant is  
12 aware of this Court's opinion on his Writ of Habeas Corpus regarding the mootness of the first  
13 trial and second penalty phase. References herein to those proceedings are being made,  
14 necessarily, to show the circumstances of the offense were arguably more mitigated than those  
15 presented to the jury. Additionally, while the jury never learned of the lenient sentences given  
16 to the co-defendants, it is not irrelevant to consider them for this motion.

17 The first officer to arrive at Billy Brown's house and make contact with him was FSO  
18 Deputy W. Prince (Exhibit 30w, FSO Prince Report, dated 2-8-78). This took place at 9:16  
19 p.m. on 2/8/78. Officer Prince indicates in his report that he had gone to the location regarding  
20 an "out of control" juvenile, (Brown had been told when the group had stopped at a house in  
21 Clovis, after leaving Calwa, that his mother had called in a missing person report on him and  
22 he needed to get home).

23 Brown immediately began his narrative to Prince with an incontrovertible lie about the  
24 Defendant's involvement. Officer Prince wrote in his report that Brown said: They were hitch-  
25 hiking back to Fresno when they stopped in Modesto at a K-Mart parking lot. They all  
26 followed a girl to her car and **Stankewitz pulled out a .25 caliber automatic and shoved it**  
27 **into the female's side and forced her into her vehicle**, the rest of them then entered the  
28 vehicle. They all drove to the China town area in Fresno with the female and drove around to

1 find some heroin. They then drove to an unknown location in Chinatown, near “F” street,  
2 where the defendant and ‘one’ of the other subjects got out of the vehicle taking the kidnap  
3 victim with them. A few minutes later he heard a shot and saw Stankewitz pointing a gun at the  
4 victim’s head and saw her fall to the ground. Brown estimated he was 20 feet away, sitting  
5 inside the vehicle at that time. Officer Prince notes that Brown’s description of the location of  
6 the shooting was very vague.

7 This narrative clearly contained a known-to-be false accusation to try to blame the  
8 defendant for something he did not do. He did not “shove a gun into the female’s side and  
9 force her into her car.” Topping and Lewis (and later, Brown, himself) reported that Teena  
10 Topping followed Ms. Graybeal to her car, waited until she unlocked and opened the door, and  
11 then she pushed her in. Topping then reached across Ms. Graybeal and unlocked the passenger  
12 door for Stankewitz, Lewis and Brown to gain entry.

13 Brown said Stankewitz and “one other person” got out of the car with the victim (near  
14 F St.in China-town). Brown intentionally omits Lewis’ name here and does not mention the  
15 fact that he, too, exited the car with them. It is important to note that this “other person” did not  
16 get back into the car before the shot was fired; in this narrative. Brown said the defendant and  
17 the other person took the woman with them, then he heard a shot fired, then he saw Stankewitz  
18 pointing the gun to her head and saw her fall to the ground. Brown’s sequence indicated he  
19 heard the shot first. The other person (Lewis—who Brown, initially, was reluctant to name)  
20 was still out there with the defendant. It was, by everyone’s account, dark and raining, Brown  
21 had exited then re-entered the car. He was 20 feet away, and he heard the shot first, before  
22 supposedly seeing the defendant holding the gun. This supports his years’ later statement that  
23 he actually did not see who pulled the trigger. His reluctance to name Lewis as the other person  
24 who got out of the car is also telling; and there was no, “Did I drop her?” in this interview  
25 (interestingly, none of the others in the car heard the defendant say this, and, as mentioned,  
26 Brown did not bring it up until the 3<sup>rd</sup> interview).

27 FSO Deputy McDaniel arrived at the Brown apartment in Pinedale at 9:43 p.m. and met  
28 with Brown alone in his bedroom. McDaniel took another statement from Brown. In this

1 account Brown stated: He, Stankewitz, Lewis and Topping were on their way home from  
2 Sacramento and their car was stopped “at gun-point,” for possibly being stolen. They were  
3 released, but their car was not, and they hitch-hiked to Modesto. In Modesto he claimed he was  
4 **inside the K-Mart store**, when Topping **and Stankewitz** followed the woman to her car and  
5 Topping pushed her in, then entered after her. Stankewitz then entered the passenger side and  
6 then he and Lewis got in. He mentioned that they drove to the Joy Joy bar in Fresno. They  
7 picked up a female named “Chris” and drove to the Olympic motel, where Chris obtained some  
8 heroin. When Chris returned to the car they drove around for a short time, stopped and  
9 Stankewitz, Lewis and the victim exited the vehicle. Brown said the victim was standing with  
10 her back slightly *toward the two subjects outside the vehicle* when he saw Stankewitz aim the  
11 gun with his right arm while holding his wrist with his left hand and saw a flame as the  
12 defendant’s hand jerked upward.

13 In this narrative Brown abandons his false claim that the defendant shoved a gun into  
14 the victim’s side and forced her to get into her car. He, also, had just told Officer Prince, that  
15 **he** (Brown) followed the victim when she was walking to her car at K-Mart—*now* he claims he  
16 was inside the store. He, again, does not mention the fact that he exited the vehicle in Calwa  
17 with Lewis, the defendant and the victim. He does state clearly that both Lewis and Stankewitz  
18 were together outside of the vehicle when the shot was fired, and he puts the gun in the  
19 defendant’s *right* hand. He still does not mention any reference to anyone saying anything  
20 about dropping her.

21 In his third interview with Officer Gary Snow, the next day (2/9/78), Brown again did  
22 not include himself as having exited the car with the defendant, Lewis, and the victim. He  
23 again said he looked from inside the car and saw both Lewis and the defendant standing with  
24 the victim when she was shot. He said he saw Stankewitz point the gun at her head and shoot  
25 her. After the defendant shot Ms. Graybeal, he made the statement, “Did I drop her or did I  
26 drop her?” and Lewis said, “You dropped her, man”, and they both started giggling.

1           Regarding Mr. Brown's claim that he did not follow the victim, and that it was Topping  
2 **and Stankewitz** that followed her, Teena Topping provided a substantially different account  
3 when interviewed by Officer Gary Snow on 2/11/1978:

4           Snow: Were all of you waiting in the store, kind of out of the rain or something?

5           Topping: We were outside.

6           Snow: Outside. Ok, why don't you just go through it and explain what  
7 happened from there...

8           Topping: Then we followed her to her car.

9           Snow: You say, "We followed her", you followed her nearer than the others,  
10 didn't you?

11          Topping: I was behind her.

12          Snow: You were behind her. Where was Doug and Marlin?

13          Topping: Marlin was behind her and so was Billy.

14          Snow: Ok. After, where did Bobby, where was he, Billy I mean. Where was he  
15 at?

16          Topping: He was behind her, too.

17          Snow: Behind her too. Ok. Did she know she was being followed?

18          Topping: uh, uh. [no]

19          Snow: Ok. When she got in the car, just like you explained to me, you just kind  
20 of pushed her, shoved her down, and then you opened...

21          Topping (interrupting): Shoved her over.

22          Snow: And then you opened the door, the other guys got in?...Didn't Doug tell  
23 you to, to, eh, push her down and open the door for him? When she got in the  
24 car?

25          Topping: No, the door was just open. I just opened it for him.

26  
27           Contrary to what Brown said in his second interview, he was not inside K-Mart when  
28 the victim was followed to her car; he was right there with them (which is what he had said in

1 his 1<sup>st</sup> interview). He again blames the defendant for something he did not do. He told the  
2 detectives in his second interview that Topping and *Stankewitz* followed Ms. Graybeal to her  
3 car. Topping, however, admitted to Officer Snow, matter-of-factly, that she, Marlin, and Billy  
4 were the ones that followed the woman to her car. The defendant was on the other side of the  
5 car.

6 In Mr. Brown's ever-evolving narrative he demonstrates an ease in lying about the  
7 defendant's involvement. Initially, saying he stuck a gun in Ms. Graybeal's gut and forced her  
8 into her car, and then claiming it was Topping and Stankewitz that followed her to her car—  
9 placing himself inside K-Mart at the time. Initially, he does not 'name' Lewis as the one that  
10 got out of the car with the defendant in Calwa (only he doesn't say they were in Calwa; he  
11 said—initially—they were in Chinatown near F Street). He does, however, say that both the  
12 defendant and this other person, who he later says was Marlin Lewis, were outside the car  
13 when the shot was fired. He never admits that he also got out of the car at that time. As his  
14 story evolves over time he moves Lewis closer to the car when the shooting occurs. By the  
15 time of the 1983 trial he *actually places Lewis inside the car*, leaving only the defendant  
16 outside to do the shooting—a significant shift in his narrative that went virtually unchallenged.

17 In his 4<sup>th</sup> interview on 2/11/78, Brown is questioned by Detectives Christensen and  
18 Lean and D.A. Ardaiz. There is some concern expressed about Brown's ability to remember  
19 events correctly:

20 Brown: "...they were to pick up Christine at that bar, some bar, and then we  
21 went to the Olympic Motel to pick up the heroin. I think that's where they were  
22 talking about, and we stopped there, and from there they jammed out, and they  
23 drove, they go let's go pick up [more heroin] at Calwa, you know, and then they  
24 drove to Calwa and I thought we were in Fresno 'cuz I was tired, *and they*  
25 *musta shot her out there* and then they go 'alright let's head back to Chinatown  
26 cuz they had the watch and the \$30 dollars, and...

27 Q. Okay, let me stop you a minute, when you say they must of shot her, you  
28 mean, you're talking about the location, you weren't too sure about the location.

1 Brown: No man, cuz I was sleeping, see, they drove all that way, and...

2 Q. You saw Stankewitz shoot the girl, *you've already told us about that, okay,*  
3 let me get my sequence of events straight because it's important to us exactly  
4 what happened.

5 Brown repeatedly says, "*They must've shot her*", implying that he did not actually see  
6 who fired the gun (and accusing the defendant, once again, of doing something that could have  
7 been done by someone else). The interviewers bring him back around, suggesting his doubt  
8 only concerned the location of the homicide, not the identity of the shooter; and *reminding him*  
9 *that he already said he saw Stankewitz do it*. While it is true, Brown said he was sleeping, it  
10 was dark, it was raining, he thought they were still in Chinatown; once he becomes familiar  
11 with the fact she was killed in Calwa, he starts referring to that location *as if it was by memory*.  
12 Eventually, he will say that they killed her at "10<sup>th</sup> and Vine in Calwa", as if he had personal  
13 knowledge of these streets.

14 In this interview, Brown, for the first time, says that Lewis was walking toward the car  
15 when the shot was fired (in his third interview on 2/9/78, Officer Snow wrote that Brown told  
16 him, "*Stankewitz and Lewis had gotten back into the victim's vehicle after killing the victim*").  
17 He contradicts himself on this, however:

18 Q. Where was Lewis standing when Stankewitz shot the girl?

19 Brown: Alright, the girl was standing there, Stankewitz standing there, Lewis  
20 was still kind of making the L.

21 Q. Kind of in an L shape if you connect the dots up?

22 Brown: Yeah, then Lewis was standing there. Lewis started walking to the car,  
23 and *then two guys started getting in*, and I looked up and I seen him shoot her,  
24 and then he came running to the car.

25  
26 Brown puts Lewis outside the car, and says that both guys started to get into the  
27 car—*and then* he looked up and saw Stankewitz shoot her and come running to  
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the car. This account is so contradictory it is hard to believe, had a jury been informed of it, they would have attributed much credibility at all to Mr. Brown.

In her second interview with Detectives Lean and Snow and D.A. Ardaiz, Christine Menchaca, reported that all three of the guys got out with the victim:

Menchaca: ...they stopped the car and three of them got out. Three guys got out.

Snow: How about the other gal?

Menchaca: Oh and her too. They got...she got out too....

Snow: Ok. There were three people who had, the three guys that got out of the car with this gal with the long hair.

Menchaca: I never seen those guys before in my life either.

Snow: When they got out, where did you stop at, first of all?

Menchaca: By the side of the road, I didn't know, I didn't notice what street it was.

Snow: Was it near an intersection?

Menchaca: No, I don't know.

Snow: Okay.

Menchaca: I just know it was on a street.

Snow: Okay Chris, what I'd like...

Menchaca: The windows were rainy, you know, *the windows were rainy and smogged-in you know....*

Snow: Alright, tell me exactly what you remember that happened after you stopped the car.

Menchaca: The three got out, the three got out, all three of them got out.

Snow: Alright.

Menchaca: And the girl got out too...and the door closed behind me, you know, after they all got out and me and Teena stayed in the car and the radio was on, I

1 didn't know....They got out, all three got out, the three guys. I can't tell you  
2 their names, you know, cause I never seen in my whole life.

3 Snow: What did you see them do after they got out of the car?

4 Menchaca: Nothing, I didn't see them.

5 Snow: Chris.

6 Menchaca: They got out of the car and that's as much as I saw and then I heard  
7 a gunshot and they came running to the car, all three of them, back inside the  
8 car.

9 Menchaca contradicts Billy in a number of ways. She repeatedly says he got out of the  
10 car with the defendant and Lewis and did not return to the car until after she heard the gun  
11 shot. She also said it was dark and raining and the windows of the car were all fogged up. If  
12 Billy returned to the car before the shot was fired, (or had just awakened and remained in the  
13 car as he first reported, and was looking out a car window), it would have been quite difficult  
14 to see what actually happened. Teena Topping and Marlin Lewis also said Brown exited the  
15 vehicle, but Lewis said he (Brown) re-entered the car before the shot.  
16

17 In his first interview, on 2/9/78 with Det. Gary Snow, Lewis was asked, "Where did  
18 you see this gal at, first of all?" Lewis answered, "At the K-Mart Plaza...I guess they even had  
19 her scoped up. You know me, personally, I wanted to hit her cold down, and I didn't want  
20 Doug and Tina and Bill there."  
21

22 In this interview, Lewis also denied, as did Topping and Menchaca in their respective  
23 interviews, ever hearing Mr. Stankewitz say anything like, "did I drop her" (something Billy  
24 Brown did not mention until his 3<sup>rd</sup> interview).

25 The point being made here, to support this motion, is that the circumstances of the  
26 offense are far from clear. When viewing Billy Brown's numerous statements, side-by-side,  
27 with objectivity, there is considerable doubt as to the full and complete accuracy of his trial  
28

1 accounts (as this Court noted in its' recent opinion, *Brown's testimony was a concern of the*  
2 *second jury to the point they asked for a readback*). Billy Brown's record, for crimes involving  
3 moral turpitude, his ever-evolving accounts, and the deal he was given in exchange for his  
4 testimony, support this conclusion. Considering Lewis' deal (who was four years Defendant's  
5 senior) and his clear involvement, the discrepancy between his serving an actual 6 years and  
6 the Defendant's serving 47 years and counting, is *unparalleled*. Unlike Brown, who was  
7 threatened with prosecution for murder if he did not cooperate—followed by a promise of full  
8 immunity if he did—Lewis' deal essentially bought his silence. (Exhibit 30x, Billy Brown  
9 Immunity Order and Petition Charging Him with Murder)

11           As an aside, prosecutors at both trials, engaged in some gamesmanship to protect Mr.  
12 Brown, and attempt to avoid an “accomplice” role; move Lewis away from the shooting;  
13 dispute the fact the defendant was under the influence of heroin at the time of the offense; and  
14 promote a theory of corroboration that was false and misleading (the “height/angle/trajectory”  
15 evidence). While defense witness, Jason Tovar, at the evidentiary hearing, testified to variables  
16 that needed to be considered when discussing this theory, he nevertheless completely negated  
17 the corroboration claimed by the prosecution at both trials for Billy Brown's trial accounts. For  
18 example, the District Attorney's examination of Alan Boudreau at the 1978 trial is illustrative.  
19 The D.A. refers to Dr. Nelson's autopsy report and asks Mr. Boudreau what the report said the  
20 victim's height was—160 centimeters, correct—correct. The D.A. follows this up by asking,  
21 “That's 5'7”. Boudreau does a calculation and replies, “no that would be 5'3”. The D.A.,  
22 realizing his mistake, stammers and moves quickly to another topic.

26           Why bring this up now, in a motion for resentencing? The Court is correct, the penalty  
27 phase of that trial was mooted by a full reversal. Still, it is illustrative of a thread that has run  
28 through the long, convoluted history of this case. On the one hand, it is also moot that ADA

1 Robinson argued that only Davis and the Defendant were in the stolen car during the 1978  
2 shootout with CHP officers; but it highlights a prosecutorial approach to convicting and  
3 aggravating the case at both phases to obtain the maximum punishment. This is also true of the  
4 failure to disclose a report relevant to the “Jesus Meras” offense that would have been helpful  
5 to the defense (as well as the more than curious misplacement of three casings from the .25 in  
6 the envelope that contained three casings from a .22 collected on that case—the report of  
7 which was never provided to the defense, and .22 casings that were never seen again).  
8

9         Looking at all the circumstances, all the evidence that the jury heard and did not hear, it  
10 cannot be said that Mr. Lewis, particularly, but Ms. Topping as well, did not play major roles  
11 in everything that occurred, or that Mr. Brown was not an accomplice. Mr. Lewis alternately  
12 held a knife and a gun on Ms. Graybeal, by his own admission, and was standing near to the  
13 defendant when the gun was fired (if this admission lacks credibility it would certainly not be  
14 because the truth would be more self-serving). Mr. Lewis, as in Mr. Stankewitz’s other  
15 convictions, was an older co-participant who was involved at every stage, every step along the  
16 way. Recall he even told Officer Snow that “personally I wanted to hit her cold down and I  
17 didn’t want Doug, and Tina and Bill there.”  
18

19         Theresa Graybeal should not have died. She should have returned home that day and  
20 lived a long life. She would be sixty-nine today. She is one of far too many who needlessly and  
21 tragically are lost to a violent act. It goes without saying, however, that most of those  
22 prosecuted for first degree murder do not receive the death penalty or life without parole.  
23 Individuals, who are older, sober, with substantial premeditation and planning, frequently  
24 receive sentences of life with parole. Individuals with every opportunity, who for some selfish  
25 purpose, choose to carry out a deadly assault on another person, more often than not, are given  
26 life with parole. That is not what we have here.  
27  
28

1 **VII. THE 1978 AND 2022 PROBATION REPORTS SHOULD NOT BE CONSIDERED**  
2 **BY THE COURT**

3 The presentence report prepared by the Fresno County Probation Department (FCPD)  
4 should not be considered by the court. The report contains substantial errors and information  
5 that has not been verified, as admitted to by the FCPD in its response to the subpoena duces  
6 tecum received on October 19, 2024. (Exhibit 30y, Declaration Pursuant to CA Evidence Code  
7 1561, dated 11-8-2024). The Declaration Pursuant to California Evidence Code Section 1561  
8 states that the records produced are the complete contents of the FCPD file for Douglas R.  
9 Stankewitz. The Declaration lists the identity of the records in paragraph 5. Essentially the  
10 records only include the 1978 sentencing Report, the 2022 Supplemental Report, the Remittitur  
11 and a few minute orders. It does not contain any notes regarding interviews, investigation or  
12 research.  
13

14 Presentence reports are prepared pursuant to Penal Code Sect. 1230 and CA Rules of  
15 Court, Rule 4.411(a). Penal Code Sect. 1203(b)(3) states that the sentencing court is required to  
16 consider the probation report, therefore it must be accurate. Rule 4.411.5 lists the required  
17 content of these reports. These reports are supposed to include up to date information,  
18 including the defendant's post judgment behavior in prison. *People v. Yanaga* (2020 2DCA,  
19 Div. 6) 59 Cal.App.5<sup>th</sup> 619. *Accord, In re Lew* (1DCA, Div 1 2021) 2021 Cal. App. Unpub.  
20 LEXIS 4620. As explained in Exhibit 30i to the Racial Justice Act motion, the Declaration of  
21 Vincent Schiraldi, at paragraph 177, presentence reports "are supposed to be neutral, favoring  
22 neither the government's position nor the defendant's." They are "supposed to be factual and  
23 not include any information that has not been verified." Schiraldi, at para 177.  
24  
25  
26  
27  
28

1           Despite language in the SDT response stating that the requirements of Rule 4.411.5  
2 have been met, a review of the requirements under Rule 4.411.5(a) shows that many of the  
3 contents requirements are not included in either the 1978 nor the 2002 report. Specifically:  
4 (a)(2) There is no information regarding the status or disposition of the co-defendants cases.  
5 (3) The description of his 1973 offense should state that it was a juvenile offense and not  
6 considered a conviction under current law.  
7 (4) there are no statements made to the probation officer.  
8 (6) in the 2022 report, there are no relevant facts concerning defendant's social history;  
9 (7) there is no collateral information included.  
10 (8) there is no discussion of the defendant's risk factors  
11 (12) there is no detailed information on presentence time spent by the defendant in custody nor  
12 any discussion of good behavior, work or participation credit.  
13 (c) Sources – only the 1978 presentence report is listed as a source.

16           As admitted in the SDT response, the 2022 presentence report recommends LWOP with  
17 no basis in fact, just the probation officer's opinion. The Declaration states that the defendant  
18 was not interviewed. The 2022 report relies upon the 1978 report; however, **the prior**  
19 **probation file was destroyed**. As has been documented numerous times in this case, this file  
20 loss is another example of Fresno County's bad faith. Equally egregious is the fact that in  
21 response to Item #9 of the SDT, FCPD admits that an incorrect charge of rape listed in the  
22 report, was due to "being auto populated by Probations Record Information Management  
23 System (PRI MS)." There has never been any allegation of rape against Mr. Stankewitz. If this  
24 report got into the wrong hands, it could result in Mr. Stankewitz being stabbed while  
25 incarcerated.  
26  
27  
28

1 **VIII. THE 8<sup>TH</sup> AMENDMENT AND ART. I, SECTION 17 OF THE CALIFORNIA**  
2 **STATE CONSTITUTION WEIGHS HEAVILY IN FAVOR OF A “TIME SERVED”**  
3 **SENTENCE**

4 Over the decades, since Mr. Stankewitz’s original conviction and death sentence, many  
5 others who have been convicted of first-degree murder, including some with special  
6 circumstances, have received sentences of less than life without parole, for significantly more  
7 aggravated crimes. One such example was David Weidert. He was convicted of first-degree  
8 murder with special circumstances (kidnapping and killing a witness). Mr. Weidert was 18 at  
9 the time of the murder of Michael Morganti, a mentally challenged young man, whom Mr.  
10 Weidert believed might testify against him on a burglary he had committed. Morganti was  
11 taken out to a quarry, stabbed, strangled and was buried alive by Weidert, according to the lone  
12 eyewitness. While special circumstances were found true, they were dismissed on appeal.  
13 Weidert was released from prison on parole in 2021, after serving 40 years of his indeterminate  
14 sentence for first degree murder.  
15

16 Under the current sentencing cap on the number of years a youthful offender can be  
17 punished—but-for the special circumstances—Mr. Stankewitz would be afforded a parole  
18 hearing after serving 25 years of his sentence. For example, a 25-year-old defendant who  
19 commits first degree, premeditated murder, using a firearm (without a special circumstance)  
20 would receive such a parole hearing, and would likewise be entitled to a “Franklin Hearing”.  
21

22 “The California Supreme Court explained in *Franklin, supra*, that sections 3051 and  
23 3046 have “superseded the statutorily mandated sentences” of the youth offenders to whom the  
24 statutes apply. (*Franklin*, at p. 278.) Section 3051 “reflects the Legislature’s judgment that 25  
25 years is the maximum amount of time that a juvenile offender may serve before becoming  
26 eligible for parole. Apart from the categories of offenders expressly excluded by the statute,  
27 section 3051 provides all juvenile offenders with a parole hearing during or before their 25th  
28

1 year of incarceration. The statute establishes what is, in the Legislature's view, the appropriate  
2 time to determine whether a juvenile offender has 'rehabilitated and gained maturity' (Stats.  
3 2013, ch. 312, § 1) so that he or she may have 'a meaningful opportunity to obtain release' (§  
4 3051, subd. (e))." (*Franklin*, at p. 278.) This statutory scheme was designed to effectuate the  
5 constitutional prohibition against excessive punishment of youthful offenders. *In re Trejo*  
6 (2017) 10 Cal.App.5<sup>th</sup> 972, 986-87. "[t]he change in Penal Code Sect. 3041 was "designed to  
7 effectuate the constitutional prohibition against excessive punishment of youthful offenders."  
8 *Id.*, at 786-87. Notwithstanding the reversal of *Hardin*, which was a 5<sup>th</sup> amendment, equal  
9 protection clause challenge, the application of the 8<sup>th</sup> amendment can be made on a case-by-  
10 case basis.

11  
12           When all things are considered: A damaged young man of 19, truly a tragic victim  
13 himself, in many ways, was sent to death row, where he received zero treatment for his  
14 documented disabilities, emotional condition, and severe post-traumatic stress disorder. He  
15 was confined for 46 years in maximum security. This is cruel and unusual punishment under  
16 the 8<sup>th</sup> amendment. What distinguishes the many first-degree murder, youthful offenders, who  
17 receive a parole hearing after 25 years from those who never will? A comparison study of the  
18 facts of the cases would show that many of the offenses are indistinguishable—and the ones  
19 that are eligible for parole, are often more aggravated. While this overlaps the Equal Protection  
20 Clause arguments of *Hardin*, Mr. Stankewitz' unique circumstances place it more  
21 appropriately in the constitutional realm of the 8<sup>th</sup> amendment's prohibition against cruel and  
22 unusual punishment.

23  
24  
25           California's Death Row was dismantled in 2024, with all prisoners transferred to other  
26 institutions or housed at the SQ hospital. The process of resentencing these inmates started in  
27 2022 and picked up speed in 2024. At present, for the death row inmates that we could track,

1 66 of them have been resentenced and 19 have received life sentences; the rest have been  
2 resentenced to LWOP. (See Exhibit 30z, Sentencing-Resentencing Murder Cases, including  
3 Death Row Inmates.) This data varies from the report - State Spotlight: California Death Row  
4 Shrinks Sharply in 2024, Driven by the Resentencing of At Least 45 People to Life Sentences  
5 or Less, Death Penalty Information Center, March 14, 2025. Exhibit 30aa, which states that  
6 they verified that at least 45 people have been sentenced to life or less. To sentence him now to  
7 additional prison time is excessive, given that he already served 35 under death, solitary  
8 confinement for 46 years, (See [A Death Before Dying: Solitary Confinement on Death Row](#),  
9 ACLU, July, 2013)

11 Additional time is constitutionally disproportionate because it amounts to cruel and  
12 unusual punishment under 8<sup>th</sup> amendment and cruel or unusual punishment under the CA  
13 Const, art.I, section 17. The court in *In re Wilson* held that the totality of a parolee’s ISL  
14 (indeterminate sentencing law) sentence was constitutionally excessive after he had served 48  
15 years. In reliance on *In re Palmer* (2021) 10 Cal.5<sup>th</sup> 959, 976, the *Wilson* court reviewed  
16 whether the petitioner’s total term of 50 years in actual and constructive custody was  
17 constitutionally excessive and decided that it was. *In re Wilson* (1DCA, Div.2 2021)  
18 Cal.App.Unpublished LEXIS 5016, at 23. Further, whether his time served was evaluated  
19 under either the ISL or DSL, it concluded that the more than 49 years that he had already  
20 served was constitutionally excessive.

23 In its review process, the *Wilson* court referred to a “CDCR study published in 1982,  
24 which showed that 90% of first-degree murderers served less than 20 years”. *Wilson, supra*, at  
25 17. Recent CDCR data for LWOP sentences, shows that the average sentences served by  
26 prisoners released in 2018 and 2019 by murderers is between 19.9 – 23.4 years. (Exhibit 30bb,  
27 CDCR Offender Data Points, Table 4.8: Releases from State Prison by Average Length of Stay

1 Versus Average Sentence Length, p.59, dated 2019 [excerpt from most recent data available]  
2 Entire pamphlet found at: [https://www.cdcr.ca.gov/research/wp-](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/11/201912_DataPoints.pdf)  
3 [content/uploads/sites/174/2021/11/201912\\_DataPoints.pdf](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/11/201912_DataPoints.pdf) . In Wilson, the court observed that  
4 Mr. Wilson, like Mr. Stankewitz, had never joined a criminal gang and had been determined to  
5 have a low risk. CDCR determined that Mr. Wilson had a low risk for violence. Here, CDCR  
6 has made the same determination for Mr. Stankewitz, who has a risk score of “1” the lowest  
7 possible score.  
8

9 In distinguishing the application of parole denial to an indeterminate sentence, *Palmer*  
10 held that “[o]ur precedent *also* demonstrates that an inmate may elect to challenge the  
11 constitutionality of the long years of imprisonment the inmate has served. Further, “[w]hen a  
12 court assesses the constitutionality of a prison term, it must be mindful of the Legislature's  
13 broad discretion over the types and limits of punishment, regardless of whether the sentence  
14 being challenged is a specific term fixed by statute or an indeterminate term where the Board  
15 has authority to order release within statutory parameters. It remains the judiciary's  
16 responsibility to decide whether a prison term has become excessive, and a court properly  
17 respects the Legislature's prerogative not by performing some ritualistic deference, but by  
18 analyzing the challenged punishment under the traditional, lenient legal standard we set forth  
19 in *Foss, supra*, 10 Cal.3d 910 and *Lynch, supra*, 8 Cal.3d 410. [Complete citations omitted] *In*  
20 *re Palmer*, 10 Cal. 5th 959, 971 (2021)  
21  
22

23 Had Mr. Stankewitz been sentenced to life *with* the possibility of parole from the  
24 outset, he would have already received a number of parole hearings, and he would not have  
25 been as inhumanely confined as he was. A just remedy would be for the court to find, in *this*  
26 *defendant's* case, a violation of the 8<sup>th</sup> Amendment of the constitution has occurred, and an  
27 appropriate cure would be to sentence Mr. Stankewitz to a determinate term, with credit for  
28

1 time served.

2 **IX. DEFENDANT HAS BECOME A MODEL PRISONER**

3 As previously observed. Mr. Stankewitz has been incarcerated for 47 years. Forty-six  
4 of those years have been at a maximum level of confinement: California’s Death Row. His  
5 confinement to prison at age 19, on death row, was a shocking experience. He was thrust into a  
6 highly violent prison environment where he had to defend himself from other older, much  
7 more hardened prisoners. He suffered from *untreated* mental and emotional disorders that  
8 came from having been a victim of extreme violence, neglect, abandonment and unwarranted  
9 incarceration, throughout his childhood.  
10

11 Despite a prison environment permeated with gang activity, he has never been in a  
12 prison gang.

13  
14 Despite no prison resources for condemned inmates, he nonetheless habilitated himself.  
15 He steadily improved, matured and adjusted to a life of maximum confinement. In 1996, he  
16 became clean and sober through his own choice and will. He wanted to have a prison job, and  
17 despite an officer recommending that he should get one, he never had one at San Quentin State  
18 Prison (SQ). (Exhibit 30cc Officer T. William, Laudatory Chrono, dated 8-20-2018). However,  
19 he still assisted officers with learning the job. He has many people who attest to his good  
20 character, including the current San Quentin rabbi, former San Quentin chaplain Earl Smith,  
21 Mr. Stankewitz has also received eight laudatory chronos (Form 128) from prison officers  
22 between 2018 - 2019, indicating that Mr. Stankewitz has “demonstrated to be courteous and  
23 respectful to other inmates and staff.” As a result of his assisting officers, As attested to, he  
24 also related well to the other inmates. (Exhibit 30dd letter from Chaplain Smith; and laudatory  
25 chronos from SQ corrections officers).  
26  
27  
28

1 While on Death Row, he did not have access to the regular prison library. Nonetheless,  
2 by borrowing books and magazines from other inmates, he read extensively. During periods  
3 that he has been confined at the Fresno County Jail, he has had access to reading materials. To  
4 stay informed regarding current events and news, he listens to the radio about sixteen hours a  
5 day. Despite being imprisoned for his entire adult life, he has an amazing grasp of how the  
6 outside world works.

7  
8 Mr. Stankewitz has attended the Native American spiritual circle, and Catholic Church,  
9 both at San Quentin, on and off, since 2005. As documented by San Quentin Rabbi Paul, he  
10 consistently attended Jewish temple between 2016 - 2019. (Exhibit 30ee Rabbi Sheflar  
11 attendance chronos). Jewish temple was suspended at SQ during the pandemic. He has spiritual  
12 practices, including spiritual reading and meditation. Rabbi Paul attested to this in his support  
13 letter for Mr. Stankewitz. (Exhibit 30ff, letter from Rabbi Paul, dated). CMC does not have a  
14 Native American spiritual leader. At present, the Native American prisoners can only meet at  
15 the Catholic Church and do so without being able to burn sage which is necessary for their  
16 ceremonies. Due to this disrespectful practice, he does not attend and he is unable to have any  
17 spiritual connection with others.  
18

19  
20 As part of the Governor's Condemned Inmate Transfer Program, he was transferred to  
21 California Men's Colony (CMC) on May 15, 2024, where he is currently incarcerated. As part  
22 of that program, all former Death Row inmates, are on close custody for five years. CDCR still  
23 has Mr. Stankewitz listed as "Condemned" despite the fact that he was resentenced to LWOP  
24 in 2019. Close custody severely limits his ability to participate in most prison programs. As a  
25 result, he cannot participate in many self-improvement or training programs. In CYA Youth  
26 Training School - 501 trades, he learned trades. He would like to learn trades at CMC, but he  
27 is not allowed to go to CALPIA, the facility where the training is provided.  
28

1 He is allowed to attend school and be considered for a limited number of prison jobs. In  
2 2024, he attended high school until CMC confirmed that he had graduated from high school  
3 before he entered adult prison. With the understanding that he was an addict when he entered  
4 prison, he wanted to attend AA or NA but he is not allowed to do so because he has been clean  
5 and sober for more than three years. About a month after being transferred to CMC, he was  
6 tested for drugs and alcohol and was negative for everything. (Exhibit 30gg, Stankewitz Blood  
7 test results, dated 6-18-2024).  
8

9 Due to his good behavior, Mr. Stankewitz has been Grade A classification for many  
10 years. Cell searches at both SQ and CMC from 2022 – 2025, showed that his cell was clear of  
11 any contraband. (Exhibit 30hh, Copies of cell search receipts, dated 2022 - 2025). He has  
12 participated in at least two CMC fundraisers to raise money for charity. (Exhibit 30ii, Copy of  
13 Youth Well receipt). This demonstrates his desire to give to those less fortunate than himself.  
14

15 Approximately two months after being transferred to CMC, he got a job as a Porter,  
16 which he still holds. His first work supervisor’s report, dated 10/4/24, shows that he received  
17 the highest grade given, a “2”, in every aspect of evaluation. He received a pay raise to .21 per  
18 hour. His supervisor comments were “I/P Stankewitz demeanor is great and contiguous. Since  
19 his arrival he has created a standard in clearing and a teamwork environment. Since assigned  
20 the tier floor porter the tier has drastically improved cleanliness. Stankewitz is very reliable at  
21 hour of day, with any project and with a good attitude.” (Exhibit 30jj, Supervisor Report from  
22 C. Ayon-Flores, dated 9-30-2024).  
23

24 His stays at the Fresno Jail also reflect his self-improvement. When he was first  
25 incarcerated there in 2012, and for the next several years, he was held in the jail dungeon. Once  
26 the jail administrators realized that he followed the rules, and didn’t cause trouble, they moved  
27 him to A-Pod (Ad Seg confinement - Ad seg is required for death row inmates.) Between 2012  
28

1 – 2024, he was transported between SQ and Fresno jail at least a dozen times without incident.  
2 During his periodic confinement at the Fresno Jail from 2012 – 2024, the officers there have  
3 often requested that he be assigned to their floor because he is well behaved, cleans the  
4 common spaces and gets along well with the officers and inmates.

5       Someone who is liked by both officers and inmates, he has been virtually write-up free  
6 for the past 20 years. Most officers call him by his chosen nickname, “Chief”.  
7

## 8 **IX. CONCLUSION**

9       A sentence of life in prison with the possibility of parole does not guarantee, or even  
10 render likely, a release from prison. It places a defendant in a position to simply be considered  
11 by a parole board and the Governor of the State of California, for release on parole, at some  
12 time in the future. A parole board, reviewing his offense and prison history, could deny parole,  
13 which they do, more frequently than not. The state governor could overrule the parole board’s  
14 decision even if parole were to be granted.

15       This may be Mr. Stankewitz’ last time before this, or any other court. This may be his  
16 last opportunity to ask for what really would amount to a very small exercise of mercy. In his  
17 life he has never asked for, nor received such an exercise.

18       Such a grant is warranted at this time, for all the reasons set forth above, which include:

19 1) His well-documented social history of extreme abuse and victimization; 2) Coupled with  
20 his learning disabilities (dyslexia, severe speech impediment), documented neurological  
21 impairment, emotional disturbances (including, post-traumatic stress disorder, fetal alcohol  
22 syndrome) and his intelligence quotient; 3) His age at the time of the offense (chronological  
23 and emotional); and, 4) The actual circumstances of the offense: being under the influence of  
24 heroin, and in the company of other, intrinsically involved, co-participants who were given  
25 extraordinarily lenient sentences.

26       Mitigation is not now, nor has it ever been, a legal excuse. It lessens the moral gravity  
27 of a decision to act, and the act itself. Frequently we hear, well a defendant’s brother or sister  
28 experienced the same abuse, and they were able to overcome it and live a law-abiding life.

1 That is sometimes true but often misused as well. In the case of the defendant's family, no one  
2 with any credibility would ever be able to make that argument. There is an old tried and true  
3 saying, "The hand that rocks the cradle, rules the world." Douglas Stankewitz never had a  
4 chance. He will be 67 this May. All an imposition of life with parole would provide is a  
5 "chance", however slim, that he might be granted parole someday. This is all he is asking of  
6 this court at this time. In the interest of justice, the special circumstances should be stricken  
7 and a sentence of life with the possibility of parole, imposed.

8 Respectfully Submitted,

9  
10 Dated: \_\_\_\_\_

\_\_\_\_\_  
11 Peter M. Jones, Attorney, for  
12 Defendant, Douglas Stankewitz

**DOUGLAS R. STANKEWITZ**  
**CASE #CF 78227015**

**EXHIBITS TO MOTION TO DISMISS THE  
SPECIAL CIRCUMSTANCES PURSUANT TO  
PC 1385, AND IMPOSITION OF A  
DETERMINATE SENTENCE AND “TIME  
SERVED” OR LIFE WITH THE  
POSSIBILITY OF PAROLE**

**1967 Social Service Report - EXHIBIT 30k**

NAME: William Stankewitz BORN: March 26, 1957 AGE: 10 years,  
6 months

CHARGE:

No Parental Control.

CASE HISTORY:

October 3, 1967: Petition Filed.

REASON FOR HEARING

Said minor, William Stankewitz, has no parent or guardian actually exercising, or capable of exercising proper parental care and control and is in need of such care and control in that the parents are separated and during the three months last past, said minor's mother has not provided him with a sanitary place in which to live and has not provided him with adequate supervision.

COMPLAINANT'S STATEMENT

Attached hereto and to be considered a part of this report is the Fresno County Sheriff's Department report on Case No. 67-3821.

INVESTIGATION RESULTS

On October 18, 1967 your officer discussed this matter with Mrs. Shipman, the Social Worker for the Stankewitz family. She reported that she had visited the home on October 17, 1967 and no improvements or efforts have been made in regard to upgrading the standards of housekeeping and that Mrs. Stankewitz still maintains her negative attitude. Your officer visited the home on October 18, 1967 and the home was found to be infested with cockroaches and fleas. Milk cartons, clothes hangers, and other articles were strewn all over the floor. The sleeping arrangements and facilities are very inadequate. The bed linen was filthy and it was reported that five children often occupy one bed. Dirty underclothes with insects crawling over them were also noted. The children informed your officer that it is often impossible for them to sit down to a meal because the cockroaches cover everything. Your officer was told that the landlord had been asked to spray but had failed to do so.

--- \*\*\* ---

The foregoing report has been considered.

Dated: October 23, 1967

  
\_\_\_\_\_  
JUDGE OF THE JUVENILE COURT

\_\_\_\_\_  
REFEREE OF THE JUVENILE COURT

FRESNO COUNTY SHERIFF'S DEPARTMENT  
 Fresno, California  
 MISCELLANEOUS REPORT

*W. Weber*  
 CASE NO. 17400

REPORTING DIVISION		LOCATION 146 W. Locust	
OFFENSE CLASSIFICATION			DATE
NAME OF VICTIM		ADDRESS 146 W. Locust	PHONE
REPORTED BY		ADDRESS 572 E. Harrison	PHONE
RECEIVED BY		TIME	DATE 6-24-67
SUSPECTS	1	ADDRESS 146 W. Locust	PHONE
	2	ADDRESS	PHONE
PERSONS INTERVIEWED	1	ADDRESS 572 E. Harrison	PHONE
	2	ADDRESS 146 W. Locust	PHONE
PERSONS ARRESTED			

MELVIN A. WILLMIRTH  
 SHERIFF-CORONER, FRESNO COUNTY  
**RECEIVED**  
 JUN 26 1967  
 A.M. FRESNO P.M.  
 7|8|9|10|11|12|1|2|3|4|5|6

Subject: This pertains to possible child neglect.

Officer dispatched to above location regarding child neglect at approximately 2:00 AM, 6-24-67.

Contacted FRED MONTGOMERY 16 years, he stated he was baby sitting for his mother who went visiting friends earlier in the evening. He stated he did not know when she was to return. He stated there were eleven children in the house besides himself ranging in age from 2 years to 13 years. He stated his mother had done this on several occasions. He states he was with children most of the time. Mother's name is MARION STANLEY.

Contacted ROBERT STANLEY, father of the children, but who does not live at this address. He and wife are separated, he states he saw his wife with another man at the "Tap Room" Bar in Finedale approximately 11:00 PM 6-23-67. He also states that he then came to this address to check on the children and that FRED MONTGOMERY was not at the house, but returned while he was waiting outside.

Check by undersigned officer revealed a poorly kept 3-room house with (1) child sleeping on a sofa, (3) children laying on a mattress on the floor in one room, in another room (4) children sleeping on a double bed with no blankets or bed linen, in another bed there were (3) children with no blankets. All of the children were dirty in appearance. They were all wearing ragged clothing, which was dirty.

Undersigned officer could smell beer on the breath of FRED MONTGOMERY, the baby sitter.

Check also witnessed by Deputies JOHN JORDAN and TOM JOHNSON.

Opinion of this officer that the children are highly neglected.

(continued)

IF ADDITIONAL SPACE IS REQUIRED, USE CONTINUATION REPORT, FORM 1-3		INVESTIGATING OFFICER(S) W. Weber/DR/fe 6-24-67
<input type="checkbox"/> TO RECORDS	<input type="checkbox"/> TO DETECTIVE	
<input type="checkbox"/> TO DISTRICT ATTORNEY	<input type="checkbox"/> TO INVESTIGATOR	
<input type="checkbox"/> TO PATROL	<input type="checkbox"/> TO SHERIFF	

**MARION STANKEWITZ RAP SHEET -  
EXHIBIT 30I**

STATE OF CALIFORNIA  
DEPARTMENT OF JUSTICE  
BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION  
P. O. Box 1859, Sacramento

43056

FORM CII-B

The following CII record, NUMBER

IS FOR OFFICIAL USE ONLY

78621

CII-735770

O 25 - OCM 12  
L 20 - IOI 15

INDIAN PEN 5-2 188 CALIF. 1934

Marion Louise SAMPLE

ARRESTED OR RECEIVED	DEPARTMENT AND NUMBER	NAME	CHARGE	DISPOSITION
8-3-52	SO Fresno 43056	Marion Louise SAMPLE	PC 236 ADW	
2-7-53	SO Fresno 43056	Marion Louise SAMPLE	PC 236 ADW	
4-15-53	SO Fresno 43056	Mary Louise SAMPLE	Drk & Vag. Quar.	
12-18-54	SO Fresno 43056	Marion Louise SAMPLE	836, 470 PC	
6-9-57	SO Fresno 43056	Marion Louise SAMPLE	PC 236 ADW	
4-14-61	SO FRESNO, 43056	MARION LOUISE SAMPLE	DRK & FIGHTING	
3-1-65	PD, FRESNO, 26849	MARION LOUISE STANKEWITZ	273A PC	

This copy is for the official use of: art c  
Agency: SO  
and may not be revealed to any unauthorized person.

FEB 14 1978

MAR 10 1965

1st Beating with ironing cord

2655

Date reported to P.D. 11-18-64 9:18 AM	Type of original report CHILD BEATING	Case No. 64-22732
Date occurred 11-18-64	Location of occurrence 1550 N St.	Reporting Division Juvenile
Victim's Name (from name & business) STANKIEWITZ, Douglas Ind. Mf 6	Res. Address (Bus. address if firm) 1550 N Street	Res. Phone Bus. Phone
Person reporting information to P.D. CHRISTIAN, Gary WM 19	Residence (if works at Frontier Chev.) 3471 N. Jameson	Res. Phone Bus. Phone AM 4-6826

Additional information reported (if property involved, itemize, describe and show value, listing all serial numbers)

SUSPECT: STANKIEWITZ, Marion, IFA 29, 1550 N Street.

9:18 AM, Officer Brady received a call to Stanislaus and M of an injured or sick boy at this location.

On arrival found Douglas Stankewitz, who is six years of age in the street and in checking found that he had been whipped. Stated the boy fought with him in attempting to bring him into Headquarters and Officer Carroll and Haase went to the location and assisted in bringing this boy to the emergency hospital. The boy was in such an emotional state that he fought and raised considerable raucous until such time he had been in the emergency hospital for a while. While at this location, Officer Rousseau was called from the Identification Bureau and came to Emergency hospital where photographs were taken of this boy's back of the welts which appeared there. The boy was in such an emotional state that he almost appeared that he was in shock, due to these circumstances, it was felt that he should be checked further. Nurse Hughes had been unable to check him at this time because of his behavior, however, after he calmed down Dr. Ziering, County Pediatrician, County Hospital was contacted and he stated that it would be fine to have the boy come in for a check.

With Officer Haase, took Douglas to the Co. Hospital where he was checked by Dr. Ziering for abrasions and welts on his back, he had a slight cut on the left side of his chin, approximately 2" cut on the right upper chest which probably was caused by the plug from the ironing cord. After checking the boy, Dr. Ziering requested that x-rays be taken while we were at this location. The boy was taken to the x-ray laboratory and x-rays were taken of him for any further injuries which might not be noticeable at this time.

With the boy, returned him to his home and his mother was picked up and both were brought to the District Attorney's Office where talked to Mr. Pete Capriola and in regards to this beating. In talking with Mrs. Stankewitz, was found that this woman has nine children which the eldest is 10 and at the present time her husband is in jail for non-support and traffic violations. In talking to this woman, she stated that she has just gotten out of bed, she has been sick and stated this was the excuse she was having difficulty with this boy and became quite angry and this was the reason that the boy had the marks on him which he did. This woman agreed that this would not happen again and it was quite severe. Due to the circumstances there is such a large number of youngsters and had had no previous difficulty of this nature, this woman was released with her boy pending further information such as the x-rays might show or anything else that might indicate further damage. She was also advised that if a complaint was not issued, at this time, that it would be if there is a similar occurrence in the future. At this time this woman was released, pending further information.

Additional space is required, use Continuation Report Form 3-C	TOTAL VALUE \$
Officer(s) Reporting S. J. COOK # 70 & S. HAASE # 5	Date jv
Officer(s) Reporting J. C. MAUSER	Date
Indexed	Checked

**DOUGLAS STANKEWITZ REPORTS**  
**1967 - 1970**                      **EXHIBIT 30m**

8-24  
1:30 PM

M. Unit

27769-780 7-64 20M TRIP ① ② ③ ④ ⑤ ⑥ ⑦ ⑧ ⑨ ⑩ ⑪ ⑫ ⑬ ⑭ ⑮ ⑯ ⑰ ⑱ ⑲ ⑳ ㉑ ㉒ ㉓ ㉔ ㉕ ㉖ ㉗ ㉘ ㉙ ㉚ ㉛ ㉜ ㉝ ㉞ ㉟ ㊱ ㊲ ㊳ ㊴ ㊵ ㊶ ㊷ ㊸ ㊹ ㊺

REASON FOR REQUESTING EEG (PERTINENT HISTORY, FINDINGS, CURRENT MEDICATION, TRAUMA, ETC.)

Uncontrollable fits of anger. EEG said to be abnormal

REFERRING DIANOSIS

Psychomotor epilepsy?

REQUESTED BY

J. L. Karlson  
KARLSON

M.D. DATE

8/24/65 UNIT M-3

EEG REPORT

DATE OF RECORDING

8-26-65 TIME OF EEG 1:30 PM

EEG No. 65-205

TECHNIQUE Routine

MEDICATION

Trilipon 4mg BID

LAST MEAL

lunch

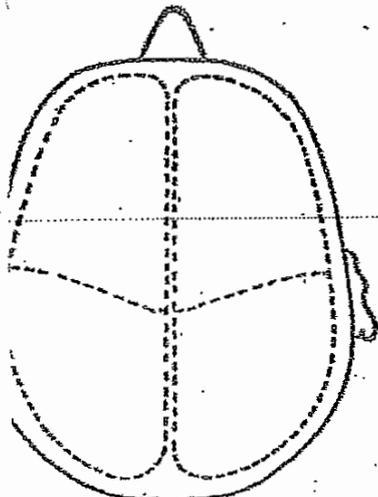
COOPERATION

Good

DIAGNOSIS: Dysrhythmia, Grade II, generalized.

REPORT: One does see at times an alpha rhythm of 8 cps in the posterior leads. Much of the record consists of 4-6 cps some what irregular and higher amplitude slowing seen primarily in the anterior and temporal leads. Rather frequently one also sees 3-4 cps rhythmic slowing throughout the record. The response to HV and PS is normal with a good bilateral driving response to flash.

CLINICAL INTERPRETATION: The record is considered as significantly abnormal suggesting a widespread chronic dysfunction, probably of a chronic nature.



ELECTRODE PLACEMENT

(IF MORE SPACE IS NEEDED, TUMBLE THIS SHEET VERTICALLY AND CONTINUE ON THE REVERSE)

Lorene Schuster  
ELECTROENCEPHALOGRAPHIC TECHNICIAN

H. WISEN, M.D.  
ELECTROENCEPHALOPHAPHER H. WISEN, M.D. :d

STATE OF CALIFORNIA  
DEPARTMENT OF MENTAL HYGIENE  
ELECTROENCEPHALOGRAPHIC  
EXAMINATION

M-3

STANKEWITZ, DOUGLAS  
NA-101625 M 53L WH 5-31-58  
3-31-65 FRES JCO 703 CALIF  
UNK 14

9 November, 1967 - PROGRESS NOTE: His only difficulty is enuresis with speech impediment and I note that there is neurological damage indicated on the psychological test. To try to help him with his enuresis, he will be given a trial of Ritalin and I provided his foster mother with twelve 20 mg. tablets to be taken  $\frac{1}{2}$  every morning. He will come in again with Roger on November 30 to evaluate the results of the Ritalin on him.

*K. Kaye*

DHLowder:sls  
Santa Rosa BSW  
11-15-67

Kenneth Kaye, M.D.  
Convalescent Leave Psychiatrist

State of California

DEPARTMENT OF MENTAL HYGIENE

PROGRESS NOTES

Name STANKEWITZ, Douglas

Hospital ~~MCCORMACK~~ Napa

File No. 101625

33

STANKEWITZ, Douglas

Ref: Fresno County Juvenile Probation  
Page 3

Examination of the motor system reveals nothing remarkable insofar as gait, station, equilibrium, etc., are concerned; but the left handclasp is slightly stronger than the right handclasp, by the method of Jamar. On two measurements, he had a grip of 41 pounds in the right hand and 42 pounds in the left hand the first time; and 40 pounds in the right hand and 41 pounds in the left hand the second time. Since the patient is right-handed, he should normally have about 10 pounds greater strength in the right hand than in the left.

The EEG, as will be seen from the attached report, is abnormal. The disturbance seen to be greatest in the left temporal area.

DISCUSSION: There is ample evidence, in the review of this history, for this child to have a neurotic disturbance, and the bitten fingernails and the enuresis are expressions of this. It may well be that the patient's emotional instability is also an expression of this; however, we cannot neglect the "soft" neurological signs and the EEG disturbance.

This boy has apparently been moved around from place to place, in accordance with his behavior, and I would suggest that he be kept in one place for awhile, while an attempt is made to influence his behavior through supervised medication. I doubt very much if this can be done in a foster home, since the boy will not respond to the authority of the foster home as he would to the authority of the Juvenile Hall or some institution.

I would outline a program for the boy, with the first attempt being made to influence his behavior by treating him with Dilantin Sodium, 100 mgm, twice daily; and, if he is able to tolerate this and his behavior does not improve, then I would increase it to three times daily.

If he fails to respond to Dilantin therapy, I would suggest a trial with Dexedrine, 5 mgr three times daily, after meals. If he fails to respond to these drugs, then I would attempt to use ordinary tranquilizing agents, at progressively increasing dosage in an effort to control his emotional lability. Perhaps Mellaril or Thorazine would be more effective than the other agents. It seems to me that this type of treatment could be supervised in the Pediatric Clinic or in the Department of Mental Health.

  
Mark Zeifert, M.D.

MZ/jm  
May 8, 1970

Fresno County Juvenile Probation  
808 S. Tenth Street  
Fresno, California

Att: Roger Nelson

Telephone Case 1:91-cv-00616-AWJ  
233-5101

MARK ZEIFERT, M.D.  
1065 "S" Street  
Fresno, California 93721

Page 15 of 189  
THIS REPORT IS A PRIVILEGED AND  
CONFIDENTIAL COMMUNICATION.

### ELECTROENCEPHALOGRAPH REPORT

Record No. 21439

Date: 5/6/70

Name: STANKEWITZ, Douglas Age: 12 yrs. Ref: Fresno County Juvenile Probation

**EEG DESCRIPTION:** This is a 10 cycle per second moderate voltage tracing. There is a moderate amount of 50 to 75 microvolt 3 cycle per second activity. The left temporal lead presents lower voltage than right side. Hyperventilation produces very mild buildup. Photoc stimulation produces no change.

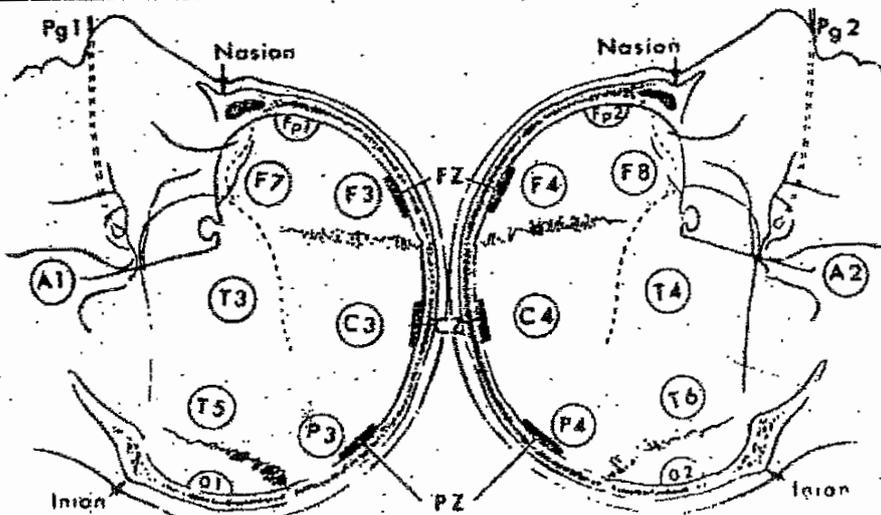
**EEG IMPRESSION:** Abnormal EEG. There is suppression of voltage in the left temporal area.

*Mark Zeifert M.D.*  
Mark Zeifert, M.D.

MZ:cm  
May 6, 1970

Fresno County Juvenile Probation  
808 South 10th Street  
Fresno, California  
ATTENTION: Roger Nelson

**This EEG laboratory report is diagnostic ONLY when correlated with clinical findings.**



(CONFIDENTIAL)

SCHOLIA COUNTY SCHOOLS  
Dr. Forest Hamilton, Superintendent  
2555 Mendocino Avenue, Room 1112  
Santa Rosa, California 95401

Virginia Haysmiller  
Social Talent Clerk  
Payroll Accounting

NOV 30 1968

GUIDANCE REPORT

NAME: STANKLEWITZ, Douglas AGE: 10-2 BIRTHDATE: 5/31/58  
ADDRESS: 6484 Orchard Station Road, Sebastopol PHONE: 823-2747  
SCHOOL: Graystone GRADE: NA TEACHER:  
PROBLEM: Boy not in school; evaluate academic potential.

SERVICES: DATE: 8/5/68

Conference with Mr. Louder, Social Worker  
re: School Placement  
Wechsler Intelligence Scale for Children  
School Readiness Evaluation  
Follow-up Conference with Mr. Louder & Mr. Ballotti

EVALUATION RESULTS: In the file, is a rather extensive report from the Department of Social Welfare, the placement agency responsible for his assignment to a foster home. His foster mother is Mrs. Bollmeyer, residing at the above address.

This boy is individually tutored at home by his foster mother, and he is reported to have made good progress in social adjustment.

On the WISC, tested one year ago, he attained the following scores: Verbal Scale IQ, 85; Performance Scale IQ, 74; Full Scale IQ, 77. These scores are near the 7th percentile when compared with other children the same age. His highest subtest scores reflect good ability to understand verbal abstractions and sensitivity toward peer-group social relationships. His lowest scores reflect difficulty in paying attention to rote memorization, poor fine eye-hand coordination, difficulty with spatial abstract relationships. In terms of classroom expectancy, he has the potential to handle second grade work and seems to be learning at about this level.

As he attempts to write he reverses frequently, suggestive of a visual perception problem, especially at his age.

He has many substitutions and distortions in his speech, suggestive of a need for speech evaluation by a therapist.

At the conclusion of the initial study, his superintendent, Mr. Ballotti, said he would try to work out home teaching on a twice-weekly basis.

At this time, the beginning of the 1968-69 school year, this youngster should be re-evaluated with the possibility of entering school on a part-day basis, providing this can be worked out with the superintendent and teacher. He should be referred by the school superintendent early in the school year at the superintendent's discretion.

LT/em

Previous Report on File in the Office of the County Superintendent of Schools

Lowell Haysmiller  
GUIDANCE CONSULTANT

Psychiatric/Psychological Reports:

Douglas was first seen by a psychologist when he visited Doctor Simmang on March 11, 1965.

Subsequently, he has visited Doctor Ziering, on March 3, 1965. At that time, Doctor Ziering identified Douglas as an aggressive boy with wide fluctuations in his disposition, and stated that at the age of six years, Douglas was already a psychiatrically maladjusted boy.

During Douglas' supervision by this department, he has been seen by Donn Beedle on April 1, 1965; Stephen Graham, a Psychiatric Social Worker at Napa State Hospital on June 16, 1965. Mr. Graham diagnosed Douglas as having an adjustment reaction of childhood with a conduct disturbance. Douglas was in the process of undergoing three consecutive ninety-day commitments to Napa State Hospital for observations in 1965. At this time, psychiatrists at Napa State Hospital were checking the possibility of Douglas having neurological brain damage and the prognosis for the use of anticonvulsants to control his behavior. Based on a Napa State Hospital Report, dated November 12, 1965, it was found that anticonvulsant medication would not affect his behavior and officials from that institution recommended that Douglas be placed in a foster home where his tantrums could be controlled.

Douglas was subsequently seen by Doctor Lee Sannella, from the Department of Mental Hygiene, who conducted a psychiatric examination of Douglas in June, 1965.

Mark Zeifert, performed an EEG on Douglas on May 6, 1970, and at that time, indicated that the results of Douglas' tests indicated "abnormalities". Doctor Zeifert found that there was a suppression of voltage in Douglas' left temperal area.

In a report from Doctor Charles House on July 24, 1970, it was learned that Doctor House viewed Douglas as "an impulse ridden child whose psychological development has been so chaotic as to render negligible any form of controls over basic impulses".

All of these Psychological and Psychiatric Reports are available in Douglas' Probation folder for the Court's consideration.

STATE OF CALIFORNIA

EDMUND G. BROWN, Governor

DEPARTMENT OF MENTAL HYGIENE  
NAPA STATE HOSPITAL  
IMOLA, CALIFORNIA 94558



June 16, 1965

Mr. L. B. Stagner  
Chief Probation Officer  
748 South Tenth Street  
Fresno, California 93702

Attention: Joe R. Walden

~~Dear Mr. Stagner:~~

SUBJECT: STANKEWITZ, Douglas  
Napa No. 101625

Douglas Stankewitz was admitted to Napa State Hospital on March 31, 1965, from Fresno County. The Juvenile Court has asked that we determine in a 90-day period whether or not this child is mentally ill and needs hospitalization, and if not, what other recommendations we might make for his future planning. Douglas' conference was held on May 24, 1965, and the results of this conference are included in this letter.

The diagnosis determined at Douglas' conference was: Adjustment Reaction of Childhood, Conduct Disturbance 54.48. We do not consider, therefore, that Douglas is mentally ill or is in need of hospitalization. We are aware, however, that Douglas is a very emotionally disturbed child, has experienced the trauma of severe physical abuse by his mother, and has been completely unmanageable in two foster home situations prior to his admission here. The only place for Douglas would be a foster home situation that could manage his tantrums and his extremely aggressive behavior and could also contribute constructively towards the continuing social, intellectual, and physical growth of this very active and dynamic child. Our ward staff has taken a great deal of effort in attempting to develop means of coping with Douglas' severe tantrum behavior while still sustaining the constructive relationship. The purpose of this effort has been so that we might be able to recommend to the county the kind of foster home situation that would be able to manage this child. We are still in the process of developing recommendations in this regard and therefore are recommending that Douglas remain with us for another 90 days.

To provide some detail about Douglas' behavior pattern, we will quote from the notes of the nursing staff. "He arrived like a tornado (on March 31), kicking and fighting, but after he was taken to the day hall and told that

we were not going to tolerate being kicked, hit, scratched or bitten, he calmed down. In a few minutes he was playing ball with the other children and a technician. Most of the time he is a charming little boy but frequently has tantrums when he appears to lose control of his actions. These tantrums are becoming less frequent and Douglas understands that he has to work to control them. He is able to talk to the staff about this and with a lot of support it is felt he will soon be able to exercise more control over them. He likes to put on an apron and be a helper. He makes beds, dusts floors and helps other children with shoes and socks. He plays well with the other children and is usually willing to take turns."

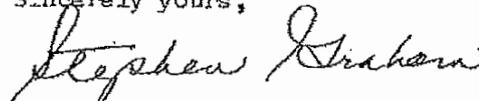
It seems very difficult to effectively support the work of the staff in controlling Douglas' tantrums with medication. When he is playing well, medication will make him drowsy and sleepy and unable to function. His tantrums come on so quickly that any medication other than the intramuscular injection does not work quickly enough. The intramuscular injection is extremely frightening to this boy who has experienced a great deal of physical abuse from his mother and only contributes to this boy's pathology in the long run.

Douglas was involved in about a month's duration of speech therapy which was discontinued because of the speech therapist leaving the hospital. His speech is immature and correctable by speech therapy. The therapist strongly recommended that he be continued in some form of speech therapy after he leaves Napa State Hospital.

Again, we have determined that this child is not psychotic and not in need of long-term hospitalization. We do strongly recommend, however, that he remain with us for another 90 days so that we may be able to make recommendations to the court about the type of foster placement appropriate for this boy and how the foster parents would manage this rather disturbed child. Please feel free to contact us if you have further questions.

Douglas' first 90-day observational period will be completed June 29, and we would appreciate receipt of the second 90-day order as soon as possible. Thank you for your cooperation in this matter.

Sincerely yours,

  
STEPHEN GRAHAM  
Psychiatric Social Worker

SG:bt

20-68 Current Functioning: Douglas continues to make satisfactory progress in the Bollmeyer home. His "blowing up" episodes are becoming less and less frequent as the bedwetting. He continues to reach out more in the neighborhood, playing with children of his own age with fewer instances of aggressive behavior. He continues to relate well to Mrs. Bollmeyer as a firm mother-figure. He is still interested in going to school.

Living Arrangements: Douglas continues to live with Mrs. Rosamond Bollmeyer at 6484 Orchard Station Road in Sebastopol. He was placed there on 4-1-66.

Economic Situation: The patient depends on public funds from Fresno County for all living and personal expenses. The board and care amount is \$225.00 a month out of which the patient's clothing and incidentals are taken. Fresno County provides \$150.00 toward board and care under the auspices of the Juvenile Probation Department.

Medical Plan: The patient is certified for Medi-Cal. He also sees the CLP for medication management. The pharmacy at Napa State Hospital sends the medication to the patient. He is currently taking Ritalin 20 mg. tabs #150 one each morning.

Client Problem Areas and/or Needs: The patient being a borderline mentally retarded is in need of a protective environment in a firm but loving structure. He is also in need of additional formal education to enhance his chances for being self-sufficient in the future.

Social Service Plan and Achievements: I plan to continue to work with Mrs. Bollmeyer in a supportive way and to continue to assist in acquiring some program of formal education for Douglas. The home teaching program referred to in the last dictation has fallen through. The plan is to work with Bruce Mendel, Sonoma State Hospital psychologist to see if a reevaluation can be made to qualify Douglas for a MR class.

I plan to make at least monthly visits to the home to work with the patient in the male identification process.

DHLowder:sl  
Santa Rosa BSW  
8-27-68

State of California  
DEPARTMENT OF MENTAL HYGIENE  
SOCIAL SERVICE NOTES

page no.

STANKEWITZ, Douglas

Napa

101625

76  
at

Lucy Gibson, PSW  
April thru June 1970

SOCIAL SERVICE REPORT - CSD - FRESNO

Social Study

IDENTIFYING INFORMATION:

Name: STANKEWITZ, Douglas  
Birth Date: 5/31/58  
Marital Status: Single

ADDRESS:

Fresno County Juvenile Hall  
Intensive Supervision Unit  
Fresno, California  
Telephone: 485-8000

SOURCE AND REASON  
FOR REFERRAL:

Douglas was referred to us by his Social Worker of Santa Rosa Community Services Division. He is a mentally disturbed 12 year old boy, diagnosis of adjustment reaction of childhood and immature speech. He was referred to us following his removal from a private institution in Santa Rosa, where he had been placed by the Fresno County Probation Department. Doug was moved back to Fresno without any notification to Santa Rosa Community Services Division. When the worker found out that Doug had been moved, she transferred the case to the Fresno office. Doug was moved by Mr. Fuchs of the Fresno County Probation Department.

CURRENT FUNCTIONING:

When Douglas was moved to Fresno he first went to his mother's home at 415 North Calavaras Street in Fresno. However, he had not been home very long before his behavior became so difficult that his mother called the Probation Department. He was then placed in Juvenile Hall where he remains. His case is coming up in court and there is a possibility he may be placed in a Youth Authority institution as the Probation Department is having difficulty finding a foster home. Doug exhibits some extremely aggressive behavior, and for this reason the County Welfare Department will not put him in one of their foster homes as they say he is "out of control". Douglas is subject to erratic behavior and temper tantrums. Apparently Douglas has made a reasonably good adjustment to Juvenile Hall, as good as adjustments can be expected in such an institution. Of course, this is not an ideal situation for an emotionally disturbed boy. In the Rosa Bollmeyer Private Institution in Santa Rosa, the reports indicate that Douglas was making some progress. However, he still needs a specialized situation where people can deal with his emotional problems. For this reason the Probation officer asked me to inform him about residential treatment centers that might be able to take Douglas. I called Santa Rosa Community Services Division and obtained from them the names of three residential treatment centers. I passed this information on to Mr. Roger Nelson of the Probation Department. Douglas' case was going into court on 5/21/70. The Probation Department now has a few weeks in which to make a plan for Doug's care. I checked with Mrs. August whether Douglas could be returned to the Bollmeyer Private Institution, and was informed that the Institution is now full and Douglas cannot return there. Apparently the foster mother was very upset when Douglas was removed from the home. Her account of the situation is that the Probation Department took Douglas away without any warning. However, the Probation Department said that Mrs. Bollmeyer herself requested Doug's removal after he was suspended from school for the semester and had knocked down a tree at school. Mr. Nelson also reported that Douglas had stolen money from someone in the Institu-

State of California  
DEPARTMENT OF MENTAL HYGIENE  
SOCIAL SERVICE NOTES

page no.

Name: STANKEWITZ, Douglas

Hospital: Napa

File No. 101625

*M. Cluit*  
*Rec. Room*

10

Lucy Gibson, PSW  
April thru June 1970

CURRENT FUNCTIONING:

tion.

FAMILY SITUATION:

Douglas has seven siblings. Three of them reside at home with his mother. In 1966 Mr. Stankewitz was sent to Solidad State Prison on an armed robbery charge. Douglas was removed from his home in 1965 by the Probation Department because of abuse by the mother. Apparently she had beaten him with an electric cord. Four of Douglas' siblings are in foster homes now. The other three, although living at home, are in some trouble and are known to be runaways. Thus this seems to be a very disturbed family in which Douglas' emotional needs could not be met.

FINANCIAL SITUATION:

The Probation Department may place Douglas in any setting where a cost of placement will not exceed \$500.00 per month. This would seem to make placing him in residential treatment centers difficult as the cost will probably be \$600.00 per month.

MEDICAL PLAN:

At present Douglas' medical needs are taken care of at Juvenile Hall.

PROBLEM AREAS, SERVICES:

Problem areas for Douglas are (1) he is emotionally disturbed, (2) he comes from a family which has severe pathology, (3) he has been taken abruptly out of a situation in which he had found some security. The casework plan is to try to arrange a permanent placement for Douglas in a residential treatment center. Failing this we would try to place him in Family Care. The services that have been offered have been telephone calls to Santa Rosa Community Services Division and to Mr. Nelson at the Probation Department. I have not yet interviewed Douglas myself but I plan to see him on 6/3/70.

DATES OF SIGNIFICANT SOCIAL SERVICE CONTACTS:

- 5/19/70 - Telephone call to Roger Nelson of the Probation Department of Fresno County.
- 5/19/70 - Telephone call to Roslyn August, Santa Rosa Community Services Division.
- 5/20/70 - Telephone call to Roger Nelson Fresno Probation Department.
- 5/20/70 - Telephone call to Roslyn August of Santa Rosa Community Services Division.

LJG  
LGIBSON:mt  
cc:file  
6/9/70

State of California  
DEPARTMENT OF MENTAL HYGIENE  
SOCIAL SERVICE NOTES

page no.

Name STANKIEWITZ, Douglas  
Home Napa  
File No. 101625

//

**NANCY HUNT INTERVIEW - EXHIBIT 30n**

**Nancy Hunt**  
**Interview 1: Transcript**

Mark: Ok so, lets start out with um, your name, and um, your relationship to um, to um

Nancy: To Douglas

Nancy: To Douglas um, my name is Nancy Hunt, and I was Douglas Stankewitz's 3rd grade teacher.

Mark: And tell me a little bit about how you met Douglas.

Nancy: He was in a foster home in our district, at Gravenstein district in Sebastopol. And his foster mother had spent a good deal of time civilizing him to get him ready to go to school. He was nearly eleven years old when he came to my class. Um, I had

Mark: What, What was the name of your school?

Nancy: Gravenstein

Mark: Elementary

Nancy: Union Elementary. Um huh (Affirmative)

Mark: And you were a 3rd grade teacher?

Nancy: 3rd grade teacher.

Mark: And so uh, how did you meet Douglas?

Nancy: His foster mother wanted to have him spend at least an hour a day in a classroom and my principal chose my classroom for him to come spend an hour a day to see how he would fit in. So he started out coming an hour a day, and then mornings and she would come pick him up, and then we graduated into full days so he could stay all day.

Mark: What were your first impression of Douglas?

Nancy: Uh, I knew it was going to be an uncomfortable situation because he was about two to three years older than my third graders, a head taller. Um, and I prepared my class ahead of time that we were going to have a student who had a different life than they had had. And he was going to need all of us to help him because he uh, had never been, I was told, never

had been to school before. So came in um, to a strange (inaudible word) a strange situation for him, and a strange situation for us. Yea.

Mark: So when you, what was the name of the foster mother?

Nancy: Her name was Rose Bollmeyer.

Mark: And how did she approach with the um, impending uh.

Nancy: Well I think she went to my principal first, Mr. Balloti. And asked him if he, she had, he had a place where she could have him just see if he could handle being in the public classroom. And Mr. Balloti asked me if I would take it on and I said yes.

Mark: What did Mr. Balloti explain to you what the situation was? How did he explain it to you? Did he say this is a kid from a troubled background?

Nancy: I don't Mr. Balloti knew that much about him except that he was familiar with Mrs. Bollmeyer because there were other foster children in the home that we had in our school.

Mark: And were they normal kids, were they troubled children?

Nancy: No, just a normal, average 3<sup>rd</sup> grade county school.

Mark: Ok, uh, First day of class, do you remember the first day of class when you brought in, when Douglas came in?

Nancy: I was told my Mrs. Bollmeyer not to touch him, not to come up, come up on him without him being able to see me coming up on him, don't blindside him. She told me that he knew his numbers but he didn't know what to do with them. He knew the alphabet. She had spent a year and a half kinda of home schooling him um, he also knew the alphabet but he didn't know what to do with it. So my first day with him, I don't remember exactly but it could have been bean counting, or um, wooden letters or something very very simply, simple like you would do in kindergarten.

Mark: She he had an educational level like a kindergartener?

Nancy: If even that. He shuffled when he walked he was bent over.

Mark: What did he look like?

Nancy: Um, Mrs. Bollmeyer had him all cleaned up he used to love to wear white shirts and neck ties which was totally out of character for a county school,

but he, he was always very careful checking to see if everything was ok, you know and check his sleeves, uh, and he had wild black hair that it looked like maybe cooking oil, Crisco, and he would part his hair and smash it down just real, real tight. He was awkward...

Mark: How?

Nancy: The foot shuffling with the toes pointed out. Bent over...

Mark: Stooped?

Nancy: Stooped over. Yea.

Mark: Like an old man.

Nancy: (Affirmative headshake.)

Mark: Do you know why that was?

Nancy: I was told by Mrs. Bollmeyer that he was caged when they found, when the authorities found him.

Mark: Caged, what do you mean caged?

Nancy: Well in a cage where he couldn't stand up straight.

Mark: Like a dog cage?

Nancy: (Affirmative headshake) I don't know if that's true or not. I remembering that what Mrs. Bollmeyer told me...

Mark: And how did he fit into the classroom? The other children?

Nancy: They were leery of him. They um, but I had preempted them before he came in and I told them those kids that I would put up with no, I would not tolerate any teasing, and that they were to stay around him when he went out into the playground and not let other kids tease him. And to let me know if anything happened because Mrs. Bollmeyer said that he was prone to outburst if he was aggravated.

Mark: Did he uh, did he have any outburst, did that occur?

Nancy: Ow yes. We start at we went from the hour day to the full morning, to to all day. I don't think she let him ride the school bus I think she drove him to school, he just loved her and she was so good to him and then she would pick him up after school. She was a very large rotund woman who

had a hard time getting around so I don't think it was an easy task and I think she had five or six other foster kids. But, um...

Mark: Tell me the story when when she first met...

Nancy: Ow when she first met?

Mark: Yes.

Nancy: She had a friend that worked at the Napa State Hospital who had called her and said, "Rose there's a boy over here that I think could benefit from having someone like you." She said, "I don't really think he belongs here." So Mrs. Bollmeyer or whatever the strings were that got him out of Napa, to her foster home, went over and picked Douglas up, took him to her home, about what twenty miles, by the time she got him to her home over in Sebastopol, about four miles from here, he had clawed all of the upholstery out of her, back seat of her car. She got him into her house and he shuffled across the kitchen and picked up a tray of dishes and flung them towards her. She grabbed a hold of him and took him to the ground, laid on top of him, until he had no more energy to fight. He would bite, he would growl, um, and that was the beginning of her I mean truly civilizing him. Teaching him to use silverware, dress himself, clean himself up, um, get along with the other foster kids. Um, and of course she the one who that think taught him the alphabet and taught him his numbers, yea.

Mark: And so she brought him to your class and how did he progress?

Nancy: Whoa, what a story, within a period of four months that boy went from kindergarten to first grade. Mrs. Bollmeyer would call me and say, "Nancy please don't let him bring home so many books, he staying up all night with a flashlight under the covers looking at books." She said, "don't let him bring home so many books." So I would have to watch him when he left school. I go "No Douglas not that many, just bring your science book, bring that." So, uh, he really did, he just went zoom (hand gesture replicating a curve going up) just like that. He was...

Mark: He was an enthusiastic student?

Nancy: Very much so. Loved the discovery of what he could do with numbers, would see a picture and, one of the story I love to tell, is he knew that Mrs. Bollmeyer, my mom he would call her, my mom has sore legs. Um, this picture Douglas see this picture of ballerina" and the ballerinas pointing her toes and lifting her legs I think, I wanna bring this book home, "Douglas wanna bring this book home for my mom to see to make her legs better." (Replicating Doug's speech) So he would bring that book home and um show Mrs. Bollmeyer would truly was four by four, she

was just a round butterball, uh, how she could get her legs to feel better. I love that story.

Mark: So he had lots of compassion for others?

Nancy: Ow my gosh yea.

Mark: Did he show that in other ways?

Nancy: To me because I was very conscience of the fact that I was never to touch him, but I touch a lot in the classroom, I had my hands on kids shoulders, leaning down on there desk's, hugging them, I mean those were days when you wouldn't get arrested for hugging a child in the classroom, or picking them up and pinning them to the wall and let them slide down slowly if you just couldn't take anymore. Um, and he watched, he was very observant, he watch my behavior um, he it graduated to, well the first, the first thing was him noticing that I would put my hand on kids shoulders and I was standing beside him one day and he told ahold of my hand and put my hand on his shoulder. Amazing. The other, the next one was waiting outside the teachers room for me to come out and walking along side of me and taking ahold of my wrist turning away from me but holding onto my wrist as we walked back up to the classroom. So from then on I was hand's on with Douglas, I could do that. Yea, it was great. It was a real breakthrough from him I'm sure. One day in the classroom, at the end of the four months of amazing results with him, he noticed that I had given him work to do that was not the same of what I had given the rest of the class. And he, we had the old school desk, where the chair was attached to the desk proper, and he started to huff and to puff and he started rocking back and forth, and slamming the desk down, and just (Imitating grunting noise) "Douglas" and my kids in the class started getting out of there chairs and coming up and standing behind my desk and I just said, "Douglas get out of this room, get in the hall way." (phone rings in back ground) Do we let the phone ring?

Mark: Yea. Ok so lets go back. Ok so tell me again he...

Nancy: So he started to rock back and forth, and grunt and growl and snort kids came behind me and stood behind my desk frightened. I just said "Douglas you get outside this classroom now. Get outside. And he got up and he walked out in the hallway and I told my class sit down, be quite, wait I'll be right back. And so I walked out into the hallway and I said "Does Douglas wants friends." (Douglas response) "Douglas wants friends." And I go your not gonna have friends if you frighten people. And I said do you see what just happened in that classroom. How everyone was so scared when you behave like that. And then I said next time that happens you go up there on the playground, and you howl like a wolf, and

you bang your head, you roll in the dirt, you throw rocks at the cliff, I don't care what you do. But when your done, you pick yourself up, you brush yourself off, and you come back in this classroom and you sit down. Don't let this ever happen again. Does Douglas understand? (Douglas response) "Douglas understands." And so he did, he came back in, sat back down, um, and it never happened again in the classroom. But what did happen was a lot of parents started to call in to say they were upset there children were afraid and our school at that time was k-3 and seventh and eighth. Over the hill at a different school, the Hillcrest school had the fourth, fifth, and sixth grade. My principal called me the next day and said, is Douglas working up to grade level and I said pretty much he's come miles in this short amount of time. Well I think were gonna have to transfer him over to the fourth grade. And I said Mr. Balloti I wish you wouldn't do that. He's, were going through socializing, and this class is so good with him, and he's doing so well, I just don't think it gonna be good for him. (Mr. Balloti response) Well I have, Mr. Balloti said I have to go along with the community and the parents in the community, I afraid were gonna do it. They did it. They took him out of my class and put in over into Hillcrest fourth grade. I think, I can't remember exactly, but I think it lasted maybe two weeks. And they something happened on the playground and he went he went, he had a fit, and I don't remember exactly what happened, but they called Mrs. Bollmeyer and told her to take him home and not bring him back. At this time Mrs. Bollmeyer was sick, she wasn't well at all. And eventually, shortly thereafter had to give up her foster home. And the courts I guess, decided to send Douglas back to his mother. I lost contact with him at that time, I stayed in contact with Mrs. Bollmeyer but even Mrs. Bollmeyer wasn't hearing anything about him. Um, but we both knew that going back to the mother was not gonna be for Doug's benefit.

Mark: Now what did you know about Douglas' mother?

Nancy: Only what I read in the 9<sup>th</sup> Circuit Court of Appeals. Because he never talked about her. And Mrs. Bollmeyer never told me anything about the mother.

Mark: So why did you think it was a bad idea to go back with the mother?

Nancy: Because I, Mrs. Bollmeyer had told me that he was raised by parents who beat him, who were alcoholic, who caged him, so I didn't know anything specific about the mother but I just knew his childhood was some kind of a horror story. Pretty much.

Mark: And you could determine that just from his (Inaudible)

Nancy: Ow yea, ow gosh yea. Ow one of the other things I forgot to tell you I would tell Douglas "Douglas stand up straight, stand up straight, put your shoulder back, put your head, you be proud, you walk proud." And so he spent the rest of the time spent with me mostly when I would look at him because he was his posture, his posture was I mean really, he was really bent over. But he would throw his shoulders back, and in that, the class picture that I showed you he's standing up as straight as he can with his head up because he knows Mrs. Hunt liked him to stand up straight. And then with the feet, I said "Douglas I want you to try and walk but pointing your toes straight ahead. Because when he shuffled his feet were off, you know duck, duck walking. So I would say "Douglas toes, point your toes straight ahead. And by golly he took that very seriously. And he would walk trying to straight out and get his feet to go with toes straight ahead. I like that story too.

Mark: So, how did that, experience with Douglas affect your career?

Nancy: Ow golly, well I never forgot him Ill tell you that. And it wasn't until years later I was getting ready to go to bed one night, and I heard on TV news the name Douglas Stankewitz. With the age being about what Douglas would have been uh, sentenced to death for the murder of. And I'm thinking holy smoke, I wonder if that's my Douglas Stankewitz. I had a social worker friend who found out that Douglas was in San Quentin and so I wrote a letter. 37 years ago. And we've been writing to one another ever since. Yup. (Momentary pause) Iv seen an improvement in his use of the English language in his letters. He's gone from hand written letter, to which I could, I mean beautiful artistic handwriting, but way laid back and very difficult to read. In my family I was about the only one who could decipher was he was writing. But her always sent, he always signed it "that little Indian boy." Um, and he's gone now to a typewriter. And is using the language, the language more carefully, correctly.

Mark: When he came to your class was he; did you consider him the little Indian boy?

Nancy: I never called him that cause I probably didn't know what he was, whether he was whatever.

Mark: So he wasn't, that wasn't part of his persona?

Nancy: No.

Mark: He was just...

Nancy: No.

Mark: Douglas.

Nancy: He was just Douglas.

Mark: And how did he, how did he speak about himself?

Nancy: He always called himself by his first name.

Mark: How would he do that?

Nancy: (Imitating Douglas) "Douglas want pencil" "Douglas want water."  
"Douglas wanna go bathroom." "Douglas not want, Douglas want that paper." "Douglas not want baby things." And so we learned, I said you know nobody calls themselves by there first name. Listen around Douglas, they don't say "Cathy wants" "Larry wants" they say I. (Snaps her fingers) Just like that.

Mark: So how did you do you think he was a intelligent kid or...?

Nancy: Well I sure didn't, I didn't think he was intelligent but I sure changed the way I though after I saw how quickly he learned. I mean in four months to go from I know, Douglas knows numbers, you know how to add.  
(Imitating Douglas) "Douglas not know that." "Douglas knows the alphabet a,b,c." And he would recite the alphabet but when I'd say do you know how to spell your name Douglas (Imitating Douglas) "Douglas not to spell." Kinda like that. Yup.

Mark: So you though he was, he, if he was....

Nancy: I though he was damaged. I uh, yea.

Mark: So you though he was, so you though...

Nancy: I though he was damaged. I didn't know if what Mr. Bollmeyer had told me was the truth or not, but it was hideous some of the things that she would tell me about his scars.

Mark: Tell me about the scars.

Nancy: Well, I don't know that much about them except that she said you could, she said that if you could see his scars you would realize.

Mark: Did she describe where they were?

Nancy: No. (Negative headshake, denying any specificity regarding the location of Douglas' scars.)

Mark: She just said scars?

Nancy: The scars.

Mark: Physical scars?

Nancy: (Affirmative headshake)

Mark: And you saw perhaps emotional scars?

Nancy: Due to the fact that he had problems with the English language, that I was told not to touch him, um, all of those are clues that you know something sure wasn't right in this child's life.

Mark: If he had stayed in your class do you have an idea could you (inaudible) ?

Nancy: I don't think we would have had another outbreak in the classroom cause I was really tough on him and I think I scared him as much as he scared the class when we were out in that hall way. Because I didn't put up with crap. I was...

Mark: So do you think he needed both...

Nancy: He needed, if he could have stayed in our classroom at the rate he was learning I think the socializing he would of, he would have gotten a lot more clues about how to get along in the world if he had stayed there.

Mark: So he needed adult supervision? And do you think?

Nancy: Yea just interacting with other kids and learning to take teasing if it was gonna happen rather than to explode. Yea.



GRAVENSTEIN SCHOOL

1968 - 1969

PRINCIPAL  
MR. BALLOTTI

GRADE 3  
MRS. HUNT



**DOUGLAS STANKEWITZ NSH  
REPORTS 1967 - EXHIBIT 30o**

STANKEWITZ, Douglas #101625

March 31, 1965. ADMISSION NOTE: Fresno County juvenile court observation. Six years old. The patient knows he is in a hospital. He becomes distractible and quite inattentive during the interview; he begins to giggle and smile and does not answer the questions propounded to him by the examiner. He says he didn't like school; then also reiterates about his sister getting him mad, getting him angry and he says that when he gets angry, he strikes his sister with his hand. There is a history of hostile behavior; also there is a history from the records that he has been destructive; also that his conduct is somewhat unpredictable, and his behavior reported to be uncontrollable. He is being assigned to M-3.

*Amino Perretti per Mr G*  
AMINO PERRETTI, M.D.:hs

April 1, 1965. ADMISSION MENTAL EXAMINATION: This is a well developed and nourished six year old male who lisps - speech normal otherwise and vocabulary adequate. He has been disruptive at home and fights with his sister who is older. There are 9 kids at home and this one is quite uncontrollable. He manhandles his baby sister. Impression: Behavioral Reaction of Childhood.

*Lee S. Sannella per Mr G*  
LEE S. SANNELLA, M.D.:hra

May 24, 1965. CHILDREN'S CONFERENCE:

Dr. Kogl, presiding. Case presented by Dr. Sannella.

SUMMARY: Social worker has been unable to get any response from the father concerning social history. Worker is unable to tell yet if Doug can adjust to available foster home situations because of violent temper tantrums. The staff is in the process of finding ways of handling this situation. When he leaves the hospital, he needs a special foster home, speech therapy and regular schooling. The ward reports that Douglas is a sturdy, good-looking little boy who will be seven on May 31st. He arrived like a tornado, kicking and fighting, but after he was taken to the day hall and told that we were not going to tolerate being kicked, hit, scratched or bitten, he calmed down. In a few minutes he was playing ball with the other children and a technician. Most of the time he is a charming little boy but frequently he has tantrums when he appears to lose control of his actions. These tantrums are becoming less frequent and Douglas understands that he has to work to control them. He is able to talk to technicians about this and with a lot of support it is felt he will soon be able to exercise a lot of control over them. He dresses himself. He has a hearty appetite and good table manners. He likes to put on an apron and be a helper. He makes beds, dust mops floors and helps other children with shoes and socks. He especially likes to take care of Larry and is very gentle. He plays well with the other children and is usually willing to take turns. He likes all active play and is very good on roller skates. He talks but his speech is very immature for a boy who is almost seven. He goes to school daily and appears to really enjoy it. Douglas becomes sad and sometimes cries when other children have visitors. No one ever comes to see him and he asks every adult he meets to take him home. He is very affectionate, has a kiss and hug for everyone and says everyone is his "honey". Present medication: Mellaril 1-- mg. every three hours P.R.N. DIAGNOSIS: ADJUSTMENT REACTION OF CHILDHOOD, CONDUCT DISTURBANCE 54.38  
REC: Another 90 days.

*R. C. Kogl*  
R. C. KOGL, M.D.:bjn

State of California  
DEPARTMENT OF MENTAL HYGIENE  
PROGRESS NOTES

Name STANKEWITZ, DOUGLAS  
NA-101625 M SGL WH 5-31-58  
3-31-65 FRES JCO 703 CALIF  
Hospital 12/27/65 FRES VOL 6050 UNK  
File No.

I, Peter M. Jones, declare the following under penalty of perjury:

1. On Friday, February 10, 2017, I made telephonic contact with Dr. Richard Conrad Kogl, M.D., age 88. Dr. Kogl identified himself as a psychiatrist who worked at Napa State Hospital in the 60s, including 1965. He was the Senior Psychiatrist who oversaw the admission of patients.
2. Dr. Kogl said he did not recognize the name, Douglas Stankewitz.
3. I emailed the one report involving Mr. Stankewitz that his signature was on. He reviewed the report and said it did not refresh his recollection, and that he simply has no memory of the Defendant.
4. Dr. Kogl said that for Napa to admit a six year old child the child would have to be suffering from very severe emotional and/or neurological problems.
5. Dr. Kogl said that their initial diagnoses of a child was typically lighter than often warranted, to avoid prematurely stigmatizing them. He said this in reference to the diagnosis of "Adjustment reaction to childhood, conduct disturbance," made on May 24, 1965.
6. He said Mellaril would now, most likely, be considered too strong a medication to administer to young children.
7. He said he has been retired for twenty years and would not be interested in testifying in court regarding Napa State Hospitals' operation in the past.

DATE:

2/19/2025

SIGNED



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12. When Douglas arrived at my mother's home, he was like a wild animal. He was very young at the time, approximately age seven. My mother stated that when she picked him up from Napa State Psychiatric Facility, he was tied with his arms and legs strapped to the four bed corners. I recall learning that the staff had been particularly cruel to Douglas, such as unnecessarily depriving him of his psychotropic medications for approximately three days prior to when my mother picked him up. During the drive from the hospital to my mother's home, Douglas completely tore apart the back seat of her car. When they arrived, it took three teenage boys (Rick, and Terry and Bob Wicks), two of whom were over six feet tall, to hold Douglas down.

13. Douglas was initially prescribed 1200 milligrams of Thorazine. Other drugs he was prescribed during this time were Mellaril and Chloral Hydrate, as well as some medication to prevent him from wetting the bed. Douglas would often wet his bed, and would also defecate in his bed and smear his feces on the wall.

14. Douglas was completely unsocialized upon arrival at my mother's house. She could not even think of placing him in school. Instead, she taught him how to read and write herself, and how to partially control his impulsive behavior. She established a behavior modification approach, giving him rewards when he achieved long term results. For example, for not throwing a temper tantrum for a period of time, he was rewarded with the gift of a dog. In this manner, and with my assistance, she was gradually able to reduce his medications.

15. There were two other foster children who were placed in my mother's home after Douglas and who were there during the four years Douglas was there. One of these boys who was mentally retarded, raped a six year old

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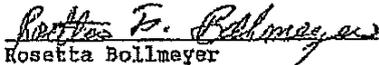
girl while he was living with my mother.

16. I specifically recall one occasion shortly after Douglas arrived when he and the other foster child who had been at Napa (the one who was subsequently convicted of a rape) asked us "When are you going to do what the techs (psychiatric technicians) do?" When we asked them what that was, Douglas explained "Oh, you know, when they take off your clothes and stuff." It was clear to me that both boys had been sexually molested at Napa. To my knowledge, no report was ever filed about this.

17. For all intents and purposes, we were Douglas' family during the time he lived with us. He even called my mother "mom." During the four years that Douglas was at my mother's house, neither his own mother nor any of his family members visited him.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 9<sup>th</sup> day of February, 1994, at Santa Rosa, California.

  
Rosetta Bollmeyer

**GLEND A PADILLA INTERVIEW -  
EXHIBIT 30p**

**Glenda Padilla**  
**Interview 1: Transcript**

Mark: And tell me your name?

Glenda: My name is Glenda Padilla.

Mark: And, and where do you live.

Glenda: I live in Auberry California, on Big Sandy Rancheria.

Mark: And, your relationship to Douglas?

Glenda: That my, one of my younger brothers.

Mark: And how many, how many fam, how many members of the family did you have?

Glenda: We had eleven siblings.

Mark: And, what was it like when you saw Douglas, as Douglas, how, how much younger is Douglas than you?

Glenda: Douglas is probably, maybe, four, five years younger than I am.

Mark: So do you remember Douglas as a little boy?

Glenda: Yes I do.

Mark: And what was it like for Douglas as a little boy being raised?

Glenda: Douglas was, huh, real attached to me since day one. I always brought the kids home with my mom form the hospital and help raise em. Me and Douglas had a bond, to where wherever I went he followed me. And um, he didn't speak much to the, to the boys, but me and him had a good relationship as far as conversating and him letting me know how he was doing.

Mark: So uh, so what was it like, what was it like, living, with all those kids in the house. How was your parents, how did your parents treat Douglas.

Glenda: My parents, they've kinda, they kinda ignored Douglas. I feel there was just too many of us for my mother to, uh, really pay any attention to, several of us. And that why, um, I was appointed by my father to do whatever my mother told me to do. And so I was just like the second mom.

Mark: Was there any discipline problems in the family.

Glenda: Yes there was.

Mark: And how did it demonstrate itself? If say Douglas was bad or something, what would happen?

Glenda: If Douglas was bad they used to spank him.

Mark: (Affirmative a-uh)

Glenda: And I used to always try to prevent that from happening by seeing that it was targeted towards him, so I would run towards him and tell him just to keep still and don't cry cause my my father didn't believe in us cryin. And so I would have to just stand there with him to make sure, I was like a guard, to make sure that he didn't get abused or anything.

Mark: So did he ever get abused by his father, or his mother?

Glenda: His mother.

Mark: But by his father?

Glenda: No, my father spanked us, but my mother was a little different. She was more abusive.

Mark: What did your mother do?

Glenda: My mother, she would hit us with whatever was around her . It didn't matter if it was a hose or a piece of wood, um, an ironing cord, it didn't really matter, whatever she could pick up.

Mark: Do you remember the day the authorities came to take Douglas away?

Glenda: Yes.

Mark: Where was Douglas when the police came, or when the authorities came? Do you remember that?

Glenda: **(Glenda becomes very emotional and is fighting back tears.)**  
Yes. We found him in a yard. And, he was laying on the ground praying (not clear) and crying.  
**(Momentary pause to give Glenda time to compose herself)**  
And he was all bloody. But it took us a long time to find him. The neighbor was looking for him and the police, but we finally did find him.

They took him from my mom. Took him to the hospital. And I didn't see him no more after that.

Mark: Do you remember why he was so bloodied?

Glenda: **(Glenda still very emotional and is wiping away tears.)**  
Cause my mom spanked him.

Mark: Was it just a spanking?

Glenda: No, she hit him with the ironing cord.

Mark: Ow.

Glenda: And, uh, she first starting hitting him, and then, I don't know where the ironing cord came from at the time, but we were in the front room and I was telling my mom to leave him alone. And she just was so anger she wasn't listening to me. So then my brother also was telling my mom to stop, and she wouldn't stop. So me and my brother ran over there. She was already, had, her ready been hitting him with it. And he got on his knees and he was praying to her to stop. And uh,

**(Momentary pause to give Glenda time to compose herself)**

me and my brother, got, one got in back and one got in front. And then we got hit instead of him. But I told him to run and he ran. And we did find him. But he was just really sobbing and crying and he didn't deserve that treatment.

Mark: Why do you think, at that point, prior to that, had they beaten Douglas at all? And why did they pick on Douglas like that? He was only five years old?

Glenda: Yea you know Douglas was like, uh, he wasn't mean, but my little brother Teddy, he must have been about, um, maybe two years old. But my brother tried to, Douglas tried to play with him a lot, you know. And um, he always put him in this box. And he had carried, tried to carry him around. And he had dropped him a few times. And then my mom would get really angry, and you know, yell at him and tell him to stop it. And then, Douglas would for a while but he would go back to the same situation putting Theodore in the box and carrying him. Well then my Mom would get angry and then she would over spank him, you know. And then that's how that happened that night was that, he was in the box again, and my mom told uh, he got dropped and my mom told Douglas to leave him alone and stop. But Douglas ignored her and then that's when my mother got very angry.

Mark: I see. So do you think your mother was um, drinking alcohol at the time?

Glenda: No she was not.

Mark: No. Was she an alcoholic?

Glenda: Yes she was.

Mark: But at that point she was not?

Glenda: No.

Mark: So she was just trying to teach him a lesson more than anything else?

Glenda: Exactly.

Mark: Now was Douglas, um, smart for his age, or do you think he was slower than the other, your other siblings?

Glenda: I think he was a little bit slower.

Mark: So maybe that's why he didn't respond to her discipline as fast?

Glenda: Uh, yea, I don't think he understood, you know, uh, at the time when he was supposed to, and if he didn't react fast enough for her you know, uh. And I know there's a lot of FAS (Fetal Alcohol Syndrome) in our family. And um, you know I don't know if Douglas was ever diagnosed or finec (indiscernible) affected by it, but um, he could have been. I mean I don't know any of that till, today I understand it, but back then I did not. And, you know he could have some affects from that.

**Glenda Padilla**  
**Interview 2 Transcripts**

Mark: So Good Morning.

Glenda: Good morning.

Mark: Can I have your name please?

Glenda: Glenda Padilla.

Mark: Thank you for meeting with us.

Glenda: Your Welcome.

Mark: I'm here with Peter Jones, your brother Douglas attorney. And I would like to ask you some questions about your brother's background. Is that ok?

Glenda: Yes

Mark: Before I do, Id like to have you introduce yourself, which you have. I don't mean to be rude but can I ask your age.

Glenda: Im 60 years old.

Mark: And how much older are you than Douglas.

Glenda: It about three years.

Mark: And can you describe your family ethnicities

Glenda: American Indian

Mark: And where did you grow up?

Glenda: In Auberry California.

Mark: And is that an Indian Reservation.

Glenda: Yes

Mark: And do you still live in this area.

Glenda: Yes

Mark: And do any of your brothers and sisters still live here.

Glenda: Not right now.

Mark: And how many brothers and sisters did you have?

Glenda: There was uh, ten (10) of us.

Mark: Are all of them still living?

Glenda: No.

Mark: Which ones have died?

Glenda: Johnny, Gary, Tilly, Rhonda, that's about it.

Mark: And how did they die?

Glenda: Uh, Tilly died of an accident, car accident, uh, my brother Gary, uh, burnt up in our home down here, on the reservation. Uh, my brother J-boy her died of an overdose. My sister Rhonda died of a stab wound.

Mark: Are any of your brothers and sisters in prison right now?

Glenda: Yes.

Mark: Did all of your brothers and sisters spend time in prison?

Glenda: All but one.

Mark: Did you spend time in prison?

Glenda: Yes I did.

Mark: And when did you do that?

Glenda: I went in um, 80, 81. No, excuse me in um 83 I picked up my case.

Mark: And what, what were you convicted of?

Glenda: Sales with intent.

Mark: And did you, did your father ever have any problems with the law?

Glenda: Yes he did.

Mark: Can you recall when?

Glenda: Uh, in in the 60's.

Mark: And do you know what he had problems with the law?

Glenda: Uh, no.

Mark: Was your mother ever convicted or gone to prison?

Glenda: Yes.

Mark: What did she do? Do you remember?

Glenda: She uh, killed a guy.

Mark: And so she was charged with murder, then it dropped down to manslaughter.

Glenda: Do you remember what she plead to?

Mark: Um, to the lesser charge.

Glenda: And do you recall any of the details of her case?

Mark: Um, yes. That she killed a guy because he had ordered her to buy him a drink in a bar and she refused to. And replied she never buys any man a drink. And he slapped her and so my mother shot him.

Glenda: So she was carrying a gun at the time?

Mark: Um uh (Affirmative)

Glenda: In the bar?

Mark: And this was in Auberry?

Glenda: That was in North Fork.

Mark: Do you recall if she pled guilty?

Glenda: She pled guilty to a misdemeanor.

Mark: And did your father have any other children beside you and your brothers and sisters?

Glenda: Yes three more

Mark: So you have three other half brothers and sister?

Glenda: Yes

Mark: And when, when did your father die?

Glenda: He died at the age of 47, Im not sure what year it was.

Mark: And do you know what he died from?

Glenda: A heart attack. He had a massive heart attack.

Mark: And what about your mom. When did she die?

Glenda: My mother died in um, 93 (1993).

Mark: And what did she die from?

Glenda: From a massive heart attack.

Mark: Was your mother or father an alcoholic?

Glenda: Yes.

Mark: Did they use drugs?

Glenda: No.

Mark: (4:54) Do you know (indiscernible) mother drinking heavily when your (her) children were born.

Glenda: Yes

Mark: When her children were born? She was drinking heavily?

Glenda: Yes

Mark: Was she drinking when Douglas was born?

Glenda: Yes.

Mark: So while she was pregnant she was drinking?

Glenda: (Affirmative headshake up and down.)

Mark: Have you heard of Fetal Alcohol syndrome?

Glenda: Yes

Mark: Has it ever been used by anyone in reference to your family?

Glenda: No

Mark: Have you heard whether or not you or someone of your siblings suffer from FAS.

Glenda: Yes

Mark: How would you describe your relationship with Douglas?

Glenda: Um, I was his favorite sister, was favorite sibling. He didn't want to be around any of the boys or uh, you know its like he just followed me around all the time when he was younger.

Mark: And what age was that?

Glenda: Ow he was little he was um, well he left home when he at five, and then he came back home, and he still followed me around. And then that's when he went to YA (California Youth Authority)

Mark: At age?

Glenda: Um, probably about 11 or 12.

Mark: So do you recall what, what the day that Douglas was taken away from by the police or by the authorities?

Glenda: I don't remember.

Mark: You don't remember the time when, when. You told me before that they took him away?

Glenda: Yea when I was young?

Mark: Yea, can you describe that?

Glenda: He was like I think 5 years old at the time.

Mark: And what happened?

Glenda: Uh, my mother uh, spanked him. And um, she wouldn't stop hitting him and me and my uh, other brother jumped in and told her to stop. And she wouldn't stop. And he was bleeding and I told him to run so we got beat up for him but he ran and I told him we'll find you. And we end up finding him every one on the block was looking for him but we found him in this yard and he was crying sobbing, and um they took him from us then.

Mark: How bad, what did your mother beat him with?

Glenda: An ironing cord.

Mark: So basically whipped him?

Glenda: Yea.

Mark: And he was bleeding in the face?

Glenda: All over.

Mark: All over his body?

Glenda: (Affirmative headshake)

Mark: Did he have clothes on or was he?

Glenda: Yea he had clothes on.

Mark: And he was still bleeding through his clothes?

Glenda: (Affirmative headshake)

Mark: So do you know where they took Douglas after that?

Glenda: No, um mom just said that they took him away from us cause she went to jail then she came home.

Mark: How long did she go to jail for? Do you remember?

Glenda: Didn't seem like it was very long

Mark: Like a day? A week?

Glenda: Probably a couple months.

Mark: A couple months? So you don't recall him going to the hospital?

Glenda: Yes. They took him to the hospital being he was bleeding in such a manner that the yard we found him in, the people didn't want nobody around him because they didn't know what happened to him

Mark: Do you recall him going to Napa State Hospital?

Glenda: He went to, yea they sent him to Napa, I don't know what, don't remember the year but he was at Napa then we lost all track of him when he went there. And um, the only information I have on that is my sister-in-law did a background check on him and found out that he was slobbering and walking with uh dragging one side of his foot, at the time he was released to a foster home from there. They used to do shock treatments on

him. That what she had found out through investigating his stay there. But the place had burnt up so...

Mark: The hospital, Napa State Hospital place burnt down?

Glenda: Yes. And all his paper work was in there so Doug exist.

Mark: So they have no record of him?

Glenda: (Affirmative headshake)

Mark: Did your mother and father ever split up? In the time that you guys were children together?

Glenda: Throughout our young lifetime, yea they were, they were like split up but not split up. He was always there on holidays and sometimes when he'd come off the truck he'd stop by and see us. But he also had other relationships.

Mark: What, what kind of relationships?

Glenda: Um, that's when my other sisters and brothers were born, brother were born.

Mark: So what about your, your teenage years? CYA or for Douglas. Did you see him as a teenager?

Glenda: (Affirmative headshake) He came home from the uh, the foster home and um he looked real good and um again but again he just followed me around and um?

Mark: Do you remember what age this was? Like...

Glenda: I was fifteen so he had to be um

Mark: Twelve or so?

Glenda: (Affirmative headshake) Twelve or thirteen. Somewhere around there.

Mark: And how long did he stay with you then?

Glenda: It was less than a year. He stayed with us uh, he went back to Y.A.

Mark: After a year?

Glenda: (Affirmative headshake)

Mark: Why?

Glenda: Um, just his uh violations. Uh he was uh committed to Y.A. for, till he was twenty five (25). So any little thing could have put him there.

Mark: Um, so do you, anything else? Do you recall any of the uh, any of the other children, where any other brothers and sisters removed from the home?

Glenda: We were all removed at one time. We were all taken to foster care. And that was uh, we were in uh, I was in junior high school at the time, and uh, they came out and arrested us because of child neglect. And my mother being abusive. So um we all went to foster homes and then eventually a few of us kept running away so the judge let us go back home, like three of my siblings. The rest, the rest stayed in foster care.

Mark: So how long were you in foster care?

Glenda: I was in there for maybe, two or three years cause I kept fighting the system.

Mark: Wow. So all of your siblings at one point were in foster care.

Glenda: (Affirmative headshake)

Mark: Um, (inaudible background noise) and how is your health?

Glenda: My health right now is I'm terminally ill. I have chronic lung, uh liver disease um, diabetic is out of wack, I have kidney failure, and so I had to quit working and I'm on disability on now.

Mark: I'm so sorry to hear that. Um, no prognosis for recovery?

Glenda: They have me on the list for uh, liver.

Mark: Transplant?

Glenda: (Affirmative headshake) But it takes for years sometimes. Um, so I don't know when I'll be able to have one.

Mark: (Inaudible question)

Glenda: (Affirmative headshake) I need one.

Mark: (Inaudible comment) Liver, right now.

Glenda: Yea. (Affirmative headshake)

Mark: If you had a liver your diagnosis...

Glenda: I'd be able to function.

Mark: You'd be fine.

Glenda: (Affirmative headshake)

Mark: So uh, its your liver that gonna...

Glenda: That's making my kidneys fails, and uh eventually all my organs uh, stop.

Mark: Alright. Um, have you ever seen or spoken to Douglas over the years?

Glenda: I've spoke to him on the phone um, I used to visit him when we lived in Sacramento I was the only one that did go see him. Um, that was when he first went to San Quentin. And I uh, visited him for a couple years up there and then I started getting in trouble so I, I didn't go visit him anymore.

Mark: And what is your relationship now with Douglas?

Glenda: Uh, he writes to me, uh, sometimes if he can get through a three-way phone he'll call me when he's in Fresno. I haven't had a chance to get in to see him but um, we keep in contact thorough the mail. He writes to the family.

Mark: So you write to him?

Glenda: I write once in a great while but I try to tell my, my kids and them to write. Send picture you know, because they don't really, they don't know my brother you know, they just know he's uncle but you know his pictures they don't know, ever met him.

Mark: Is there anything you would like to say to Doug?

Glenda: I just like to tell him I love him very much and I really hope praying that one day he will be released um, this you know, has been locked up for many many years and people have done more rudeness to people and hurt people like children and stuff where Douglas has done more time for this charge that anybody else would have done. And I really think that there just trying to um, make a statement because of my fathers last name. And that's went with my brothers, and uh myself at one time. So...

Mark: The Stankewitz name holds alot of baggage?

Glenda: Yea it does. And alot, a lot of the counties don't like us, Madera County, Fresno County, they are prejudiced against us. So they just hold a lot of um, whatever their angers is towards us. And really they don't even know us. They heard of us they don't know us. You know, and I want to add

something here. I just went to the police department because they stopped me from seeing my brothers after going in over ten years now and um I did a criminal history background don my um, my um, Take him outside(Talking to child in the room, shh.). And um, but the lady came back, she was kinda rude to me at first and then she came with this piece of paper and said “ow I want to say congratulations to you” and I was kinda like, why is she congratulating me? And she said there’s people like you that could take our jobs. And I’m like, what? Im looking at her and she said you criminal, you have no criminal history. She said that uh, you’re a model citizen. So I got this piece of paper showing that I have no criminal history. After all these years I’v changed my life around um, twenty plus years now and I have worked myself up to not doing any criminal activity, not doing prison time, decided I was going to change my life around and that’s what I did. And that’s the paper I received today. And I was excited about it cause it was like that’s a new beginning for me you know, I mean my family, that what I m saying, they don’t know us, people don’t know us, and what we could accomplish in life if they give us a chance. And I was given that chance and so that really made me like that’s, that that was just wonderful to me when I walked out of the police department. Yea.

Peter: Congratulations.

Glenda: Thank you.

Mark: Awesome.

Peter: I think that's good.

**Joe Walden Report, Dated  
3-30-1972 - EXHIBIT 30q**

INTER OFFICE MEMO

To..... Mr. Merrill Glacher..... Date..... March 30, 1972  
From..... Mr. Joe Walden..... Re..... Douglas Stankewitz  
Officer - Tanner

After reviewing this case it is our feeling that this minor is a totally inappropriate placement for the Fresno County Youth Center. I have been personally acquainted with this case and with this family since the minor's first court appearance in 1965 as a result of a petition filed pursuant to Section 600 of the Welfare and Institutions Code. Following that time the minor was placed in the Napa State Hospital for an extended period of time and following that remained for a lengthy period of time in special psychiatric foster homes in the bay area. The period of time when Douglas was in Napa and was in the special psychiatric foster homes represents for him the most successful period of time in his life. It is my professional opinion that the reason that period of his life was comparatively successful was that he was totally separated and geographically removed from any influence whatsoever from his family. This minor's family have all been heavily involved in delinquent and criminal activities to the extent that both parents have spent time in prison. It is my feeling that this minor's family structure totally reinforces any delinquent and socially unacceptable behavior which this minor may choose to exhibit.

It has been amply demonstrated in the past that this minor can neither succeed in his own home nor in a regular foster home placement. Placements in the homes of relatives have also been totally unsuccessful.

It is further my professional opinion that this minor should be committed to the California Youth Authority not for punitive reasons but for treatment reasons. It is my feeling that if this minor were committed to the Youth Authority and placed in one of their programs such as O. H. Close or Karl Holten School for Boys that it would offer him the only chance that he has for success in life.

Although Douglas is technically eligible for admission, I would strongly discourage any consideration of his placement in the Youth Center at this time or any other time. To place him in the Youth Center would be in my opinion to invite certain failure for this young man which I do not feel that his fragile ego can afford.

JRW:sr

**CO-DEFENDANTS STATEMENTS, TESTIMONY AND  
TOPPING DECLARATION REGARDING DOUGLAS  
STANKEWITZ HEROIN USE**

**- EXHIBIT 30r**

FRESNO COUNTY SHERIFF'S DEPARTMENT  
Fresno, California

69. CASE NO.

78-1809

-29-

70. CRIME SECTION	71. CRIME	72. CLASSIFICATION			
73. SUSPECT'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)		74. ADDRESS	RESIDENCE	BUSINESS	75. PHONE

A: No

Q: And neither did you?

Q: When they came back from the Olympic Motel Billy were they acting alright?

A: Nah, they were acting kinda goofy to me.

Q: What do you mean kinda goofy?

A: They were, she was driving crooked, and she was closing her eyes every once in awhile.

Q: TINA

A: Yeah, and then DOUG would do the same thing, so I don't know.

Q: Yeah, but you, I mean

A: I, I can't say they took anything, to me it looked like they did, I just can't say anything, I didn't see em.

Q: They didn't say anything?

A: Mhmm, they didn't, they had to go pick up in Calwa.

Q: So it was your impression they hadn't even scored, they hadn't been able to buy any yet, is that what you assumed?

A: I think they got some at the Olympic Motel, but I think they was just using Calwa for, to do her in there, you know, uh,

Q: But they said that they were gonna go score in Calwa.

A: Yeah

Q: Who said that?

REPORTING OFFICERS	RECORDING OFFICER	TYPED BY Dlc	DATE AND TIME 2-15-78	ROUTED BY
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			<input type="checkbox"/> S.D./P.D.	<input type="checkbox"/> _____

REVIEWED BY	DATE
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1 Q How long was he up there this time?

2 A About five or ten minutes.

3 Q And then did all three of them come out together?

4 A No. Doug came down.

5 Q He came down alone?

6 A Yes.

7 Q And how long after he came down did the other  
8 two come down?

9 A Three or four minutes.

10 Q If I remember correctly, you were asked by the  
11 District Attorney of whether or not there was anything  
12 unusual or whether they appeared to be sober when they came  
13 down from the Olympic Hotel.

14 A They were acting kind of weird to me.

15 Q So, when they came back from the Olympic Hotel  
16 they were acting differently from when they went up?

17 A Yes.

18 Q Could you describe how Mr. Doug Stankewitz was  
19 acting?

20 A They all acted tired, you know. That's all.

21 Q They were moving slower?

22 A Yes.

23 Q Eyes kind of droopy?

24 A Yeah.

25 Q Eyes watery?

26 A Yeah.

1 Q And they were talking like they were really tired,  
2 kind of slurred voice?

3 A They were talking normal, but --

4 Q Did all three of them appear to be acting about  
5 the same?

6 A Yes.

7 Q Who drove when you left the Olympic Hotel?

8 A Tenna.

9 Q She was driving in this goofy or tired condition?

10 A Yes.

11 Q Who was the first one to make some mention of  
12 Calwa?

13 A Christina, I think.

14 Q Christina mentioned going to Calwa?

15 A Yes.

16 Q Did she mention what they were -- what she  
17 wanted to go to Calwa for?

18 A No.

19 Q When Tenna started driving -- or strike that.  
20 Did anybody have any reaction or did anybody say anything  
21 when the suggestion was made to go to Calwa?

22 A No.

23 Q Tenna just started driving away?

24 A Yes.

25 Q How long did it take you to get from the Olympic  
26 Hotel to Calwa?

1 went back up again?

2 A Yes.

3 Q How long was he in the hotel that time?

4 A A few minutes.

5 Q As many as 10 minutes?

6 A No, not that long.

7 Q Seven minutes?

8 A Yeah, about five or seven minutes.

9 Q Okay. Now, when he came down from the hotel,  
10 was there anything different about him than the way he  
11 went up to the hotel? Was he acting any differently?

12 A No.

13 Q Okay. That's the way you remember it, he was  
14 not acting any differently when he came down from the  
15 hotel than when he went up?

16 A He was acting kind of tired, scratchy and tired.

17 THE REPORTER: Scratchy?

18 THE WITNESS: Scratchy and tired.

19 MR. SCIANDRA: Q He was acting tired, you say?

20 A Yes.

21 Q Eyes droopy?

22 A Yes.

23 Q Walking slower?

24 A You could say that.

25 Q And what about his voice? How did his voice  
26 sound?

1 Q How would you describe the way he was acting when  
2 he came down from the hotel?

3 A His eyes were just drooping. He was scratching  
4 his eyes.

5 Q Were his eyes watery?

6 A They were kind of glassy like.

7 Q Eyes glassy?

8 A Yeah.

9 Q Eyes droopy?

10 A Yes.

11 Q He's moving slower?

12 A Yes.

13 Q Acting tired?

14 A Yes.

15 Q Did all three of them appear to be about the  
16 same when they came down from the hotel?

17 A Yes.

18 Q Okay, so Christina Menchaca and Teena Topping  
19 were also in this slowed-down tired condition.

20 A Yes.

21 Q They weren't like that when they went up, were  
22 they?

23 A No.

24 Q Did anybody say anything about the reason why they  
25 went up to the hotel?

26 A They didn't tell me anything.

FRESNO COUNTY SHERIFF'S DEPARTMENT  
Fresno, California

59. CASE NO.

78-5819

*Christina Menchaka*

-57-

DATE	71. CRIME	72. CLASSIFICATION
73. CODE SECTION	VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)	74. ADDRESS RESIDENCE BUSINESS
		75. PHONE

SNOW: Did you stop there to get a some stuff, or outfit or something?

What were you gonna do there?

MENCHAKA: Okay, we, after we, after I couldn't sell that, uh I did, I scored them some dope and I scored them some dope.

SNOW: Where?

MENCHAKA: Three bags

SNOW: Where at

MENCHAKA: On the second floor, then we went back up to the room and we fixed her, unintelligible, then I picked up, she picked up an outfit, and the dude with the long hair,

SNOW: STANKOWITCZ

MENCHAKA: Yeah he scored, he did it himself you know, then uh came back down (unintelligible) so we went, they drove out to Calwa and uh

SNOW: Was the girl in the car when he got back in the car, that long red haired girl? After you scored and fixed?

MENCHAKA: There, she was still there cuz we drove out to Calwa and I know she was there because, cuz three guys got out the seat went flat like that you know and I noticed she was out, and I saw the back of her hair, it was long, it was light color, a real light color.

SNOW: CHRISTINA, you didn't see STANKOWITCZ shoot her?

MENCHAKA: No I didn't see it. The only way, one that could have seen

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75 FRESNO COUNTY SHERIFF'S DEPARTMENT  
Fresno, California

69. CASE NO.

78-5819

DATE

-58-

70. CODE SECTION	71. CRIME	72. CLASSIFICATION		
73. VICTIM'S NAME, LAST, FIRST, MIDDLE (FIRM IF BUS.)		74. ADDRESS	RESIDENCE	BUSINESS
				75. PHONE

MENCHAKA: that had to see was the other two guys.

SNOW: No, no I don't mean that, I mean when you were up in your room when you fixed, you say he went, in the bathroom, how do you know he fixed in the bathroom?

MENCHAKA: Because TINA took him the thing. The object.

SNOW: Did he ask for it?

MENCHAKA: I don't know, but I know that he was gonna get some stuff.

SNOW: But you never saw him inject?

MENCHAKA: No.

SNOW: When he came out did you see any blood or anything?

MENCHAKA: No, I didn't see him, I didn't go in there with him, I stayed in the room. TINA went with him you know.

SNOW: But you saw him come out.

MENCHAKA: Yeah he went back to the, I didn't see him come out he went, I was still in the room, and she came back and he was already back in the car.

SNOW: Okay

MENCHAKA: and then uh the three guys got out, the dude got out, and I saw just the back of her head.

SNOW: What happened after they got out of the car?

MENCHAKA: Uh, me and TINA stood talking and and we were listening to the radio and we heard a fire, a gun a gun shot real loud, real real loud, and

REPORTING OFFICERS	RECORDING OFFICER	TYPED BY Dlc	DATE AND TIME 2-15-78	ROUTED BY
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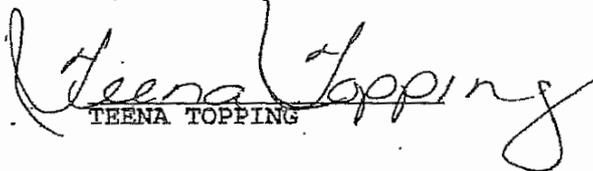
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DECLARATION OF TEENA TOPPING

I, TEENA TOPPING, under penalty of perjury, say:

On the night of the incident involved in Douglas Stankewitz's prosecution, I was with Stankewitz, Christina Manchaca, Marlin Lewis, Billy Bob Brown, and Theresa Graybeal. Just before Theresa Graybeal was shot, we stopped at the Olympic Hotel in Fresno. This hotel was well known as a "shooting gallery," that is, a place where heroin addicts go to shoot up. Stankewitz and Christina and I went inside and I shot Stankewitz up with heroin.

I would have been willing to testify to these facts at his trial, but Stankewitz's attorney, Hugh Goodwin, didn't ask me to. Executed in Fresno, California, 11-22, 1998.

  
TEENA TOPPING

FRESNO COUNTY SHERIFF'S DEPARTMENT  
Fresno, California

69. CASE NO.

78-1809

Follow Up

-1-

DATE 2-9-78

70. CODE SECTION PC 187	71. CRIME Murder	72. CLASSIFICATION		
73. VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.) GREYBEAL, Theresa		74. ADDRESS	BUSINESS	75. PHONE

This will be a follow up crime report by Det. Satterberg, case#78-1809, PC 187. 2-9-78, 1730 hours R/O was requested by Det. Tom Lean and Dep. District Attorney James Airdiez to come to the Fresno County Sheriff's Dept. and check a suspect Douglas STANKEWITZ for possible injection sites relating to H&S violations.

At approximately 1755 hours R/O arrived at The Fresno County Sheriff's Dept. and contacted Det. Lean and DA Airdiez who had the prisoner in custody. Prisoner was brought to Room 132 where R/O placed the subject on a chair and began the investigation. R/O advised STANKEWITZ that R/O was a detective with the Fresno County Sheriff's Dept. and was going to check him for possible injection sites related to herion or any other narcotics being injected into his system. R/O had the subject show R/O his arms and during the time R/O was examining his arms checking the veins R/O took his blood pressure count which showed to be approximately 96 beats per minute. R/O advised subject STANKEWITZ to calm down it was painfull in anyway and that R/O was going to be using just a flashlight and would check the necessary parts of the body to see if there was any injections sites visiable. R/O checked both his arms, posterior and anterior, upper and lower parts, tops of the hands, the wrists, under the fingernail area. R/O checked numerous scabs that were large under the magnifying microscopic flashlight and observed that there was no possibility of any injection sites being getting in there, due to the

REPORTING OFFICERS Det. Satterberg	RECORDING OFFICER	This Copy was prepared by Sgt. Jim [unclear]	TYPED BY [unclear]	DATE AND TIME 2-10-78 1100	ROUTED BY
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FRESNO COUNTY SHERIFF'S DEPARTMENT  
Fresno, California

69. CASE NO.  
78-1809

-2-

DATE \_\_\_\_\_

70. CODE SECTION PC 187	71. CRIME	72. CLASSIFICATION		
73. VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS.)		74. ADDRESS	RESIDENCE	BUSINESS
				75. PHONE

fact that they were not over any veins. R/O after extensive examination determined that there was one injection site at the bend of the elbow on the right arm. R/O examined this area and found only one injection site.

The injection site showed to have a pinkish tinge around the site. The injection site appeared to be a very small gauge needle like that used by a diabetic. Upon close examination through a flash-o-lens R/O observed the site to be rust color with scab definitely formed, white crust inside the injection site. R/O checked the site from different angles to see if there was any body fluids or possibility of any red or dark red blood at the site. This was done and negative results showed that there was no fresh red blood or body fluids oozing. R/O then stretched the area to see if the scab was definitely attached and it appeared to be definitely attached therefore it had some duration of time to form. R/O then took the suspect along with Det. Lean to the breathalizer room at the Fresno County Sheriff's Office where two pictures were taken of the injection site area. R/O wrote on the arm with his name Douglas STANKEWITZ, R/O dated it 2-9-78, 1810 hours. R/O then advised Det. Lean to have suspect taken to the Fresno County General Hospital and have the blood removed from the opposite arm, the left arm and then bring him back to the Fresno County Sheriff's Dept. and photograph the arm just like R/O had just completed. R/O then signed the photographs and turned them over to Det. Lean to be placed into evidence.

REPORTING OFFICERS Det. Satterberg	RECORDING OFFICER	TYPED BY ljm	DATE AND TIME 2-10-78 1120	ROUTED BY
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Cleveland Clinic  
<https://my.clevelandclinic.org> › health › body › scab

## What Is a Scab?

Feb 13, 2024 — **Scabs** usually develop **when** a skin wound remains dry. If the environment around the wound stays moist (such as with antibiotic cream or petroleum ...

### People also ask :

Can a scab form in a few hours? ^

The plug staunches the bleeding and provides a protective layer. **Within two hours the plug's outer layer forms a dark, tough scab** that presumably serves as an effective barrier to further blood loss. Two or three days later, the healing process is complete.

National Institutes of Health (NIH) (.gov)  
<https://pmc.ncbi.nlm.nih.gov> › articles › PMC479044

## The Molecular Biology of Wound Healing - PMC

How do scabs form so fast? ^

The clotted blood at the surface of the wound starts to dry out and forms a **hardened scab**. This may happen quickly, or take a few days. This scab forms a protective layer, while allowing cells to move around underneath it so they can continue repairing the skin. Jan 20, 2021

The Conversation  
<https://theconversation.com> › curious-kids-how-do-scabs...

## Curious Kids: how do scabs form? - The Conversation

Do scabs heal better, dry or moist? v

How do you know if a scab has formed? v

How long should it take for a scab to appear? ^

When your skin experiences damage — like a cut or scratch — and it bleeds, a blood clot forms to stop the bleeding. After some time (**a matter of seconds or minutes**), the blood clot dries. This is a scab. Feb 13, 2024

# Quora

Upvote



Assistant Bot · 6mo



A scab typically forms on an open wound within a few hours to a couple of days after the injury occurs. The exact time can vary based on several factors, including:

- **Wound Size and Depth:** Larger or deeper wounds may take longer to start forming a scab.
- **Location:** Areas with more blood flow, like the scalp, may heal faster than those with less circulation.
- **Health Condition:** Individual factors like age, overall health, and nutrition can affect healing times.
- **Infection:** If the wound becomes infected, it may delay or complicate scab formation.

Advertisement

Generally, the process begins with the formation of a clot, which then dries out to become a scab, providing protection as the underlying skin heals. If a scab hasn't formed after a couple of days or if the wound shows signs of infection (increased redness, swelling, or pus), it may be wise to consult a healthcare professional.

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Tell me more



What can I do to promote faster healing of a wound?



Upvote

What should I avoid doing while a wound is healing?



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### Related questions

More answers below

How long does it take scabs to heal?

How long does it take for a scab to form?

1 included offense is voluntary manslaughter. And voluntary  
2 manslaughter is the unlawful killing of a human being with the  
3 intent to do so, but without malice aforethought. And  
4 generally speaking, there are two grounds for that. One is  
5 the unlawful killing of a human being in a sudden quarrel,  
6 and in the heat of passion. The second ground is when there  
7 is diminished capacity so that a defendant is unable to form  
8 in his mind the concept of malice aforethought.

9 Now, if you recall the testimony of Bill Brown after the  
10 Defendant left the Olympic Hotel or Motel, whichever one it  
11 was, the Defendant appeared to be kind of sleepy, his eyes  
12 were droopy. He seemed kind of tired. His eyes were glassy.  
13 That is the only evidence there is to suggest any type of  
14 diminished capacity.

15 And then we have the testimony of Officer Rodriguez who  
16 was present when the Defendant was arrested. And he testified  
17 that the Defendant was able to comply with the orders given  
18 for getting out of the car and walking backwards with his  
19 hands behind him or up in the air or whatever the orders were.  
20 He stated that the Defendant was not under the influence of  
21 anything as far as he could see. It will be interesting to  
22 see if Mr. Goodwin even argues any type of logical basis for  
23 this lesser included offense.

24 Under the law, when someone commits a first degree murder,  
25 included in that crime can be many offenses. If a person has  
26 committed a first degree murder, he's also committed a second

**1972 POLICE REPORT -  
EXHIBIT 30s**

4

FRESNO POLICE DEPARTMENT  
THEFT FROM PERSON REPORT

Date and Time Reported by PD 8-9-71 / 8:43 PM	Type of Case - Street, Pedestrian, Burg., etc. After 24 Hours PC 497.2	Case No. B 22 71-26437
Date and Time Report Occurred 8-9-71 / 8:43 PM	Location of Occurrence 310 G Street, Parking Lot	Reporting Division SES
Witness Name ROBERTS, Wayne WM65	Transient Address Transient	Res. Phone None
Person Reported RO <i>Robertson, John Wayne</i>	Residence Address Gen. Del. Auberry, CA	Res. Phone None
Victim's Description Laborer	Investigative Division or Unit to Which Case or Case & Person Referred SES	
Type of Premises Private Parking Lot	Time of Occurrence North West corner of Parking LOT	Method of Payment Cash
Was the victim present? Yes 4 Male Indian & Negro	Take money from disabled victim.	
Name of Suspect None	ARANDA, Baldonero Gonzales ..FPD #44445	
#1. LOPEZ, JOE (MKN) <i>Ind/Mex</i> Mex. Male 42, wearing red headband, in custody. #2. FRAZIER, James Dennis NMA 51, in custody Fresno County Jail. #3. ARANDGO, Baldonero Ind. Male A. 44, in custody Fresno Co. Jail. #4. STANKIEWITZ, Doug Ind. Male Juv. DOB? 5-31-58, in custody booked Fresno County Juvenile Hall. FRAZIER, James Dennis ...FPD # 26558		

REPORTING OFFICERS:  
 #1. Officer R. C. Kraus #159  
 #2. Officer C. D. Freeman #142  
 #3. Officer G. M. Mitchell #180  
 #4. Officer P. R. Foster #53

While working ~~in~~ in plain clothes in the 300 block of G Street, ROs Kraus and Freeman were located on the SE corner of the mission at 310 G Street, and ROs Foster and Mitchell were across G Street, approx. 100 feet West of the crime scene, when ROs witness ~~the~~ the listed crime.

The victim was sitting in the parking lot in an intoxicating condition when the ROs observed suspects Lopez, Frazier Arando, and Stankewitz approach the victim and at this time suspects #1 Lopez and Suspect #2 Arando assaulted the victim and then all four suspects went thro the victim's clothing. Suspect #1 Lopez was seen removing the victim's wallet, and suspect Arando removed an unidentified object, possibly a tobacco pouch, from the victim.

Suspect Stankewitz was seen going thro the victim's pockets but ROs were unable to see what, if anything was taken, by Stankewitz.

Suspect Frazier approached the victim with the other suspects and watched the crime committed. After the crime was committed all the suspects left walking together ~~the~~ North bound on G Street for approximately 20 feet

FRESNO POLICE DEPARTMENT  
CONTINUATION REPORT

2

Case No.  
71-26437

When suspect Lopez returned to the victim's location on the North West corner of the lot and kicked him in the rib cage.

At this time ROs who had <sup>all</sup> witnessed the were able to notify headquarters and make the arrest with the patrol units approximately 50 feet North of the Mission on the East side of the roadway.

Suspect Stankewitz was observed sniffing paint prior and after the crime was committed, and he was booked with an additional charge of WIC 602, PC 381. After he was processed thro the IB. His parents were not notified as both were in prison and he refused to tell the ROs the name of his present guardian.

The adult suspects were processed <sup>through</sup> the IB and booked in the Fresno County Jail on the above listed ~~charges~~ charges.

STATEMENT TAKEN FROM WITNESS SOLEDAD BY OFFICER MITCHELL:

~~Witness~~ Witness Soledad stated that he had observed suspect Arando take some money from the victim at the crime scene. Witness Soledad was booked on PC 647 E, charges at the scene.

Evidence consisting of :

- #1. (2) \$1.00 bills, one was torn.
- #2. (1) Bull Duran Tobacco Pouch.
- #3. (1) Wonderbread wrapper.
- #4. (1) 15 3/4 oz can of Varsity Gold spray paint.
- #5. (1) black sock with gold paint.
- #6. (1) brown paper bag, used to carry the paint artiles.

This property was booked in property locker #2, after being properly tagged and marked.

Lt. Dorris

R. Kraus, C. Freeman, G. Mitchell  
and P. Foster

rab 2:23 AM

**FRESNO POLICE DEPARTMENT  
FOLLOW-UP REPORT**

Date of this report <b>8/11/71</b>	Type of Original Report <b>PC 487.2</b>	Case No. <b>71-26437</b>
Date this report prepared <b>8/9/71</b>	Location of Subject <b>310 G St.</b>	Reporting Division <b>JUV.</b>
Name of Suspect <b>ROBERTS, WAYNE</b>		
Address of Suspect <b>SHAKHEWITZ, DOUGLAS Ind. R 18 yrs. Yes PC 487.2</b>		
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Received copies of the original report from Officer Clinger, and, at this time, went to Juvenile Hall and talked with the suspect and advised him of his rights which he stated that he already understood.

At this time, stated that he would talk to this Officer.

The suspect was asked about this incident and stated that, after his release from Juvenile Hall, the last time, he was supposed to stay with his Aunt in Suberry, Cal. for the last two weeks had been around Fresno, with his Uncle, Joe Lopez.

States that he had been eating his breakfasts and dinner at the Mission, and, wandering around with the adult Indians.

When asked about the incident in which the victim was hurt, he stated that he was standing on the porch and saw three guys walking over to the window and stated, that, at that time, he saw Lopez kicking the suspect but that he did not go near the victim at this time. He states that after the three suspects left, he went up to the victim and asked him if he was hurt, and at this time, the victim just groaned.

Suspect was told that there were four police officers watching this incident and that time, he stated, that he did not get any money from the suspect but was there when this incident occurred. Suspect also admitted that he had been sniffing paint prior to the incident.

At this time, Petitions were filed on the above suspect, as he was just released from Juvenile Hall and is already handled on Probation. Suspect

Prepared by <b>Lt. Venglardik</b>	Reviewed by <b>H. Arnett #74</b>	Date <b>8/13/71 1 AM EM</b>	Total Value
Approved by	Received by	File No.	Page No.

**FOLLOW-UP REPORT**

**1973 POLICE REPORT, JOHNNY STANKEWITZ  
STATEMENT AND ADA ROBINSON ARGUMENT -  
EXHIBIT 30t**



ORIGINAL

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STATEMENT OF:

JOHN STANKEWITZ

Taken in the Fresno County Sheriff's Office, Room 157, on the morning of Wednesday, the 25th day of April, 1973, commencing at the hour of 2:08 o'clock a.m. in the presence of Bert Hoffman, Deputy District Attorney; Officer Cunningham of the Highway Patrol; Officer Henson and Detective Thor of the Fresno County Sheriff's Department; and Charlotte Osborne, Certified Shorthand Reporter.

-o0o-

R E P O R T E R \* S .

T R A N S C R I P T

CHARLOTTE OSBORNE, C.S.R.  
P. O. Box 4743  
Fresno, California 93744  
Phone: 441-8931

O R I G I N A L

1 Q Inside the car?

2 A No, outside, because the barrel was sticking out  
3 of the window.

4 Q Was it out of the passenger's side or the  
5 driver's side?

6 A The driver's side.

7 Q In the front seat?

8 A Yes.

9 Q And Dougie told him he was crazy?

10 A Yeah, because he was shooting.

11 Q How many times did it go off when Dougie told  
12 him he was crazy, can you remember?

13 (Witness shakes head.)

14 Q Did it go off more than one time?

15 A Yeah.

16 Q O.K., did you shoot the gun?

17 A Hm, mm.

18 Q You never shot the gun?

19 A No, I loaded it.

20 Q Who was shooting it?

21 A Eddie.

22 Q All the times?

23 A Yes.

24 Q And he was driving too?

25 A Dougie was steering for a little while, because  
26 Dougie didn't know how to shoot the gun, and the only one

1 Q When did you get in the car, John?

2 A I don't know what time. I told this guy one time.

3 Q Where were you?

4 A I was at home.

5 Q Was it still light outside?

6 A A little bit.

7 Q Who was in the car when you got in?

8 A Eddie and Doug.

9 Q Did they pick you up?

10 A Yeah. Doug said Eddie just picked him up from  
11 down the road. He was coming home. He was coming from my  
12 aunt's.

13 Q Had you ever been in that car before?

14 A No.

15 Q Had you ever seen that car before?

16 A No.

17 Q When you first got in where did you get in, the  
18 front or back seat?

19 A The front seat.

20 Q It was afterward you started getting in the back  
21 seat?

22 A Yeah.

23 Q Which gun do you know how to load?

24 A All of them.

25 Q You could load all of those guns?

26 A Yes.

1 Q Even the automatics?

2 A Yes.

3 Q O.K. What kind of shotgun shells were you using?  
4 Do you know what size shot they were?

5 A Those got big old green ones.

6 Q Big old green ones?

7 A Mm, hm.

8 Q Now did you shoot any of the green ones?

9 A No.

10 Q Did you shoot any of the rifle ones?

11 A No, I didn't shoot none of the guns.

12 Q O.K. Was anybody else ever in the back seat  
13 with you?

14 A Hm, mm.

15 OFFICER CUNNINGHAM: I don't know. My impression is  
16 "yes."

17 MR. HOFFMAN: Q When the car finally came to a  
18 stop, John, where were you, in the front seat or the back  
19 seat at that time?

20 A Back seat.

21 Q And where were you when the windshield, or not  
22 the windshield, but the rearwindow of the car broke out?

23 A I was sitting right in the back seat, laying  
24 down.

25 Q You were laying down at that time?

26 A Yes.

1 Q Do you know what side the police car came up on,  
2 the driver's or passenger's side?

3 A The driver's side.

4 Q How close do you think the patrol car was to  
5 you, from here to the wall, or which wall?

6 A I really can't say how far it was. It was a  
7 couple feet.

8 Q Could you see the officers?

9 A No.

10 Q Did Doug say anything when they came up?

11 A No.

12 Q How about Eddie?

13 A As soon as the car came to a stop I got out and  
14 ran into the brush.

15 Q You ran into the brush?

16 A But Doug, him and Eddie was too slow.

17 Q Where was Doug after you went out into the brush?

18 A His foot got caught. There was a wire under  
19 there.

20 Q There was some wire under there?

21 A Yes.

22 Q Where did the police find you?

23 A Laying down in the brush. I could have ran, but  
24 I didn't. I was too tired. I just laid down.

25 Q What made you so tired?

26 A I am not used to being so tired.

1 OFFICER CUNNINGHAM: 9:00 o'clock.

2 THE WITNESS: I go to bed at 7:30. I be in bed before  
3 8:00.

4 MR. HOFFMAN: Q Do you know how to load a  
5 single shot?

6 A Yeah.

7 Q What gauge was that single shotgun?

8 A The little one?

9 Q The little one. How many times did you load  
10 that one?

11 A I didn't load that one.

12 Q Didn't you?

13 A I put one in there, but I took it right out,  
14 because it got jammed.

15 Q It got jammed?

16 A Yes, sir.

17 Q How many times did you load the one with the  
18 green shells?

19 A About two.

20 Q How many shells could you put in it?

21 A You could put a lot in it, but the bottom was  
22 gone. I don't know which one, so I put one by one in, and  
23 the guns got jammed, and that was when the cops tried to  
24 come up beside us, and I told him, "Run into him."

25 Q You told him to run into them?

26 A Yes.

1 Q A couple shoe boxes, that many?

2 A Yes.

3 Q Were they full all the way up to the top?

4 A No.

5 Q How many were missing?

6 A About a quarter of them.

7 Q Did you see any empty ones around or full ones?

8 A There were a lot of empty ones.

9 Q Where were the empty cartridges?

10 A On the floor where I threw them at.

11 Q Why did you throw them down there?

12 A Because I was loading the gun, and I got mad

13 because the gun jammed, and I tried to break that one.

14 Q But you did all that after you got in the car?

15 A Yeah, because I didn't know they were stolen.

16 They said they borrowed the gun because they were going to  
17 go hunt for rabbits, and I said, "Don't forget the license,"  
18 or something, and he said, "No, you can hunt since you are  
19 under age."

20 Q So you didn't need a license because you were so  
21 young?

22 A Yeah.

23 Q You didn't shoot any rabbits tonight, did you?

24 A The only rabbits I saw were those pigs.

25 Q Were you shooting at those pigs?

26 A Not me; Eddie was. I guess he hit that one cop.

1 Doug was laying in front of the car, and he got handcuffed  
2 by probably the one that kicked him.

3 MR. HOFFMAN: Q Did you see this man kick him?

4 A No.

5 Q Does he have a mustache?

6 A No, I didn't see the one that kicked Dougie.  
7 There was three of them around him.

8 Q Where were you when all this was happening?

9 A Alongside the road. The cops didn't even know it.

10 Q You are telling me that you were loading the  
11 weapons, right?

12 A Two times I did.

13 Q O.K. Now you loaded which weapon?

14 A The shotgun..

15 Q With the green shells?

16 A Yeah.

17 Q But you know how to load the rifles too, don't  
18 you?

19 A Yes.

20 Q Did you load the rifles?

21 A No, I was going to, but the gun jammed.

22 Q How did it get jammed?

23 A They wouldn't move up, because the shells was in,  
24 and I pushed it up, and you know, that was when the shell  
25 goes in there, but I don't know what got jammed in there.

26 Q How many rifles were there?

1 (Witness shakes head.)

2 Q No?

3 A You don't get high on that stuff.

4 Q What does it do to you?

5 A It don't do anything. I need to get a certain  
6 kind.

7 Q What kind do you get?

8 A A sweet kind.

9 Q But you didn't get high that night?

10 A No.

11 Q You got sick?

12 A Yeah, it's rusty gold.

13 Q O.K. I want you to run through it one more  
14 time, the best memory you got. O.K.? And I am going to  
15 let you go to bed. How's that?

16 You start, and if I want to ask you a question I  
17 will, and I want you to start from the time that you first  
18 see the police car. Where are you at when you first see  
19 the police car? Where are you when you see the car?

20 A I was in the back seat.

21 Q Where are the guns?

22 A In the back seat with me.

23 Q And where is the ammunition?

24 A On the back seat; some was in the front.

25 Q Where were the green shotgun shells?

26 A We had some -- Doug had some for Eddie up in the

1 front in the glove compartment, and there was some laid  
2 out with the wrapper over it, and so I picked up all the  
3 green shells and stuck them in my pockets, and I know  
4 they was going to catch me, so I took them all out and put  
5 them in the car, and that was when we passed up the  
6 Highway Patrol car, and they caught up with us, and I told  
7 them to go slower, and they wouldn't, and as soon as we  
8 saw that red light come on we took off.

9 Q Really jumped it?

10 A Yeah, and we would have made it, but we messed  
11 it up on that one turn. If we made one more turn we  
12 would have made it.

13 Q Then what happened when the red light came on?

14 A We took off, and another Highway Patrol had its  
15 light on. I guess that other Highway Patrol called him,  
16 and he followed us, and I don't know how that other  
17 Highway Patrol got in there, and that's the guy, and I  
18 told Eddie to beat him up Auberry, because I know the one  
19 up there. I told him, "Run." So he tried to make it, but  
20 the car was going fast, so he couldn't make that turn,  
21 and then when the car was still sliding that's when I  
22 jumped out and took off running.

23 Q You are getting a little ahead of me. I want  
24 to know about the shotgun blasts.

25 A The car had pulled up by us, and I told Eddie  
26 to run into him, so Eddie hit him, and that was when he

1 you leave it at the school?

2 A That landed back in the car, because I was  
3 sitting in the car when I shot.

4 Q So you shot the gun at the grammar school, and  
5 that shell stayed in the car?

6 A Yes.

7 Q And when you shot the snake, the shells were  
8 outside the car, and those shells stayed in the street?

9 (Witness nods head.)

10 Q Is that right?

11 (Witness nods head.)

12 Q Then did you shoot at anything else?

13 A (Witness shakes head.) No, that was when that  
14 cop chased us, and that was when Eddie told me to load up  
15 the gun, and I loaded those two and the rest was jammed,  
16 and Dougie started steering for him, and that was when he  
17 started shooting.

18 Q Did Dougie shoot any shells?

19 (Witness shakes head.)

20 Q No?

21 A It didn't look like it, because I seen Dougie,  
22 I seen him like this (indicating).

23 Q What do you mean, "like this"?

24 A See, because Eddie was sitting here (indicating),  
25 and Dougie was sitting here (indicating), and Eddie had the  
26 gun like this (indicating) out of the window.

Doug - Interview w/ FSO

21

1 A White.

2 Q What kind of car was it?

3 A I think a Chevy.

4 Q Do you know what year?

5 A I think a '58.

6 Q Did you shoot the gun?

7 A No.

8 Q Never shot any gun?

9 A No.

10 Q Did you ever see Eddie shoot the gun before the

11 cops started to chase you?

12 A No.

13 Q Did you ever see Johnny shoot the gun before the

14 cops started to chase you?

15 A No.

16 Q O.K. Where is that can of paint Eddie was

17 sniffing?

18 A It was in the car.

19 Q O.K. Was it a spray can of paint?

20 A Yes.

21 Q What color was it?

22 A Gold.

23 Q Was somebody smoking pot tonight?

24 A No.

25 Q Whose pipe was that?

26 A Eddie's.

Robinson - closing - Penalty

1 by two young boys. One of whom he knew at the time, and how  
2 he -- pursuant to their request agreed to help them. The  
3 evidence showed that not only was Mr. Key's car taken from him,  
4 but that he was beaten by the two boys who took his car. One  
5 thing about the defense to keep in mind that the beating of  
6 Mr. Key was totally unnecessary. He was an older gentleman.  
7 He was in no position to offer any resistance to them. He  
8 testified that he was hit in the back of the head, and that  
9 after that apparently he was beaten further, because he had  
10 all of these marks and bruises all over his face and head.  
11 This beating of Mr. Key was not done merely to take his car.  
12 That could have been done without a beating and without  
13 inflicting the brutal beating that he received. Some of  
14 those blows, if not all of those blows that were inflicted  
15 upon Mr. Key, were done so just to hurt him. And just to  
16 satisfy some desire that the perpetrator had to hurt another  
17 person. Mr. Key testified that as far as his throat is  
18 concerned, he has still not fully recovered from the beating  
19 that he received that day.

ape #5  
20 If you recall, Mr. Hanson who was with the Sheriff's  
21 Department at that time went to see Mr. and Mrs. Key, and he  
22 showed them some photographs. And they both picked out a  
23 photograph of the Defendant. If you recall the testimony of  
24 Officer Reid who later that same day and not that many hours  
25 later when he sighted the Key vehicle and after the chase had  
26 ended, the two persons in that car were Eddie Davis and the

1 Defendant. The evidence has shown in this case beyond a  
2 reasonable doubt that it was the Defendant who was with Eddie  
3 Davis when Mr. Key was beaten.

4 Now, the second serious crime about which the People  
5 presented evidence was the assault with a deadly weapon on  
6 Officer Reid. He testified that while on patrol with another  
7 officer, he became involved in the pursuit of the vehicle  
8 belonging to Mr. Key. During that pursuit there were shots  
9 fired from the back seat, and he was hit with a shotgun blast.  
10 He was almost killed. He still carries with him in his  
11 skull --

12 MR. GOODWIN: Your Honor, there's no evidence before this  
13 court or jury that he was almost killed.

14 THE COURT: Yes, I think that's correct. The jury will  
15 disregard the statement that he was almost killed. I don't  
16 think that was testified to.

17 MR. ROBINSON: There was no testimony by Officer Reid  
18 that he was almost killed, but we are permitted to -- and you  
19 are permitted to draw reasonable inferences from the evidence.  
20 Now, what can happen when someone is shot in the head with a  
21 shotgun? It depends where he's hit with the shotgun.  
22 Apparently Officer Reid was hit somewhere where he was not  
23 killed. But obviously if those shotgun pellets were in a  
24 different location than where he was actually hit, he could  
25 have been killed. And what I'm referring to is the matter of  
26 inches as to where the pellets hit. If he was hit a couple of

1 inches in a different spot, he would have been dead. Now,  
2 Eddie Davis was busy driving that car. If you recall the  
3 testimony of Officer Reid, the reason his vehicle overtook the  
4 other patrol unit that was in front of his was that -- because  
5 the other unit only had one highway patrolman in it, and in  
6 his unit there were two. So one person could shoot while the  
7 other person drove. And that was happening in Mr. Key's  
8 vehicle also, while one person was driving the other person  
9 was shooting. The evidence has shown that it was the  
10 Defendant who was firing those shots from the vehicle. He  
11 was the person that was seen leaving the back seat of that  
12 vehicle. He was the person that shot Officer Reid.

13 The People presented evidence to show that even after the  
14 murder of Theresa Graybeal that the Defendant was involved in  
15 the robbery and kidnapping of a person by the name of Jesus  
16 Meraz. Now, Mr. Meraz was unable to pick out the Defendant  
17 as being one of the persons in the car. But the Judge will  
18 instruct you that circumstantial evidence is entitled to as  
19 much weight as direct evidence and is equally as acceptable a  
20 means of proof. And the People in this case have established  
21 by the circumstantial evidence that the Defendant was one of  
22 those persons in the car when Mr. Meraz was kidnapped and  
23 robbed. Now, if you recall, while Mr. Meraz was testifying,  
24 some parts of his testimony were humorous, and I think  
25 everyone in the courtroom may have laughed or giggled. And  
26 sometimes defense attorneys want to make an incident sound