

Exhibit A

Gilda Kessner, Psy.D.
Psychologist

September 12, 2008

John E. Wright
PO Box 6547
Huntsville, Texas 77342-6547

Re: Carl Henry Blue
Blue v. Quarterman
Case No. 4:05-cv-02726

Dear Mr. Wright:

This report is to provide you with a summary of my psychological evaluation of your client Carl Henry Blue. In preparation for my evaluation of Mr. Blue, I reviewed the following records and materials that you supplied to me:

- Bryan Independent School District
- Notice of acceptance to Job Corps from Texas Employment Commission (2/12/81)
- Affidavits:
 - George Blue
 - Oscar Davenport
 - Ernest Gooden
 - Jo Ann Blue
 - Wayne Blandford

Evaluation Procedures:

- Clinical Interview of Carl Henry Blue
- Wechsler Adult Intelligence Scale – Third Edition (WAIS-III)
- Wide Range Achievement Test – Fourth Edition, Blue Form (WRAT-4)
- Kaufman Functional Academic Skills Test (K-FAST)
- Mini Mental State Examination (MMSE)

Behavioral Observations and Testing Environment:

Mr. Blue (DOB 1/9/65) was seen at the Texas Department of Criminal Justice, Polunsky Unit in Livingston, Texas on 2/11/08. After a written and verbal explanation of the purpose of the evaluation, Mr. Blue agreed to participate and was cooperative throughout the process. Despite exhibiting a stutter, Mr. Blue was able to communicate effectively. His psychomotor behavior was within normal limits. There were no physical, vision, or language differences that would affect his

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ability to perform the tasks for the evaluation. Observations of Mr. Blue's test performance behavior indicate he followed instructions and demonstrated a willingness to persist as items increased in difficulty. There was no indication of attempts to malingering deficiencies in his abilities. The room was adequate for the evaluation procedures. The interview room was situated in a corner of a quiet section of the prison unit visitation area. The room contained a table and three chairs. Mr. Blue was seated across the table from the examiner and the third chair was used to keep testing materials out of sight when not in use. There were no other individuals present in the testing room. There was a correctional officer observing through a glass partition. The partition provided a soundproof barrier between the observation area and the testing room. There was occasional activity outside of the interview room but it did not inhibit the standard administration of the tests. Restroom and refreshment breaks were allowed as needed.

Background Information:

The following information is from the interview with Mr. Blue and other identified sources. Carl Blue's history contains risk factors for low intellectual functioning. These include premature birth and head trauma (thrown from horses as a child). His history of special education suggests the school district recognized deficits in Carl Blue's functioning. He cites and the affidavits confirm that he had problems in school with academic skills that continued to impair his functioning in the community when he reached adult status. The affidavits describe deficits in adaptive functioning that involve practical skills of daily living, social skills and conceptual skills.

Test Results:

Wechsler Adult Intelligence Scale – Third Edition

| <u>IQ Scores</u> | <u>Percentile Rank</u> | <u>95 % Conf. Interval</u> |
|--|------------------------|----------------------------|
| Verbal Intelligence Quotient (VIQ) = 76 | 5 th | 72-82 |
| Performance Intelligence Quotient (PIQ) = 79 | 8 th | 73-87 |
| Full Scale Intelligence Quotient (FSIQ) = 76 | 5 th | 72-81 |

Wide Range Achievement Test – Fourth Edition

| <u>Subtest Scores</u> | <u>Percentile Rank</u> | <u>Conf. Interval</u> | <u>Grade Equivalent</u> |
|-----------------------------|------------------------|-----------------------|----------------------------|
| Word Reading = 68 | 2 nd | 61-78 | Third grade, eighth month |
| Sentence Comprehension = 79 | 8 th | 72-88 | Eighth grade, first month |
| Spelling = 63 | 1 st | 56-74 | Second grade, eighth month |
| Math Computation = 70 | 2 nd | 62-81 | Fourth grade |
| Reading Composite = 71 | 3 rd | 66-77 | N/A |

Kaufman Functional Academic Skills Test

| <u>Subtest Scores</u> | <u>Percentile Rank</u> | <u>Confidence Interval</u> | <u>Descriptive Category</u> |
|-----------------------|------------------------|----------------------------|-----------------------------|
| Arithmetic = 72 | 3 rd | 63-85 | Well Below Average |

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| | | | |
|----------------|-----------------|-------|---------------|
| Reading = 68 | 2 nd | 59-81 | Lower Extreme |
| Composite = 69 | 2 nd | 63-77 | Lower Extreme |

Mini-Mental State Examination

Total Score = 24/30

Analysis of Testing Results:

The WAIS-III is an individually administered psychological test for measurement of intellectual functioning. On this administration of the WAIS-III, Mr. Blue's obtained Full Scale Intelligence Quotient is 76.

The WRAT-4 is a widely used instrument for measuring academic skills. On the WRAT-4, the Word Reading subtest is a recognition test. It includes letter and word reading with correct pronunciation. It does not measure comprehension of the written material. The Sentence Comprehension subtest involves presentation of written materials with one or two blanks in each sentence. The individual reads the sentence filling in the blanks with an appropriate word(s) to complete the sentence. The Reading Composite is derived from the Word Reading and Sentence Comprehension scores. The Math Computation subtest is a timed paper pencil test. The results of Mr. Blue's performance on the word reading, sentence comprehension, spelling, and math portions of the WRAT-4 are comparable and reflect very low academic functioning.

The K-FAST is a relatively short, individually administered nationally normed measure of competence in reading and arithmetic as applied in daily life. The results provide supplemental information about Mr. Blue's ability to utilize these skills in the everyday experience. It is not a comprehensive assessment of all adaptive skills but provides additional information about a person's abilities. Mr. Blue's standard scores on the K-FAST are consistent with the scores obtained on the WRAT-4 and the WAIS-III.

The MMSE is a brief standardized screening instrument intended to sample a limited number of cognitive functions. A cutoff score of 23 is widely accepted as indicating the presence of cognitive impairment and signals the need for further in-depth evaluation. Norms have been developed for age and education level. Mr. Blue's raw score of 24 compares to a mean score of 27 for individuals in his age and education group. Individuals with an IQ score greater than 55 generally have an MMSE score in the normal range.

Evaluation Conclusions:

The WAIS-III was standardized in 1995 and published in 1997. The WAIS-IV (2008) is now available to clinicians and I have received my test materials. There is a recognized phenomenon of a rise or gain in scores over time as a test ages from the norms obtained in the standardization procedures. As the norms for a given test become obsolete, new norms must be developed for a test to measure the construct accurately. The *WAIS-III WMS-III Technical Manual-Updated* states "... regardless of the reasons for these changes in test performance,

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periodic updating of the norms is essential; otherwise, average IQ scores will gradually drift upward and give a progressively deceptive picture of an individual's performance ...” (Wechsler, 2002, p. 9). This is a primary reason for the development and use of new versions of the test. The American Psychological Association “Ethical Principles of Psychologists” (Ethics Code) (American Psychological Association, 2002) addresses the subject of obsolescence:

“9.08 Obsolete tests and outdated test results

- (a) Psychologists do not base their assessment on intervention decisions or recommendations on data or test results that are outdated for the current purpose.
- (b) Psychologists do not base such decisions or recommendations on tests and measures that are obsolete and not useful for the current purpose.” (p.14)

My testing results suggest a strong probability that Mr. Blue meets the *Diagnostic and Statistical Manual of Mental Disorders – Fourth Edition, Text Revision* (DSM-IV TR; American Psychiatric Association, 2000) Criterion A of “subaverage general intellectual functioning” for a diagnosis of mental retardation. The current IQ test results obtained with the WAIS-III fall at the cusp of the publication of the latest edition of the Wechsler series (WAIS-IV) and the retirement of the WAIS-III. I recommend that I retest Mr. Blue with the WAIS-IV as it has the latest norms and will provide a more up to date and accurate estimate of his general intellectual functioning. This would dispel any doubts attributable to the potential controversy associated with use of a score obtained from a version pending retirement.

Sincerely,

/s/
Gilda Kessner, Psy.D.
Psychologist
Texas # 26886