

EXHIBIT A

FILED

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

2010 JUN -7 PM 4:03

MECKLENBURG CO., N.C.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

10 CVS 12239

Floyd Lee Brown, by and through his Guardian
Ad Litem, Anthony Giordano,
Plaintiff,

v.

Special Agent Mark A. Isley, in his individual
capacity, and Special Agent Bill Lane, in his
individual capacity

Defendants.

**COMPLAINT
AND JURY DEMAND**

Plaintiff Floyd Lee Brown, by and through his Guardian Ad Litem, Anthony Giordano, and his attorneys, Rudolf Widenhouse & Fialko and Neufeld Scheck & Brustin, LLP,¹ hereby alleges as follows:

INTRODUCTION

1. Floyd Lee Brown ("Floyd") was first arrested and incarcerated in July 1993 by the State of North Carolina for the murder and robbery of Kathryn Lynch, crimes he did not commit. Because he was mentally retarded with the mind of a seven-year-old child, he was found incompetent to stand trial. Then, based upon the allegation that he had committed a murder and robbery, and because he was found incompetent each year until 2003, Floyd was wrongfully imprisoned in the secured units at Dorothea Dix Hospital, an institution

¹ Plaintiff's Counsel Neufeld Scheck & Brustin, LLP, will apply for *pro hac vice* admission to the General Court of Justice, Superior Court Division.

for those with severe mental problems, pursuant to House Bill 95. After he was found competent to stand trial in 2003, he was indicted for the murder and robbery, and criminal proceedings again commenced against Floyd based upon that indictment. He was not freed until November 2007, when all charges against him were finally dismissed with prejudice. All told, Floyd spent over fourteen years in custody without any trial for a crime he did not commit.

2. The only evidence against Floyd was his alleged confession, which two North Carolina State Bureau of Investigation ("SBI") agents claimed to have taken down "verbatim." The report of this confession was false and misleading. All of the mental health experts employed by the State at Dorothea Dix Hospital who examined Floyd multiple times over his fourteen-year commitment agree that due to his severe intellectual impairments, Floyd could not possibly have given the statement that the SBI agents alleged he had made.
3. Nevertheless, based on the state agents' false and misleading report stating that Floyd had confessed to them, including specific details he allegedly told them, and their continued concealment of and/or refusal to come forward with the truth in each year thereafter, Floyd was kept incarcerated at Dorothea Dix until November 2007. No other evidence connected Floyd to the crime, or even to the scene of the crime. No witness claimed to have seen him commit the offense, and no physical evidence collected in the investigation tied Floyd to this crime.
4. As a direct result of the state agents' unconstitutional, willful, wanton, reckless, deliberately indifferent, and bad-faith acts and omissions, Floyd Lee Brown sustained personal physical injuries and sicknesses, which resulted in substantial damages in each year from 1993 to 2007. These included, but were not limited to, the following: various

physical injuries; various physical illnesses including but not limited to Chronic Obstructive Pulmonary Disease ("COPD"); inadequate medical care; pain and suffering; severe mental anguish; emotional distress; humiliation, indignities and embarrassment; degradation; and restrictions on all forms of personal freedom including but not limited to diet, sleep, personal contact, educational opportunity, vocational opportunity, athletic opportunity, personal fulfillment, family relations, television, travel, enjoyment, and expression. In particular, Floyd – who is 5'4" tall and weighed 120 lbs – was assaulted by other patients at Dorothea Dix and suffered physical injuries as a result in 1993, 1994, 1998, 1999, 2000, 2002, and in or about early November 2007.

5. This action seeks to compensate Floyd Brown for the fourteen years he spent in pretrial custody as a result of the actions and omissions of SBI Special Agents Isley and Lane in their individual capacities.

PARTIES

6. Plaintiff Floyd Lee Brown is an individual who, at all times pertinent to this Complaint, resided in North Carolina and, after his arrest, at Dorothea Dix Hospital in Raleigh, North Carolina.
7. Anthony Giordano is an attorney who was appointed to be Floyd Brown's Guardian Ad Litem by order entered on April 8, 2010, and is a resident of Mecklenburg County.
8. Defendant Mark A. Isley ("Isley") is an individual who resided in North Carolina at all times pertinent to this Complaint. As a veteran Special Agent ("SA") for the North Carolina State Bureau of Investigation, he was the lead SBI investigator assigned to this homicide. Isley is named in his individual capacity for acts taken under color of state law, within the course and scope of his employment with the SBI.

9. Defendant Bill Lane ("Lane") is an individual who resided in North Carolina at all times pertinent to this Complaint. As a Special Agent for the North Carolina State Bureau of Investigation, he assisted Isley during the investigation of the Lynch homicide. Lane is named in his individual capacity for acts taken under color of state law, within the course and scope of his employment with the SBI.
10. At all times herein, in committing the acts and omissions herein alleged, each of the Defendants was acting within the course and scope of his employment, and under color of state law.

JURY TRIAL DEMAND

Floyd Lee Brown hereby demands a trial by jury on all issues so triable.

FACTS

A. Floyd Brown

11. Floyd Brown has suffered from mental retardation since he was born. From the time that he was a small child until the day he was arrested and allegedly confessed, Floyd's intelligence quotient (IQ) consistently scored in the mid-50s or lower. Generally, a person with an IQ of 70 or below qualifies as mentally retarded. "Average intelligence" is defined as an IQ of 90 or higher.
12. Growing up, Floyd had significant difficulties with everyday life skills. He struggled to eat with a fork and to stop himself from running into the street. Floyd's disability was readily apparent to anyone who met him.
13. Floyd spent every day of his school years in special classes for the Trainable Mentally Retarded ("TMR"). In order to be placed in a TMR classroom, a student's mental

- functioning had to be assessed by a school psychologist and the child's IQ had to measure between 30 and 50.
14. Students placed in TMR classrooms were very low functioning. These students, like Floyd, lacked independence, needed help with basic grooming, did not read, did not tell time, and could not count money.
 15. When Floyd was 15 years old and in high school, he continued to function "at a kindergarten level academically and socially" with poor adaptive skills, self-help skills and practical skills, according to contemporaneous records. For example, Floyd's high school TMR teacher "coordinated with the Physical Education teacher to have two male students assigned to show [Floyd] how to use the shower in the school locker rooms and how to properly use soap and water to bathe himself."
 16. Even by the time he reached 16 years old on May 6, 1980, Floyd was still unable to tell time, count money, write his own name and address, or read and understand basic words necessary for his daily survival such as "boys" and "girls" on restroom doors, or "exit" and "stop." About a year-and-a-half later, Floyd dropped out of school and discontinued any further TMR training.
 17. Immediately prior to his arrest on July 16, 1993, Floyd was attending a sheltered workshop for the developmentally disabled at the McLaurin Vocational Training Center ("McLaurin Center") in Hamlet, North Carolina. While Floyd attended the McLaurin Center, his functional living skills remained largely unchanged.
 18. On March 4, 1993, just four months before the Lynch murder and his arrest on these charges, the McLaurin Center conducted an Eligibility Screening Inventory detailing Floyd's daily living skills and abilities. This evaluation of Floyd's skills revealed that

Floyd continued to have "Substantial Functional Limitation" in seven major life categories: self-direction, learning, *language*, economic/vocation self-sufficiency, independent living, and mobility. Floyd's case manager noted that he was seeking placement at the McLaurin Center for Floyd due to his "weaknesses *in communication*, self-help, occupation and social skills."

19. At the time of the Lynch murder in July 1993, Floyd lived with his mother, Rosa Lee Brown, in a house with no bathtub or shower. He earned spare change by planting flowers at a greenhouse and catching turkeys on local turkey farms.
20. During this time, Floyd was a fixture in downtown Wadesboro, North Carolina. He often spent time at the Anson County Courthouse talking with law enforcement and court clerks. Court clerks would have Floyd run simple errands for them, including sending him to the local bank to have the bank cash their checks and bring the money back to them. Everyone at the Anson County Courthouse who knew Floyd knew that he was mentally retarded.
21. Because of his mental retardation, at the time of his arrest Floyd continued to be unable to tell time and did not understand the concept of time. He did not know dates. He had only a limited understanding of locations and addresses. He only knew the alphabet up to the letter "J." He did not know the names of colors. He could not say how old he was or how many brothers and sisters he had. He was unable to independently take care of basic daily needs, such as showering, when and what to eat or when to go to sleep. He did not have the motor skills necessary to operate ordinary household equipment. He did not understand the concept of money. He could not express personal opinions, request assistance when needed, or protect himself from exploitation or personal harm by others.

B. The Investigation

22. On or about July 8 or 9, 1993, 80 year-old Kathryn Lynch was beaten and killed in her home in Wadesboro, North Carolina. Ms. Lynch was beaten on the face and forearms with a blunt instrument until unconscious and left in her bedroom.
23. SBI Agent Mark Isley was assigned to be the lead investigator for the state on the Lynch murder, and was assisted in the case by various other SBI agents, including SBI Agent Bill Lane.
24. Within a few days of the murder, Isley had received tips about a number of potential suspects. These suspects included Hezron Williams, Jr., Norman Wade Lotharpe, and Jerry Todd Horne. He also received information from a witness that a man who lived in the neighborhood, Wade Horne, often walked around with a large stick, similar to the one used as the murder weapon and found at the Lynch house. No one mentioned the name of Floyd Brown as a possible suspect.
25. Isley knew, or should have known, that in 1991, two years prior to her murder, Kathryn Lynch's home was invaded and she was brutally attacked by Norman Wade Lotharpe and Hezron Williams, Jr. Jerry Todd Horne was also involved in the crime as a co-conspirator, and had helped Lotharpe and Williams escape.
26. The details and circumstances of the 1991 attack bore a striking resemblance to the 1993 attack that ended with Ms. Lynch's death. Specifically, in 1991, as in 1993, one or more assailants had entered Ms. Lynch's home, beat her about the face and forearms with a blunt instrument (in 1991 a flashlight; in 1993 a "walking stick"), and left her unconscious in her bedroom.

27. In addition, on July 14, 1993 at 3:17 p.m., Isley received a tip from a resident of the area, Barbara Dennis, that Lotharpe had been working on a road crew assigned to the Highway 52 bypass (near the area of the Lynch murder), and that Jerry Todd Horne had beaten up another individual and taken his money the previous weekend.
28. Despite the obvious similarities between the 1991 and 1993 crimes, and the tip he received on July 14, 1993, Isley did not do any investigation to determine whether Williams, Lotharpe or Jerry Todd Horne were involved in the 1993 murder.
29. Indeed, there was no investigation done into the whereabouts or other relevant information regarding Williams, Lotharpe, Jerry Todd Horne or Wade Horne.
30. Neither did Isley interview Wade Horne about the whereabouts of his walking stick, which was similar to the murder weapon found at the scene.
31. Isley also knew or should have known that the victim Kathryn Lynch had associated with known drug dealers, that a known, large-scale drug dealer was living with her at the time of the 1991 assault, and that Lotharpe, Williams, and Horne had gone to Ms. Lynch's house in May 1991 to rob the drug dealer who was living with her. After they discovered that the drug dealer was not at Ms. Lynch's home in 1991, they attempted to rob Lynch of the drug dealer's money before beating her severely.
32. Despite this knowledge, Isley did not pursue the theory that Ms. Lynch's death in 1993 might be connected to her association with a known drug dealer.
33. Additionally, Isley failed to follow up on several other individuals identified as possible suspects in Ms. Lynch's murder. Isley learned of and made notes regarding at least seven separate investigative "leads" as of July 12, 1993, but failed to investigate any of these leads. One of those people was Larry "Poor Boy/Butch" Williams. Although Larry

Williams' fingerprints were taken during the Lynch murder investigation, they were never submitted to the SBI Laboratory for comparison with the prints obtained in the Lynch investigation.

34. In short, Isley failed to conduct any meaningful investigation into the possible connection between Ms. Lynch's 1991 assault and her murder two years later, and failed to meaningfully investigate a number of other possible suspects in her death.

C. The Targeting of Floyd Brown

35. SBI Agent Isley was very familiar with Floyd Brown because Floyd used to hang out at the Anson County Courthouse talking with law enforcement and court clerks. Isley also knew about Floyd's mental retardation, which was readily apparent to anyone who interacted with him. He also knew that in 1991, Floyd had been found incompetent to stand trial on a misdemeanor charge.
36. SBI Agents Isley and Lane focused solely on Floyd Brown as a suspect in the Lynch murder without obtaining any evidence linking Floyd with the murder and without any suggestion by any witness that Floyd was involved in Ms. Lynch's murder.
37. About a week after the murder, two witnesses, Mary Alice Horne and Wade Horne (the man with the large stick), gave law enforcement a physical description of an unidentified black male who allegedly told the Hornes he *knew* about the murder. This black male allegedly lived two doors down from Kathryn Lynch's house, and was related to her. Although Mary Alice and Wade Horne knew who Floyd was, they did not say this unidentified man was Floyd Brown.
38. According to the Hornes' statements, the unidentified black male told them about Ms. Lynch's murder when the three of them were at "T. Willie's." T. Willie's was a residence

in Wadesboro, owned by a man named T. Willie Bennett, which was used by people in the community as a place to buy and drink alcohol. According to their statements, Wade Horne lived at T. Willie's at the time of the investigation. He claimed this unidentified black male came by T. Willie's "about every other day." He also claimed this black male weighed about 150-155 pounds and had a mustache.

39. According to Isley's testimony at a hearing in April 2005, he quickly decided that this black male was Floyd Brown. However, Floyd did not live two doors from Kathryn Lynch, was not related to Kathryn Lynch, and did not fit the description given by the Hornes. At the time of his arrest in July 1993, Floyd was only 5'4" and weighed only 120 pounds. He never had a mustache. Perhaps most significantly, Floyd would sometimes spend time at T. Willie's and people there – including T. Willie himself – knew Floyd. Despite this fact, and Floyd's severe, lifelong mental retardation, neither of the Hornes specifically mentioned Floyd as the suspect or described the unidentified black male as being at all mentally retarded or handicapped.
40. The initial statement given by Wade Horne on Thursday, July 15, 1993 at 3:30 pm to an unidentified law enforcement officer unequivocally stated that Horne had talked to this unidentified black male at T. Willie's the day before, *on Wednesday, July 14, 1993*. In addition, the initial handwritten notes made by Isley of his interview with Wade Horne two hours later, at 5:25 pm on July 15, confirmed that Horne had spoken to this black male the day before, *on Wednesday, July 14, 1993*.
41. On July 15, 1993, shortly after obtaining the information about the unidentified black male from Wade Horne, Isley went to Floyd's house and had him sign a "Consent to Search" form at about 9:15 pm. Floyd could only sign his last name "BWN." Isley then took

Floyd to the scene of the murder, and walked around the Lynch house with him. Isley then brought Floyd back to his house. No report concerning this was written by Isley, in direct violation of SBI policy.

42. The claim that Floyd Brown was the unidentified male who the Hornes had described was undermined on July 16, 1993, when Isley obtained the attendance records from the McLaurin Center, where Floyd Brown was enrolled in a sheltered workshop for people with mental retardation. These records established that *on Wednesday, July 14, 1993*, on the day and at the time that Wade Horne claimed an unidentified black male had given him information about the Lynch murder, *Floyd Brown was at the McLaurin Center, 30 miles away from Wadesboro, with no private means of transportation*. He simply could not have been the unidentified black male who had allegedly provided the information to Wade Horne on July 14.
43. In order to cure this problem, Agent Isley simply altered his handwritten notes from the Wade Horne interview to make the date fit. Since the McLaurin records indicated that Floyd was at the McLaurin Center on Wednesday, July 14, but was not at McLaurin Center on Tuesday, July 13, 1993, Isley crossed out the date of Wednesday, July 14 in the handwritten notes of his interview with Wade Horne and substituted the date of Tuesday, July 13. When Isley's report was dictated on August 2, 1993, and typed on August 17, 1993, there was no indication that the date Horne told Isley he had talked to this black male had been changed from July 14 to July 13.
44. The substance of Wade Horne's two statements also differed dramatically. In Wade Horne's 3:30 p.m. statement, given to an unidentified law enforcement officer (not Isley), he stated that the unidentified black male said he learned details of Ms. Lynch's murder

when the two men who killed her *told him* about the attack after it happened. According to the 5:25 p.m. notes written by Isley, Wade Horne alleged that the unidentified black male was *at the scene* of Ms. Lynch's murder, instead of only learning about it from her two attackers.

45. In short, Wade Horne's 5:25 p.m. statement was altered by Isley in an attempt to make it seem that Floyd Brown was the unidentified black male described by the Hornes and to place him at the scene of Ms. Lynch's death.
46. Although the statements provided by Wade and Mary Alice Horne were the alleged basis for focusing the investigation on Floyd, Agent Isley never conducted any investigation to find the two men that, according to the Hornes' statements, had actually committed the Lynch murder.

D. The "Verbatim Confession"

47. On July 16, 1993, Isley drove from Anson County to the McLaurin Vocational Rehabilitation Center in Hamlet, North Carolina, where Floyd was enrolled in a sheltered workshop for people with mental disabilities, including mental retardation, to take Floyd back to the Anson County Sheriff's Department and interrogate him about Ms. Lynch's death.
48. There is no documentation or record of anything that was said or done to or by Floyd at the McLaurin Center on July 16, 1993. There is no documentation or record of the conversations or interactions that occurred during the approximately 25 mile car ride from Hamlet to Wadesboro, North Carolina.
49. After driving Floyd back to Anson County, Isley presented him with a Waiver of Rights form at 11:18 am. Due to his mental retardation, Floyd was unable to understand or to

even fill out the Waiver of Rights form, so the form was actually filled out by Isley. Floyd signed the form, misspelling his own name on the signature line.

50. Isley and Lane then interrogated Floyd for approximately two hours and ten minutes – from about 11:30 am until about 1:40 pm. Isley did not take notes or otherwise reduce to writing anything Floyd allegedly said during this time until 1:42 pm, after the interrogation had ended. Lane made no notes of the interrogation at all. There is no record or documentation of anything that was said or done in the interrogation room during the two hours and ten minutes before Isley began to reduce Floyd's alleged statement to writing.
51. The confession allegedly given by Floyd is written in the first-person voice. In the typewritten transcription of the alleged statement, the section containing the text of what is alleged to be Floyd's confession is set apart from the rest of the document with quotation marks. Isley testified under oath that his typewritten transcription is a "verbatim" account of what Floyd told Isley and Lane during the July 16, 1993, interrogation. Lane similarly testified that "[w]hat [Floyd Brown] told us during the interview is what Mr. Isley wrote down." Isley's typewritten police report recounting Floyd's alleged confession is attached to this Complaint as Exhibit A.
52. The verbatim statement Isley and Lane attributed to Floyd Brown is as follows:

On Friday, July 19 [sic], 1993, my mama woke me up at 6 a.m., in the morning. After I got up, I took a bath and then walked outside. I live on Highway 742 near Highway 52 where they are building a bridge. When I walked outside, I started walking down towards Mark Cox's house. Mark Cox's house is located across the street from Ms. Katherine's driveway. Ms. Katherine is my cousin.

When I was standing next to some mailboxes on the side of Ms. Katherine's driveway, I saw Hattie Little leaving the driveway in a

blue Chevrolet. It looked like she had her children in the car with her. I think it was about 7 o'clock. After I saw Hattie drive away, I walked up the driveway to where Ms. Katherine lives. Ms. Katherine lives in a white house with a fence around it. When I walked up to Ms. Katherine's front door, the screen door was shut, but the front door was opened. I knocked on the screen door. Ms. Katherine came to the screen door and opened it for me. Ms. Katherine said my favorite cousin and she hugged me. We were standing in the doorway with the screen door against my back when she hugged me. I was at Ms. Katherine's house because I wanted to borrow some money from her and plus she told me to come back to see her sometime to do some yard work. Ms. Katherine invited me on into the house. We walked into the living room where a little brown heater was sitting. I sat in a red chair in the living room while Ms. Katherine sat behind me on a couch. Ms. Katherine told me to get the TV and bring it in the living room. It [sic] got the TV out of her bedroom and sat it on the heater in the living room. I had to move some stuff to plug in the TV. We were watching Andy Griffin [sic], but I didn't get to watch it all. While I was watching TV, I asked Ms. Katherine if I could have some water and she said for me to get it myself. I went into the kitchen and got a glass from the kitchen table. I drank the water while I was in the kitchen and put the glass back on the table. Ms. Katherine was drinking juice from a glass that had a straw in it. She was drinking from a straw because she ain't got no teeth.

When I walked from the kitchen, I asked Ms. Katherine for a dollar and she said she didn't have a dollar. When Ms. Katherine told me she didn't have a dollar, I hit her on the neck with a stick that I brought into the house. I held the stick with two hands when I hit her the first time. I hit Ms. Katherine again, but this time, on the right arm. Ms. Katherine threw her hands up in front of her when I was hitting her with the stick. One time when I hit Ms. Katherine, she tried to catch the stick with her hands. I didn't hit her that hard. While I was hitting Ms. Katherine, she fell back on the couch she was sitting on. After she fell down on the couch, I bent down and felt Ms. Katherine's chest to see if she was still alive and still breathing. Her heart was still beating. I saw blood on top of her head, but I didn't hit her in the head. After checking her, I helped Ms. Katherine to the bathroom because she had to use the bathroom. After getting out of the bathroom, Ms. Katherine told me to lay her on her back in her bedroom. I checked her chest again and she was still breathing. I left her between her bed and her dresser in her bedroom. Ms. Katherine was laying flat on her back. I even straightened her legs out.

Before I left the house, I took twenty dollars from a dresser in her bedroom. I know ya'll [sic] ain't going to believe me, but Ms. Katherine told me I could have her money if something happened.

I don't remember what I did with the stick when I left the house. After leaving the house, threw [sic] the front door, I walked back to my house and waited for the van to pick me up to take me to the McLaurin Workshop in Hamlet, North Carolina.

I wish Ms. Katherine was alive right now. If she was, she would tell you that I only hit her five times and that she was still breathing when I left the house.

I'm sorry for hitting her. I told you I made a mistake.

53. Floyd Brown did not give, and could not have given, this alleged confession to Isley and Lane.
54. Based on the level of Floyd's mental retardation, the State's own mental health professionals, who worked with and evaluated Floyd in the years after his arrest, uniformly agree that Floyd Brown could not have given the alleged confession in this case. As a result of Floyd Brown's life-long mental retardation, he lacked the ability and capacity to give anything close to such a detailed and coherent statement.
55. Dr. Robert Rollins, former Chief of Forensic Psychiatry and Superintendent of Dorothea Dix Hospital, has testified that Floyd could not have given the alleged confession. According to Dr. Rollins, the alleged confession is "not his language. That's not Mr. Brown." More specifically, "[i]t's too educated, too sophisticated, too relevant, too cohesive for Mr. Brown."
56. Dr. Mark Hazelrigg, the current Chief of Forensic Services at Dorothea Dix Hospital, worked directly with Floyd from 2001 through 2007. Dr. Hazelrigg agrees with Dr. Rollins' opinion that "the alleged confession does not reflect how Mr. Brown talks. The

alleged confession is not representative of the way Mr. Brown speaks.” According to Dr. Hazelrigg, Floyd’s speech is “simple and repetitive” and he “does not use complete sentences.” Floyd also cannot “speak in lengthy narratives” such as the alleged confession reads. Furthermore, in Dr. Hazelrigg’s opinion:

As a whole, the alleged confession is too detailed and organized for even a normally intelligent person. People rarely speak with the amount or kind of details given in this confession.

57. In addition to Dr. Rollins and Dr. Hazelrigg, Dr. John Carbone, the chief of the Medium Security Unit at Dix, where Floyd was incarcerated, has testified that in “the confession that was written ... the wording, the structure of the sentences just didn’t sound like the Mr. Brown that I see on the unit every day.” Dr. Carbone opined that “I don’t think that Mr. Brown today, in my office, could give this statement,” and that he understood that Mr. Brown’s limitations had in fact been worse in 1993.
58. George Dennard, the Forensic Clinical Social Worker who saw Floyd every day at Dix has sworn under oath that “the alleged confession does not sound like Floyd Brown.” Mr. Dennard further stated:

Floyd cannot speak for an entire paragraph. He does not speak in complete sentences or with correct grammar. He does not organize his speech or thoughts in a orderly way like this alleged confession. Floyd cannot give the amount of details that the alleged confession gives. For example, Floyd could not say “I live on Highway 742 near Highway 52.”

59. Throughout Floyd’s childhood and adult life, he has been unable to understand and develop the basic skills needed for his own daily survival. Despite at least a decade of education in Trainable Mentally Retarded classrooms designed for a person with his limitations, and additional training at the McLaurin Vocational Training Center, Floyd’s

mental retardation prevented him from learning even the simplest of life skills. Even at the age of 26 years old, two years before his arrest, tests revealed that he had an IQ of only 54.

60. Floyd's 1993 competency evaluation the month after his alleged confession confirms that at that time, Floyd did not know dates or times of day, had poor vocabulary, and did not understand monetary concepts. During this competency evaluation, Floyd also repeatedly asserted his innocence.
61. The "verbatim confession" that Isley and Lane allegedly took from Floyd Brown contains numerous statements that Floyd was incapable of making, as well as factual inaccuracies that demonstrate the falsity of the confession. The following table provides examples of such statements:

CONTENTS OF "VERBATIM CONFESSION"	FACTS DEMONSTRATING THAT THE "VERBATIM CONFESSION" WAS FALSE AND COULD NOT HAVE BEEN PROVIDED BY FLOYD BROWN
Floyd woke up at 6 am, arrived at Lynch's house at 7 am, and made it back home to catch a bus.	Floyd could not tell time, could not distinguish A.M. from P.M., and could not even say what year it was.
Floyd noticed Lynch's neighbor drive by in a "blue Chevrolet" and described his ride to his vocational center in "Hamlet, North Carolina," the morning of the murder.	Floyd could not read or identify car brands, could not correctly name colors, and did not know the name of the state where he lived.
Floyd admitted to hitting Lynch on her right arm.	Floyd could not tell right from left.

Floyd checked Lynch's heart rate and breathing after the attack.	Those are skills that Floyd – who struggled with basic grooming – did not have. When doctors at Dorothea Dix Hospital asked Floyd shortly after his arrival in 1993 to explain how to tell if someone is alive or dead, he had no idea.
Floyd took a bath before leaving his house that morning. Floyd walked home after the assault and waited for his bus to take him to the McLaurin Center.	Floyd did not know to bathe unless he was told to. In 1993, Floyd's house had no shower or bath, and no washer or dryer. After the murder of Lynch, Floyd would have had blood all over him unless he had bathed again before getting on the bus.
Lynch, the victim, referred to Floyd as her "favorite cousin" as she welcomed him into her home.	Floyd, his family, and Lynch's family all say they're not related and had never met. Lynch never referred to Floyd as her "favorite cousin."

62. The Superior Court which dismissed the charges against Floyd in November 2007, found as a fact that:

Mr. Brown is unable to correctly give the city or state where he is located. Mr. Brown always gives the answer of "a.m." when asked to tell the time. In relation to questions about money, Mr. Brown is unable to identify how much money six quarters equals. Additionally, Mr. Brown is unable to calculate the correct change if he gave someone \$2.00 for something that cost \$1.85.

The Court further found as a fact that even after 14 years of treatment at Dorothea Dix, Floyd "does not have the ability to think in an abstract manner...."

63. On July 16, 1993 and in all of the years prior to that date, Floyd's mental retardation prevented him from being able to tell time, count money, or take care of his daily living needs. He was unable to understand and communicate effectively with people of average intelligence; much less with those in positions of authority. Not only did Floyd Brown not give the alleged confession to Kathryn Lynch's murder, as uniformly agreed by the mental

health professionals at Dorothea Dix Hospital and the Court that dismissed the charges, Floyd could not have done so.

E. **Isley and Lane's False and Misleading Statements Are Repeatedly Used to Deprive Floyd Brown of his Liberty**

July 1993 – November 1995

64. On July 16, 1993, Floyd Brown was arrested for the murder of Kathryn Lynch. The sole basis of Floyd Brown's arrest warrant in July 1993 was the false and misleading statement created by Isley and Lane, indicating that Floyd had allegedly confessed to this murder. On July 16, 1993, Floyd was charged in the Anson County District Court with first-degree murder and robbery with a dangerous weapon, and held without bond. On July 20, 1993, due to the severity of his mental retardation, Floyd was ordered to undergo testing to determine whether he was competent to stand trial.
65. Floyd Brown was admitted to Dorothea Dix Hospital on July 21, 1993, and was evaluated by Dr. Robert Rollins. On August 11, 1993, Dr. Rollins opined that due to Floyd's lifelong condition of mental retardation, Floyd was incapable of proceeding to trial. Dr. Rollins further opined that Floyd's mental retardation impaired his ability to understand his position with regard to the law, understand the nature and the object of the proceedings against him, conduct his defense in a rational manner, and cooperate with his attorney.
66. On August 17, 1993, the Chief District Court Judge for the 20th Judicial District signed an Order committing Floyd to Dorothea Dix Hospital for treatment to enable him to become competent to proceed to trial.

67. When Floyd was found incompetent to stand trial, in the August 17, 1993, Order, he was detained pursuant to the North Carolina General Statute 15A-1003(a), which provides that:
- [I]f the Defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the judge's custody order shall require a law-enforcement officer to take the Defendant directly to a 24-hour facility as described in G.S. 122C-252; and the order must indicate that the Defendant was charged with a violent crime and that he was found incapable of proceeding.*
68. On August 17, 1993, the Chief District Judge for the Twentieth Judicial District found that Floyd Brown was "charged with a violent crime, to wit: First Degree Murder." He therefore ordered that the Sheriff transport Floyd to an appropriate mental health facility, and further ordered that the director of the facility "not release Mr. Brown except under a Court Order finding him capable of proceeding," at which point he would be released to and held by the Sheriff of Anson County.
69. Floyd was held involuntarily at Dorothea Dix pursuant to similar orders, including orders issued on September 8, 1993, December 2, 1994, February 24, 1994, May 19, 1994, September 15, 1994, March 9, 1995, April 13, 1995, July 6, 1995 and September 28, 1995.
70. On or about November 9, 1995, the District Attorney filed a "Dismissal with Leave" pursuant to North Carolina General Statute 15A-2009, which provides that such a "Dismissal with leave results in removal of the case from the docket of the court" However, the District Attorney reserved the right to reinstate the charges if Floyd was restored to competence.

November 1995 – February 2003

71. Each year between 1996 and 2003, Floyd was found to be incompetent to stand trial on the murder and robbery charges and each year he was again involuntarily committed to Dorothea Dix. In particular, Floyd was ordered to be involuntarily committed to Dorothea Dix on September 26, 1996, September 25, 1997, September 24, 1998, March 17, 1999, March 29, 2000, August 9, 2000, September 20, 2000, October 18, 2000, December 6, 2000, January 17, 2001, March 14, 2001, April 25, 2001, June 6, 2001, August 8, 2001, January 30, 2002 and June 13, 2002.
72. At all times between 1995 and 2003, and in particular before each and every one of these commitment hearings, Isley and Lane failed and refused to inform either the District Attorney or the court holding these involuntary commitment hearings that the only evidence against Floyd, his alleged confession, was false and misleading, and that there was therefore absolutely no evidence that Floyd committed the Lynch robbery/murder. Isley and Lane further repeatedly made material false representations to the District Attorney regarding Floyd's involvement in the crime throughout this time.
73. Pursuant to N.C.G.S. §122C-268(c), the District Attorney for Anson County was notified before each of these hearings, in order to give him the opportunity to be heard and to represent the state's interests if he wished.
74. Because of Isley and Lane's misrepresentations and omissions, the District Attorney continued to believe during this entire period of time that Floyd Brown had confessed to the Lynch robbery/murder. Based on the false and misleading confession, the District Attorney remained convinced from 1995 through 2003 that Floyd was guilty. No other evidence tied Floyd to this crime during these years.

75. Because of Isley and Lane's misrepresentations and omissions at all times between 1995 and 2003, including before each commitment hearing, the District Attorney failed to inform the doctors at Dorothea Dix or the committing judges that Isley and Lane had fabricated the false and misleading evidence that purported to inculcate Floyd, and which served as the basis for his continued detention.
76. At all times between 1995 and 2003, including before each commitment hearing, the District Attorney refused to dismiss the charges against Floyd in reliance on the false and misleading confession fabricated by Isley and Lane.
77. As a consequence, and because of the false and misleading confession, at each commitment hearing detailed above between 1995 and 2003, Floyd was recommitted to Dorothea Dix, as required by North Carolina General Statute 15A-1003(a). Neither Isley nor Lane came forward at any of those hearings to testify that Floyd had not confessed to the robbery and murder of Kathryn Lynch.
78. Floyd remained committed at Dorothea Dix Hospital under North Carolina's commitment laws until February 10, 2003. He remained incapable of proceeding to trial during that entire time.

February 2003 – April 2007

79. On February 10, 2003, Elizabeth Donegan, Ph.D., a forensic psychologist at Dorothea Dix Hospital, issued a report finding Floyd competent to stand trial. Despite this finding by Dr. Donegan, Floyd in fact remained incompetent to stand trial, as the Superior Court judge ultimately found in September 2006.
80. Under North Carolina law, once Floyd was found competent, he either had to be indicted for the robbery and murder of Kathryn Lynch or released from custody.

81. On April 7, 2003, less than two months after Dr. Donegan's report finding Floyd competent to stand trial, the prosecution obtained an indictment against Floyd for the charge of first-degree murder in connection with the July 9, 1993 death of Kathryn Lynch. On April 28, 2003, the prosecution indicted Floyd for robbery with a dangerous weapon for allegedly robbing Kathryn Lynch on July 9, 1993. At the time of both indictments, Isley was the only witness who testified before the grand jury. The sole basis for these indictments was the false and misleading statement allegedly given by Floyd admitting these crimes.
82. On April 11, 2003, relying again on the false and misleading statements of Isley and Lane, the prosecution filed a Notice of Intent to Seek Death Penalty against Floyd.
83. On December 17, 2003, counsel appointed to represent Floyd filed a motion to declare Floyd mentally retarded, and thus bar his capital prosecution under *Atkins v. Virginia*, 536 U.S. 304 (2002). On March 23, 2004, after a hearing, the Anson County Superior Court found that Floyd was mentally retarded under N.C. General Statute § 15A-2005. Thus, after almost a year during which Floyd Brown faced the death penalty for a crime he did not commit, the State was finally barred from seeking the death penalty against Floyd Brown.
84. On April 20, 2004, Floyd's counsel filed a motion to suppress his alleged confession.
85. On or about April 19, 2005, the Anson County Superior Court held a hearing on Floyd's motion to suppress his confession. In conversations with prosecutors before that hearing, Isley and Lane again provided false and misleading representations regarding Floyd's alleged confession and the circumstances under which it was allegedly given. As a result

of these false and misleading representations, the District Attorney opposed the motion to suppress. The Court denied Floyd's motion to suppress the alleged confession.

86. Prior to the date of Floyd's scheduled trial, the prosecution offered to allow Floyd to plead to Voluntary Manslaughter pursuant to an *Alford* plea and indicated they would allow him to have credit for his years of confinement at Dorothea Dix. However, due to Floyd's mental retardation, he was unable to understand the nature of an *Alford* plea or differentiate between an *Alford* plea, a regular plea, and trial. As a result of Floyd's inability to understand the plea offered to him, the defense requested a competency hearing and the prosecution joined in this request.
87. In September 2006, before Floyd's scheduled trial, the Anson County Superior Court held a hearing on Floyd's competence to stand trial, during which the prosecution requested that Floyd be found incompetent. The court found Floyd incompetent and incapable of proceeding to trial.
88. On September 26, 2006, Floyd was again returned to custody at Dorothea Dix Hospital. The indictments remained in place. On November 11, 2006, Floyd was again ordered involuntarily committed to Dorothea Dix.
89. On or about April 2, 2007, the District Attorney filed another "Dismissal with Leave" pursuant to North Carolina General Statute 15A-2009, again reserving the right to reinstate the charges if Floyd was restored to competence.

April 2007 – November 2007

90. From April 2, 2007 through August, 2007, based on the false and misleading representations from Isley and Lane, the District Attorney refused to dismiss the charges against Floyd with prejudice.

91. On August 14, 2007, counsel for Floyd filed an Application for a Writ of Habeas Corpus before Superior Court Judge Orlando Hudson. In reliance on the false and misleading representations by Isley and Lane, the State opposed Floyd's application. On October 3, 2007, the State filed a formal opposition to Floyd's application.
92. After hearings, the Application for a Writ of Habeas Corpus was granted and Floyd was ordered to be released from state custody.
93. The charges of first degree murder and robbery pending against Floyd Brown in cases 93 CRS 3374-3375 in Anson County were dismissed with prejudice on November 16, 2007. When Superior Court Judge Hudson dismissed the charges, he found as a fact that Floyd had been "confined to Dorothea Dix Hospital for 14 years," and that his confinement there was "based upon his incapacity to stand trial due to his mental retardation for the crimes of first-degree murder and robbery with a dangerous weapon in 93 CRS 3374 and 3375 in Anson County, North Carolina." Judge Hudson concluded as a matter of law that "the alleged confession" in this case and "the forecast of evidence if this case proceeded to a trial, is not clear, cogent, and convincing evidence that 'Mr. Brown has committed a homicide in the recent past,'" and that "the testimony of the witnesses and exhibits received into evidence" further rebut this conclusion. *Judge Hudson also concluded, over the State's objection, that Floyd's incarceration on these charges for fourteen years had violated his constitutional right to Due Process.* The State is collaterally estopped from rearguing that issue in this case under the North Carolina doctrine of offensive collateral estoppel.
94. Isley and Lane demonstrated malice, spite, ill will, and wanton disregard for Floyd Brown's rights by acting in concert with each other to falsely claim that Floyd Brown had

confessed to the robbery and murder of Kathryn Lynch, and to improperly repeat this false claim against Floyd Brown at various times and to accomplish various ends, including but not limited to (a) causing his initial arrest for robbery and murder in July 1993; (b) causing him to be confined against his will at Dorothea Dix Hospital from 1995 to 2003, and from April 2007 to November 2007; (c) causing his indictment for robbery and murder in April 2003; (d) causing him to face the death penalty from April 2003 through March 2004; and (e) in other specific ways to be proved at the trial of this matter.

95. Isley and Lane demonstrated malice, spite, ill will, and wanton disregard for Floyd Brown's rights by each acting in concert with each other to conceal evidence that pointed to Floyd Brown's innocence, and that could have established the guilt of others, with the knowledge that the concealment of this evidence would be illegally and improperly used against Floyd Brown in various ways and at various times, including but not limited to (a) causing his initial arrest for robbery and murder in July 1993; (b) causing him to be confined against his will at Dorothea Dix Hospital from 1995 to 2003, and from April 2007 to November 2007; (c) causing his indictment for robbery and murder in April 2003; (d) causing him to face the death penalty from April 2003 through march 2004; and (e) in other specific ways to be proved at the trial of this matter.
96. At all times between July 1993 and November 2007, Floyd Brown was mentally retarded and lacked sufficient capacity to manage his own affairs or to make or communicate important decisions concerning his person, family, or property, and was therefore an "incompetent adult" as defined in N.C.G.S. §35A-1101. A Guardian Ad Litem was appointed to represent his estate on April 8, 2010.

CAUSES OF ACTION

COUNT I

**IMPEDING AND HINDERING PUBLIC AND LEGAL JUSTICE,
FALSE ARREST AND CIVIL CONSPIRACY (JULY 1993)**

(Against Isley and Lane in their individual capacities)

97. Plaintiff incorporates the allegations made in paragraphs 1- 96 above and further alleges as follows:
98. Between July 13, 1993 and July 16, 1993 Isley and Lane, acting in concert with each other, and under color of state law, conspired with each other to and engaged in acts that attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
99. Isley and Lane engaged in this conspiracy by causing Floyd Brown to sign a false and misleading statement, written in the first person, confessing to the robbery and murder of Kathryn Lynch.
100. The false and misleading statement caused the Magistrate to find that there was probable cause to charge Floyd Brown with the robbery and first degree murder of Kathryn Lynch, and to order his arrest for those crimes, when in truth and in fact there was no probable cause to charge Floyd with this robbery and murder.
101. Isley and Lane further engaged in this conspiracy by concealing evidence that pointed to Floyd Brown's innocence, and could have established the guilt of others, with the knowledge that the concealment of this evidence would advance criminal proceedings against Floyd in the Anson County District Court.

102. These acts by Isley and Lane hindered and impeded public and legal justice in North Carolina by causing the arrest and prosecution of Floyd Brown, an innocent man with the mental capacity of a seven year old, for violent crimes he did not commit.
103. Isley and Lane committed each of these acts despite knowing at all times that probable cause did not exist to arrest Floyd Brown or to otherwise restrain him against his will.
104. Isley and Lane committed each of these acts despite knowing that they would result in Floyd Brown's unlawful arrest and confinement.
105. Isley and Lane committed each of these acts in the course and scope of their employment as agents for the SBI, and under color of state law.
106. As a direct and foreseeable consequence of Isley and Lane's conduct, Floyd Brown was unreasonably and unlawfully subjected to arrest and confinement.
107. As a direct and foreseeable consequence of Isley and Lane's conduct, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty, as well as other damages to be determined at the trial of this matter.

COUNT II

IMPEDING AND HINDERING PUBLIC AND LEGAL JUSTICE, FALSE IMPRISONMENT AND CIVIL CONSPIRACY (AUGUST 1993)

(Against Isley and Lane in their individual capacities)

108. Plaintiff incorporates the allegations made in paragraphs 1- 107 above and further alleges as follows:

109. On August 2, 1993 Isley and Lane, acting in concert with each other, and under color of state law, conspired to and engaged in acts that attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
110. Isley, as a part of the conspiracy with Lane to hinder and impede public and legal justice, and in furtherance thereof, on August 2, 1993 dictated an official SBI investigative report that was distributed to the District Attorney, among others, and that contained a false and misleading verbatim confession allegedly made by Floyd Brown on July 16, 1993, with the knowledge that this false and misleading report would be used to prosecute Floyd Brown for crimes he did not commit.
111. The false and misleading report caused the District Attorney to continue the prosecution of Floyd Brown for the robbery and murder of Kathryn Lynch in the Anson County District Court for over two years, and caused Floyd to be held against his will during this entire time, when in truth and in fact there was no probable cause to charge Floyd with this robbery and murder or to hold him against his will.
112. Isley and Lane further engaged in this conspiracy by concealing evidence from the District Attorney that pointed to Floyd Brown's innocence, and could have established the guilt of others, with the knowledge that the concealment of this evidence would cause the criminal proceedings against Floyd in the Anson County District Court to continue.
113. Isley and Lane committed each of these acts despite knowing at all times that probable cause did not exist to continue the criminal proceedings against Floyd Brown.
114. Isley and Lane committed each of these acts despite knowing that they would result in Floyd Brown's continued unlawful prosecution and confinement.

115. These acts by Isley and Lane hindered and impeded public and legal justice in North Carolina by causing the continued prosecution of Floyd Brown, an innocent man with the mental capacity of a seven year old, for violent crimes he did not commit.
116. Isley and Lane committed each of these acts in the course and scope of their employment as agents for the SBI, and under color of state law.
117. As a direct and foreseeable consequence of Isley and Lane's conduct, Floyd Brown was unreasonably and unlawfully confined against his will for over two years and subjected to prosecution in the Anson County District Court for the robbery and murder of Kathryn Lynch.
118. As a direct and foreseeable consequence of Isley and Lane's conduct, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty, as well as other damages to be determined at the trial of this matter.

COUNTS III - IX

**IMPEDING AND HINDERING PUBLIC AND LEGAL JUSTICE,
FALSE IMPRISONMENT AND CIVIL CONSPIRACY
(1996, 1997, 1998, 1999, 2000, 2001 & 2002)**

(Against Isley and Lane in their individual capacities)

119. Plaintiff incorporates the allegations made in paragraphs 1-118 above and further alleges as follows:
120. In 1993, after Floyd was found mentally incompetent to proceed, he was civilly committed to Dorothea Dix pursuant to N.C.G.S. §§15A-1002(b)(1) and 15A-1003(a), for proceedings in accordance with Chapter 122C of the General Statutes.

121. In November 1995, pursuant to N.C.G.S. §15A-1009(a), the charges then pending against Floyd in the Anson County District Court were dismissed by the District Attorney "with leave." Floyd remained involuntarily committed to the custody of Dorothea Dix Hospital pursuant to North Carolina House Bill 95, which applies to a person who has been involuntarily civilly committed who has been found incapable of proceeding to trial for the commission of a violent crime.
122. Beginning on or about November 9, 1995 and continuing each year until on or about February 10, 2003, Isley and Lane, acting in concert with each other, and under color of state law, caused Floyd Brown to be involuntarily held against his will each year at Dorothea Dix Hospital in Raleigh, North Carolina.
123. Chapter 122C of the General Statutes provides that after an initial civil commitment, a second hearing must be held within 90 days. A third hearing must be held within 180 days after a second commitment, and thereafter hearings must be held within a year of each additional commitment. N.C.G.S. §122C-276(e) and (f).
124. From 1996 through 2002, pursuant to this statute, one or more hearings were held each year by the District Court of Wake County to determine if Floyd should continue to be involuntarily committed pursuant to House Bill 95. At each and every one of those hearings, Floyd was involuntarily committed to Dorothea Dix against his will for additional periods of time ranging from 90 days to one year.
125. Isley and Lane knew that under North Carolina law, in order to continue to hold Floyd Brown against his will at Dorothea Dix, a hearing had to be held each and every year

before the District Court of Wake County, and that such a hearing was in fact held at least once each year between 1995 and 2003.

126. At all times between November 1995 and February 2003, Isley and Lane knew that Floyd Brown was being held against his will at Dorothea Dix, and further knew that if they revealed to the District Attorney that Floyd Brown had in fact *not* confessed to the robbery and murder of Kathryn Lynch he would have to be released from Dorothea Dix.
127. Isley and Lane were sworn law enforcement officers with a legal responsibility to uphold the laws and constitution of the State of North Carolina, and not to impede or hinder public and legal justice in North Carolina. They therefore had an affirmative duty to come forward before or at each one of these annual hearings to disclose that Floyd Brown had *not* actually confessed to the robbery and murder of Kathryn Lynch, and that there was therefore no basis to continue to hold him at Dorothea Dix.
128. Neither Isley nor Lane came forward at any of the multiple hearings held in Wake County District Court in 1996, in 1997, in 1998, in 1999, in 2000, in 2001 or in 2002 to disclose that Floyd Brown had not actually confessed to the robbery and murder of Kathryn Lynch, and that there was therefore no basis to continue to hold him at Dorothea Dix under House Bill 95. Neither did they reveal that to the District Attorney's office for Anson County at any time during each of those years.
129. Isley and Lane refused to come forward each year despite their knowledge at all times that the alleged confession used to justify Floyd's continued confinement at Dorothea Dix was false and misleading, and that there was no probable cause to believe that Floyd had robbed and killed Kathryn Lynch.

130. Before and during the commitment hearing(s) held in Wake County District Court in 1996, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
131. Before and during the commitment hearing(s) held in Wake County District Court in 1997, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
132. Before and during the commitment hearing(s) held in Wake County District Court in 1998, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
133. Before and during the commitment hearing(s) held in Wake County District Court in 1999, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
134. Before and during the commitment hearing(s) held in Wake County District Court in 2000, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
135. Before and during the commitment hearing(s) held in Wake County District Court in 2001, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
136. Before and during the commitment hearing(s) held in Wake County District Court in 2002, Isley and Lane attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.

137. As a direct and foreseeable consequence of Isley and Lane's acts in 1996, in 1997, in 1998, in 1999, in 2000, in 2001 and in 2002, and their willful refusal to act in each of those years, Floyd Brown was unreasonably and unlawfully subjected to confinement at Dorothea Dix Hospital without probable cause and against his will each and every year between November 1995 and February 2003.
138. As a direct and foreseeable consequence of being held against his will at Dorothea Dix, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from November 1995 to February 2003, as well as other damages to be determined at the trial of this matter.

COUNT X

**IMPEDING AND HINDERING PUBLIC AND LEGAL JUSTICE
AND FALSE IMPRISONMENT (APRIL 2003)**

(Against Isley in his individual capacity)

139. Plaintiff incorporates the allegations made in paragraphs 1-138 above and further alleges as follows:
140. In April 2003 Isley, acting under color of state law, engaged in acts that attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
141. On April 7, 2003, Isley hindered and impeded public and legal justice by making false representations to the District Attorney about the statement allegedly made by Floyd Brown in July 1993, and by presenting the false and misleading statement of Floyd Brown purporting to admit to the murder of Kathryn Lynch to a grand jury that was considering

whether to indict Floyd Brown on first degree murder charges, when in truth and in fact there was no probable cause to believe that Floyd Brown was guilty of this crime.

142. Isley further concealed from the District Attorney and the grand jury evidence that pointed to Floyd Brown's innocence, and that could have established the guilt of others, with the knowledge that the concealment of this evidence would cause the indictment of Floyd Brown for robbery and capital murder, and the initiation of criminal proceedings against him in the Superior Court of Anson County based on those indictments.
143. On April 11, 2003 Isley, through his false and misleading statements to the District Attorney, caused the State to seek the death penalty against Floyd Brown.
144. The decision of the District Attorney in April 2003 to seek Floyd Brown's indictment on charges of first degree murder and to seek the death penalty was caused by the false and misleading statements that Isley made to the District Attorney, and by his willful refusal to reveal to the District Attorney in April 2003, when these decisions was being made, that Floyd Brown had not confessed to the robbery and murder of Kathryn Lynch.
145. Isley's actions prevented, obstructed, impeded, and hindered public and legal justice in the State of North Carolina and caused Floyd's indictment and prosecution in the Superior Court of Anson County for first degree murder on April 7, 2003.
146. On April 23, 2003, Isley further hindered and impeded public and legal justice by presenting the false and misleading statement of Floyd Brown purporting to admit to the robbery of Kathryn Lynch to a grand jury that was considering whether to indict Floyd Brown on robbery charges, when in truth and in fact there was no probable cause to believe that Floyd Brown was guilty of this crime.

147. Isley's acts on April 23, 2003 prevented, obstructed, impeded, and hindered public and legal justice in the State of North Carolina, and caused Floyd's indictment and prosecution in the Superior Court of Anson County for robbery.
148. Isley committed each of these acts despite knowing at all times that probable cause did not exist to indict or prosecute Floyd Brown in the Anson County Superior Court for robbery or first degree murder.
149. Isley committed each of these acts despite knowing that they would result in Floyd Brown's indictment for robbery and capital murder in the Anson County Superior Court. Isley committed each of these acts in the course and scope of his employment as an agent for the SBI.
150. Isley's acts and omissions in April 2003 caused Floyd Brown to be held unlawfully, and against his will, for over 54 additional months.
151. As a direct and foreseeable consequence of Isley's conduct, Floyd Brown was unreasonably and unlawfully subjected to a criminal indictment for robbery and first degree murder, was prosecuted in the Anson County Superior Court for these crimes from April 2003 until April 2007, was held unlawfully and against his will, and was further subjected to the possibility of being executed for a crime he did not commit.
152. As a direct and foreseeable consequence of being subjected to this conduct, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from April 2003 until 2007, as well as other damages to be determined at the trial of this matter.

COUNT XI

**IMPEDING AND HINDERING PUBLIC AND LEGAL JUSTICE
AND CIVIL CONSPIRACY (APRIL 2005)**

(Against Isley and Lane in their individual capacities)

153. Plaintiff incorporates the allegations made in paragraphs 1-152 above and further alleges as follows:
154. In April 2004, Floyd Brown's attorney filed a motion to suppress the statement that he had allegedly made in July 1993.
155. Since the alleged confession was the only evidence against Floyd, a decision by the court that it was not admissible would have led to all charges against Floyd being dismissed, and his release from custody.
156. In deciding whether to oppose that motion, the District Attorney had to rely on the information provided to him by Isley and Lane concerning the circumstances surrounding that statement.
157. Sometime between April 2004 and April 2005 Isley and Lane, acting in concert and under color of state law, conspired to and engaged in acts that attempted to and did prevent, obstruct, impede, and hinder public and legal justice in the State of North Carolina.
158. On April 19, 2005 a hearing was held in the Superior Court of Anson County to determine whether the confession Isley and Lane claimed to have obtained from Floyd Brown was admissible at trial.
159. Prior to that hearing, Isley and Lane, acting in concert, conspired to and did make false and misleading statements to the District Attorney regarding Floyd Brown's

comprehension of his right to remain silent on July 16, 1993, the circumstances surrounding the alleged confession, and the wording of the alleged confession. Among other things, they falsely told the District Attorney that Floyd had understood his right to remain silent, that he had voluntarily waived that right, that he understood the questions he was being asked, and that the alleged confession was the verbatim responses by Floyd to those questions.

160. Isley and Lane's statements to the District Attorney prior to this hearing did prevent, obstruct, impede, and hinder public and legal justice by causing the District Attorney to oppose this motion, instead of consenting to it.
161. Isley and Lane committed these acts despite knowing at all times that Floyd Brown had not understood his right to remain silent, that he had not voluntarily waived that right, that he could not understand all the questions he was being asked, and that he could not and did not provide the verbatim responses that Isley and Lane claimed.
162. Isley and Lane committed these acts despite knowing that they would result in the District Attorney seeking a ruling that, and a judge finding that, Floyd Brown's alleged confession was authentic and admissible.
163. At the time Isley and Lane engaged in this civil conspiracy to impede and hinder public and legal justice between April 2004 and April 2005, Isley committed overt acts in furtherance of this conspiracy in the course and scope of his employment as an agent for the SBI.
164. As a direct and foreseeable consequence of Isley and Lane's conduct, the District Attorney argued, and the Superior Court found, that Floyd Brown had validly waived his

constitutional right to remain silent, that the alleged confession was voluntary and authentic, and that the alleged confession was admissible. Floyd Brown was therefore unreasonably and unlawfully subjected to 30 additional months of confinement, until he was finally released from custody on November 16, 2007.

165. As a direct and foreseeable consequence of being subjected to this conduct, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from April 2005 until 2007, as well as other damages to be determined at the trial of this matter.

COUNT XII

INTENTIONAL/RECKLESS INFLICTION OF EMOTIONAL DISTRESS (JULY 2001) (Against Isley in his individual capacity)

166. Plaintiff incorporates the allegations made in paragraphs 1-165 above and further alleges as follows:
167. Isley's acts and omissions as set forth above constituted extreme and outrageous conduct towards Floyd Brown, who at all relevant times had the mind and the emotional capacity of a seven year old child.
168. Isley's acts and omissions as set forth above were intended to cause severe emotional distress to Floyd Brown or, in the alternative, evidenced a reckless indifference to the likelihood that such acts and omissions would cause severe emotional distress to Floyd Brown.
169. In July 2001, while he was being held against his will at Dorothea Dix Hospital, Floyd's mother became terminally ill. Because he was locked up more than 200 miles from his

home, as a result of Isley's acts and omissions, Floyd was unable to see or speak with his mother while she was sick or before she died.

170. After his mother died in July 2001, Floyd was permitted to attend the funeral, but had to wear an orange prison jumpsuit, was shackled, and was accompanied by armed guards who did not permit him to talk to his relatives.

171. The fact that he was not able to see or speak to his mother while she was sick and before she died, and the fact that he had to attend her funeral in a prison jumpsuit, wearing shackles, and was not permitted to talk to his relatives, caused and continues to cause Floyd severe emotional distress.

172. As a direct and foreseeable consequence of Isley's acts and omissions, and the severe emotional distress that these acts and omissions caused, Floyd Brown suffered damages to be determined at the trial of this matter.

COUNT XIII

INTENTIONAL/RECKLESS INFLECTION OF EMOTIONAL DISTRESS (APRIL 2003) (Against Isley in his individual capacity)

173. Plaintiff incorporates the allegations made in paragraphs 1-172 above and further alleges as follows:

174. Isley's acts and omissions as set forth above constituted extreme and outrageous conduct towards Floyd Brown, who at all relevant times had the mind and the emotional capacity of a seven year old child.

175. Isley's acts and omissions as set forth above were intended to cause severe emotional distress to Floyd Brown or, in the alternative, evidenced a reckless indifference to the

likelihood that such acts and omissions would cause severe emotional distress to Floyd Brown.

176. In April 2003, Isley caused and/or contributed to the decision of the District Attorney of Anson County to seek the death penalty against Floyd Brown for a crime he did not commit.
177. From April 11, 2003 until March 23, 2004, when he was found by a court to be ineligible for the death penalty because he was mentally retarded, and as a direct and foreseeable consequence of Isley's acts and omissions, Floyd Brown faced the real possibility of being put to death for a crime he did not commit.
178. The fact that he faced the possibility of being put to death for a crime he did not commit caused Floyd severe emotional distress from April 11, 2003 until March 23, 2004.
179. As a direct and foreseeable consequence of Isley's acts and omissions, and the severe emotional distress that these acts and omissions caused, Floyd Brown suffered damages in an amount to be determined at the trial of this matter.

COUNT XIV
INTENTIONAL/RECKLESS INFLICTION OF
EMOTIONAL DISTRESS (NOVEMBER 2007)
(Against Isley in his individual capacity)

180. Plaintiff incorporates the allegations made in paragraphs 1-179 above and further alleges as follows:
181. Even as late as November 2007, Isley continued to cause Floyd extreme emotional distress through his false claim that Floyd was guilty of the robbery and murder of Kathryn Lynch.

182. In November 2007, after Judge Hudson had dismissed all charges against Floyd Brown with prejudice, Isley's false statements caused the District Attorney to contact the group home that had agreed to accept Floyd, and to inform the administrator of that group home that Floyd was in fact guilty of murder. As a foreseeable and proximate result of Isley's conduct, the group home rescinded their acceptance of Floyd and refused to allow him to live there.
183. As a result of Isley's conduct, Floyd Brown had to remain at Dorothea Dix after the charges against him were dismissed until another placement for him could be arranged.
184. Isley's acts and omissions as set forth above constituted extreme and outrageous conduct towards Floyd Brown, who at all relevant times had the mind and the emotional capacity of a seven year old child.
185. Isley's acts and omissions as set forth above were intended to cause severe emotional distress to Floyd Brown or, in the alternative, evidenced a reckless indifference to the likelihood that such acts and omissions would cause severe emotional distress to Floyd Brown.
186. In November 2007, Isley caused and/or contributed to the decision of the group home to rescind its acceptance of Floyd, and their refusal to allow Floyd to live there.
187. The fact that the group home rescinded their acceptance of Floyd and refused to allow him to live there caused Floyd severe emotional distress in November 2007.
188. As a direct and foreseeable consequence of Isley's acts, and the severe emotional distress that these acts caused, Floyd Brown suffered damages in an amount exceeding \$10,000, to be determined at the trial of this matter.

COUNT XV

MALICIOUS PROSECUTION AND CONSPIRACY

(Against Isley and Lane in their individual capacities)

189. Plaintiff incorporates paragraphs 1-188 above and further alleges as follows:
190. Beginning on July 16, 1993, Isley and Lane, acting in concert with each other, under color of state law, instituted or participated in the institution of criminal proceedings against Floyd Brown, and thereafter caused these proceedings to continue until November 2007. These proceedings were not supported by probable cause.
191. Isley and Lane committed these acts despite their knowledge at all times that probable cause did not exist to institute, advance or continue Floyd Brown's prosecution.
192. Isley and Lane committed each of these acts in the course and scope of their employment as agents for the SBI and under color of state law.
193. The proceedings were finally terminated in Plaintiffs' favor on November 16, 2007, when Superior Court Judge Hudson dismissed the charges against Floyd Brown with prejudice.
194. As a direct and foreseeable consequence of Isley and Lane's acts and conduct, Floyd Brown was unreasonably and unlawfully subjected to criminal prosecution and 14 years of detention.
195. As a direct and foreseeable consequence of being subjected to prosecution and being detained for 14 years, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from 1993 to 2007, as well as other damages to be determined at the trial of this matter.

COUNT XVI (Alleged in the Alternative)

**VIOLATION OF RIGHT OF ACCESS TO THE COURTS UNDER ARTICLE I,
SECTION 18 OF THE NORTH CAROLINA CONSTITUTION
(Against Isley and Lane in their individual capacities)**

196. Plaintiff incorporates paragraphs 1-195 above.
197. Having orchestrated Floyd Brown's arrest and imprisonment for a crime they knew or should have known that he did not commit by creating false and misleading inculpatory evidence, by making false and misleading statements and providing false and misleading testimony, and by concealing and/or otherwise failing to come forward with exculpatory evidence, defendants Isley and Lane had an affirmative statutory and constitutional obligation to uphold the laws of North Carolina and to come forward with the truth during each of Floyd Brown's court appearances between 1993 and 2007.
198. Instead, at every one of Floyd Brown's court appearances, defendants intentionally or with reckless indifference concealed that the inculpatory evidence and statements they attributed to him were false and misleading .
199. Floyd Brown could have used this information and evidence to secure adequate, effective and meaningful access to the courts of North Carolina, as was his constitutional right, at any time, and specifically during his many commitment hearings between 1996 and 2002 as detailed above, as well as during the pretrial proceedings held between 1993 and 1995 and between 2003 and 2007.
200. By ignoring their affirmative statutory and constitutional duties to disclose these facts during the numerous court hearings in 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, and 2007, defendants violated Floyd Brown's right

to meaningful access to the courts to secure an adequate remedy for the injury done to him without delay, as provided by Article I, Section 18 of the North Carolina Constitution.

201. No reasonable person in defendants' positions could have believed it lawful not to come forward with information and evidence they knew of that would have freed this innocent man even one day sooner.

202. As a direct and foreseeable consequence of defendants' acts and omissions, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from 1993 to 2007, as well as other damages to be determined at the trial of this matter, during each and every day of his imprisonment.

COUNT XVII (Alleged in the Alternative)

**DUE PROCESS VIOLATION UNDER ARTICLE I, SECTION 19 OF THE NORTH
CAROLINA CONSTITUTION**

(Against Isley and Lane in their individual capacities)

203. Plaintiff incorporates paragraphs 1-202 above.

204. Acting under color of law, Isley and Lane, acting individually and in concert, produced a false and or/ misleading "verbatim confession" by Floyd Brown that they understood and agreed would be used to establish probable cause and to secure the arrest of Floyd Brown in July 1993, and which was repeatedly used, at least once a year from 1993 through 2003, to keep Floyd Brown in custody.

205. The false and/or misleading "verbatim confession" was again used by Isley, acting under color of state law, in April 2003 to establish probable cause for a grand jury and thereby to obtain indictments of Floyd Brown for First Degree Murder and Robbery with a

Dangerous Weapon. These indictments were subsequently used, at least once a year from 2003 to 2007, to keep Floyd Brown in custody.

206. Isley and Lane knew that Floyd Brown was mentally retarded, that he had been mentally retarded for years, and that he had been found incompetent to stand trial on misdemeanor charges in 1991 because of his mental retardation. They also knew, or reasonably should have known, that his mental retardation would not improve, that he would therefore be found incompetent to stand trial on the murder and robbery charges, and he would thereafter be kept in custody until he became competent to stand trial, if ever.
207. Isley and Lane's actions evidenced a reckless and callous disregard for, and deliberate indifference to, Floyd Brown's constitutional rights.
208. As a foreseeable result of Defendants' conduct, Floyd Brown was held in custody, despite his inability to become competent to proceed to trial, for fourteen years, and was thereby deprived of his due process rights under the Fifth and Fourteenth Amendments to the United States Constitution.
209. As a direct and foreseeable consequence of this deprivation, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from 1993 to 2007, as well as other damages to be determined at the trial of this matter.

COUNT XVIII (Alleged in the Alternative)

**UNREASONABLE SEIZURE IN VIOLATION OF ARTICLE I, SECTION 19 OF THE
NORTH CAROLINA CONSTITUTION**

210. Plaintiff incorporates paragraphs 1-209 above.

211. Under color of state law, Isley and Lane, acting individually and in concert, caused, initiated and continued a criminal prosecution against Floyd Brown on charges of first-degree murder and robbery with a dangerous weapon.
212. Isley and Lane knew, or reasonably should have known, that there was no probable cause for the criminal prosecution of Floyd Brown.
213. The criminal prosecution terminated in favor of Floyd Brown on November 16, 2007.
214. Isley and Lane's actions were malicious and evidenced a reckless and callous disregard for, and deliberate indifference to, Floyd Brown's constitutional rights.
215. As a foreseeable result of this wrongful prosecution, Floyd Brown was seized and deprived of his rights under Article I, Section 19 of the North Carolina Constitution.
216. As a direct and foreseeable consequence of this deprivation, Floyd Brown has suffered personal physical injury, physical sickness, emotional trauma, loss of consortium and loss of liberty in each year from 1993 to 2007, as well as other damages to be determined at the trial of this matter.

PUNITIVE DAMAGES

217. Plaintiff incorporates the allegations made in paragraphs 1-216 above and further alleges as follows:
218. The acts of Isley and Lane alleged above were willful, wanton, intentional and evinced a reckless disregard for and indifference to the rights and safety of the public, including Floyd Brown, who as a result spent fourteen years in prison for a crime he did not commit.
219. The acts alleged above proximately caused the injuries suffered by Floyd Brown.

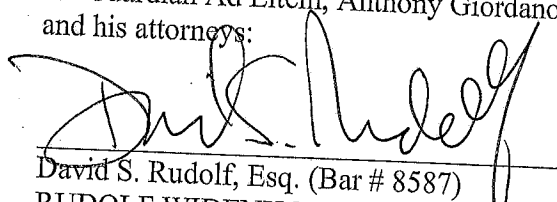
220. Floyd Brown is therefore entitled to recover punitive damages.

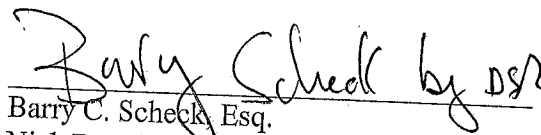
PRAYER FOR RELIEF

1. Compensatory damages in an amount greater than \$10,000, to be determined at trial;
2. Punitive damages in an amount, to be determined at trial, that will deter such conduct by Defendants in the future;
3. Pre-judgment and post-judgment interest and recovery of his costs, including reasonable attorneys' fees;
4. Any and all other relief to which he may be entitled.

RESPECTFULLY submitted this the 7th day of June, 2010.

Plaintiff Floyd Lee Brown, by and through
his Guardian Ad Litem, Anthony Giordano,
and his attorneys:


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