



ORIGINAL

Case No. F-2017-1104

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAY 22 2018

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

JOSEPH JOHNSON,

Appellant

vs.

THE STATE OF OKLAHOMA,

Appellee.

Appeal from the
District Court of Tulsa County

**APPLICATION FOR EVIDENTIARY HEARING
ON SIXTH AMENDMENT CLAIM**

Meghan LeFrancois
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Oklahoma Bar Assoc. No. 32643
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(405) 801-2666

ATTORNEY FOR APPELLANT

May 22, 2018

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**APPLICATION FOR EVIDENTIARY HEARING
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Appellant, Joseph Johnson, by and through his appellate counsel, and in accordance with Rule 3.11(B)(3)(b), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2011), respectfully applies to the Court for an evidentiary hearing on his Sixth Amendment claim of ineffective assistance of counsel at his jury trial in the District Court of Tulsa County. Rule 3.11 (B) (3) (b) provides in relevant part:

When an allegation of the ineffective assistance of counsel is predicated upon an allegation of failure of trial counsel to properly utilize available evidence or adequately investigate to identify evidence which could have been made available during the course of the trial, and a proposition of error alleging ineffective assistance of trial counsel is raised in the brief-in-chief of Appellant, appellate counsel may submit an application for an evidentiary hearing, together with affidavits setting out those items alleged to constitute ineffective assistance of trial counsel.

As required by rule, Mr. Johnson raised a claim of ineffective assistance of counsel in Proposition III of the Brief of Appellant, filed contemporaneously with this Application. This Application sets forth the factual bases, which appear outside the record, supporting this Sixth Amendment claim, and requests that the Court grant an evidentiary hearing so that those factual matters can become part of the record. In support of this Application, Mr. Johnson submits the following Exhibits, which are attached:

- (1) **Affidavit and Curriculum Vitae of Dr. Benjamin Silber, Ph.D., Clinical Psychologist**

BRIEF IN SUPPORT OF APPLICATION

ARGUMENT

In order to prevail on a claim that Appellant was denied his Sixth Amendment right to counsel, Appellant must make two showings: first, that counsel's performance was deficient, and second, that "there is a reasonable

probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v. Washington*, 466 U.S. 668, 687, 694, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* at 694. "When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." *Id.* at 695.

The attorney's function "is to make the adversarial testing work in the particular case." *Strickland*, 466 U.S. at 690. Thus, "[t]he benchmark for judging any claim of ineffectiveness" is "whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." *Id.* at 686. In this case, evidence outside the record is necessary to show that the adversarial process broke down when counsel failed to present a critical, available expert witness. As a result, the trial cannot be relied on as having produced a just result.

In order to grant Mr. Johnson an evidentiary hearing, this Court need not find that trial counsel provided ineffective assistance of counsel under *Strickland*. In *Simpson v. State*, 2010 OK CR 6, 230 P.3d 888, 905-06, this Court held:

[I]t is, of course, incumbent upon this Court, to thoroughly review and consider Appellant's application and affidavits along with other attached non-record evidence to determine the merits of Appellant's ineffective assistance of counsel claim. Our rules require us to do so in order to evaluate whether Appellant has provided sufficient information to show this Court by clear and convincing evidence that there is a *strong possibility* trial counsel was ineffective for failing to utilize or identify the evidence at issue. [Citation omitted.] *This standard is intended to be less demanding than the test imposed by Strickland...*

(Emphasis added.) Thus, if this Court finds even a *strong possibility* that Mr. Johnson's trial counsel was ineffective, it must grant an evidentiary hearing to

make its determination.

CLAIM ONE

COUNSEL RENDERED INEFFECTIVE ASSISTANCE BY FAILING TO PRESENT THE TESTIMONY OF A CRITICAL, AVAILABLE EXPERT DEFENSE WITNESS AT TRIAL, VIOLATING MR. JOHNSON'S RIGHTS UNDER THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE II, §§ 7 AND 20 OF THE OKLAHOMA CONSTITUTION.

In Proposition III(A)(1)(a) of the Brief of Appellant, Mr. Johnson argues that trial counsel, Brian Boenheim and Ciera Freeman, were ineffective in failing to present the testimony of an expert witness, Dr. Benjamin Silber, Ph.D, a clinical psychologist who was available to testify about Mr. Johnson's substantial psychological background, which is explained in detail in Dr. Silber's affidavit. (Ex. 1)

Dr. Silber's testimony was crucial to Mr. Johnson's self-defense claim. The State argued that Mr. Johnson's fear was not reasonable, and emphasized that he shot Mr. Cato fourteen times. It was critical for the defense to present an expert to show how Mr. Johnson's fear was, in fact, reasonable, and how he could have been acting in self-defense for all fourteen shots. Dr. Silber, a clinical psychologist with a forensic psychology practice, could have shed light on this by testifying about Mr. Johnson's extensive psychological background, which includes symptoms and/or diagnoses of PTSD, autism, bipolar disorder, and cognitive impairment or deficits.

Expert testimony regarding Mr. Johnson's psychological background was not only relevant to his claim of self-defense, but was critical to it. As the trial court correctly instructed the jury:

A person is justified in using deadly force in self-defense if that person reasonably believed that use of deadly force was necessary to prevent death or great bodily harm to himself or to terminate or prevent the commission of a forcible felony against himself. Self-defense is a defense although the danger to life or personal security may not have been real, if a reasonable person, in the circumstances and from the viewpoint of the defendant, would reasonably have believed that he

was in imminent danger of death or great bodily harm.

(O.R. 164) (emphasis added); Instruction No. 8-46, OUJI-CR (2d). Without expert testimony, it was impossible for the jury to determine if a reasonable person, in the circumstances and from the viewpoint of Mr. Johnson, would reasonably have believed that he was in imminent danger of death or great bodily harm.

The record shows that defense counsel was aware of Mr. Johnson's many psychological issues, and that the defense theory was that those issues were critical to his claim of self-defense. However, counsel inexplicably abandoned this theory during the trial, without ever presenting any evidence in support of it. As argued in Proposition III(A)(1)(a), this failure was constitutionally deficient and prejudicial to Mr. Johnson.

CONCLUSION

It is clear from the above extra-record claim of ineffectiveness of counsel, compounded by record claims asserted in Proposition III of his Brief, that Mr. Johnson has met his burden of showing, by clear and convincing evidence, that there is a strong possibility that he received ineffective assistance of counsel. *See Simpson*, 230 P.3d 888, 905-06. Mr. Johnson was not afforded a meaningful test of the adversarial process in his trial; counsel's performance was deficient and he was prejudiced such that there is a reasonable probability that, but for these errors, he would not have been convicted of the crime charged. *See Strickland*, 466 U.S. at 687. Mr. Johnson respectfully, pursuant to Rule 3.11(B)(3)(b) of the Rules of this Court, and in consideration of his above argument and attached exhibit, requests an evidentiary hearing to make full proof of his extra-record claim.

Respectfully submitted,

JOSEPH JOHNSON

By:



Meghan LeFrancois
Oklahoma Bar No. 32643
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ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

This is to certify that on May 22, 2018, a true and correct copy of the foregoing Application was mailed, via United States Postal Service, postage pre-paid, to Appellant at the address set out below, and a copy was served upon the Attorney General by leaving a copy with the Clerk of this Court.

Joseph Johnson, #772913
Davis Correctional Facility
6888 East 133rd Rd.
Holdenville, OK 74848



Meghan LeFrancois

EXHIBIT 1

**Affidavit and Curriculum Vitae of
Dr. Benjamin Silber, Ph.D.,
Clinical Psychologist**

- Discovery from the State

5. The following opinion is based on my review of these records.
6. The records suggest that Mr. Johnson likely suffers from Posttraumatic Stress Disorder (“PTSD”). According to his medical records, Mr. Johnson witnessed the murder of his uncle when Mr. Johnson was only nine years old, which a doctor noted as a continuing source of psychological pain in October 2015, approximately one year before this shooting occurred. Mr. Johnson mentioned to this doctor that there were other instances in which he had feared for his life but would not go into detail. Doctors have attributed to Mr. Johnson many symptoms that are characteristic of PTSD, including: depression, anger, anxiety, social withdrawal, problems with impulsivity and outbursts, irritability, and difficulty expressing positive emotions.
7. PTSD could help explain Mr. Johnson’s actions during the shooting. People with PTSD generally have a higher degree of physiological hyperarousal. This means they are more likely to be hypervigilant by constantly looking for threats. As a result, they are more likely to believe a threat exists, regardless of whether it does; they see situations as more threatening than they are. Additionally, people with PTSD are also prone to angry outbursts and irritability, which often ends up creating situations in which they feel threatened. People with PTSD are also more likely to have exaggerated responses and act out in reckless and impulsive manners. Research shows that people with traumatic experiences in their pasts will often have chronically higher levels of stress hormones in their bodies. These hormones are used when people experience a threat and go into “fight or flight” mode. A person with PTSD is more likely to shift into fight or flight mode than someone without PTSD, which can result in a person with PTSD responding more quickly, and often to a much greater extreme than would someone without PTSD. This response might seem unreasonable to other people, and even to the person with PTSD at a later time, but at the time of the response, it seems reasonable to that person, who is often experiencing symptoms such as a pounding heart and stress hormones flooding the body. It is difficult for a person with PTSD to “turn off” these responses. Thus, if Mr. Johnson was experiencing PTSD at the time he shot Mr. Cato, he may have incorrectly viewed Mr. Cato as more threatening due to his hypervigilance and other symptoms of PTSD and he may have responded more quickly and in a more extreme manner than someone without PTSD would.
8. Mr. Johnson’s shooting Mr. Cato fourteen times may be related to certain attributes of PTSD. As explained above, when there is a threat, people go into “fight or flight” mode. Sometimes, people with PTSD have difficulty processing the degree of the threat in a normal way and identifying when a threat is over. For a person without PTSD, when the threat is gone, their body calms back down, they reassess the threat, and they adjust their behavior accordingly. Research shows that for some people, especially people with PTSD,

when something threatening happens, they are not able to quickly calm back down. For example, an average person's heartrate may return to baseline after five minutes. People with PTSD might still have an elevated heartrate hours later. They might check and recheck to make sure the threat is gone. This is usually because they have been harmed in the past and or scared enough about being harmed that they are on guard and doing whatever it takes to survive. In some cases, a victim will stab their attacker many more times than necessary, due to how overwhelmed they are by the threat. If Mr. Johnson had PTSD, his perception of threat could have lasted considerably longer than that of most people, even remaining after he had begun shooting. Some people in these circumstances shoot until they have no more bullets left.

9. Based on the records, it appears Mr. Johnson had an unstable childhood, which can cause chronic stress and exacerbate PTSD symptoms.
10. Mr. Johnson has been diagnosed with bipolar disorder many times. People with bipolar disorder experience manic episodes, during which they are reckless and impulsive, have a lot of energy, have difficulty with self-control, and have difficulty managing their emotions and behavior. A manic state is very intense, and people experiencing such a state often end up hospitalized. If Mr. Johnson was experiencing a manic state at the time of the shooting, he may have had difficulty managing his emotions (such as fear) and his behavior (such as shooting Mr. Cato in response to the perceived threat).
11. The records indicate that Mr. Johnson may have some degree of cognitive impairment or deficits. For example, Mr. Johnson repeated kindergarten twice. When Mr. Johnson was in 11th grade, his reading, writing, and math skills were at 4th and 5th grade levels. According to one doctor, Mr. Johnson's insight was poor, his judgment was impaired, he was easily distracted, his memory was poor, and his general fund of knowledge was below average. Mr. Johnson was a special education student, and the records indicated that school personnel recommended he not take standardized tests because he did not have the skills to do so, even given numerous accommodations and modifications. Cognitive deficits may have impacted Mr. Johnson's perception of the events surrounding the alleged offense, his ability to interpret information communicated to him, and his capacity to process the available information in a rapid and accurate manner.
12. The records indicate that Mr. Johnson has been diagnosed with autism. This diagnosis is consistent with many of Mr. Johnson's characteristics and experiences, as described in the records. For example, records indicate Mr. Johnson has "an intense need to have things done in a certain manner" in addition to marked irritability and uncontrollable anger which have been interpreted by a physician as related to his autism spectrum disorder. Records also describe "social anxiety," "social isolation," and "awkwardness." He has a history of becoming aggressive when he believes his personal space is being invaded. Consequently, he has been diagnosed with autism by multiple clinicians.

13. Autism could help explain Mr. Johnson's shooting of Mr. Cato. People with autism often misinterpret the intentions of other people. It is difficult for many people with autism to understand the perspectives of others. Furthermore, receptive communication for many people with autism is almost entirely verbal. That means they are typically confused by nonverbal communication, even when people without autism would clearly understand the communication. In Mr. Johnson's case, the defense theory was that he felt threatened because Mr. Cato turned and went toward the trunk of his car. While a person without autism may not have assumed Mr. Cato was retrieving a gun or otherwise posing a threat, this is not necessarily the case for a person with autism. A person with autism likely would have a difficult time predicting or guessing what Mr. Cato's nonverbal behavior meant.
14. Often, because people with autism are poor at guessing what others are trying to do, they may have past experiences in which they were harmed by others because they could not predict what the other person intended or meant by their communication. For example, they may have been the last person to realize someone was making fun of them. As a result, some people with autism develop a paranoia, such that if they cannot guess another person's meaning, they assume the person is hurting them. They assume the worst because they cannot figure it out. That is, they are more likely to read threatening or malicious intent because of experiences in the past where they thought behavior toward them seemed neutral but they were wrong. This is a possibility in Mr. Johnson's case. He may have read threatening or malicious intent in Mr. Cato's behavior when someone without autism would not have, particularly given Mr. Johnson's past experiences of fearing for his life.
15. In addition, people with autism usually take statements very literally; they do not do well with metaphors, idioms, jokes, or sarcasm, but instead, they rely on the meaning of the actual words that were said. According to the discovery in Mr. Johnson's case, Mr. Cato said, "If you got them mother fucking guns, you better use them!" If Mr. Johnson has autism, he may have taken this literally, as an order. Even if most people would know this was not meant to be taken literally, a person with autism may not.
16. For people with autism, routine and structure are very important, and any deviation, however minor, can be very upsetting. In Mr. Johnson's case, Mr. Cato, Ms. Porter, and Ms. Farris showed up unannounced and unexpected, breaking into a car he believed was his cousin's. This was certainly not a part of Mr. Johnson's plan, pattern, or schedule. Such disruptions are distressing for people with autism in a way others do not understand. People with autism can see such disruptions as significant violations and find them very overwhelming and distressing. As a result, they often have "temper tantrums" or "meltdowns," involving anger, crying, and screaming. They sometimes hurt themselves and others, as Mr. Johnson did.
17. People with autism often develop very fixed, intense interests in specific things, in a way that is excessive. The records indicate that Mr. Johnson had an interest in cars. The

evidence showed that Mr. Johnson worked on the Mercedes with his cousin. If Mr. Johnson had an intense interest in cars, it would have been very upsetting to him when Mr. Cato and/or Ms. Porter broke into the Mercedes and began removing its rims. For Mr. Johnson, it could have been like his world came unglued for a moment because the car was so important to him, even though to most people, a car that did not run would be an eyesore or inconvenience. To a person with autism, the car may have had a very important meaning or significance that other people do not understand. This would have exacerbated any meltdown Mr. Johnson was currently experiencing.

18. People with autism also often have hypersensitivity to sensory experiences and can be distressed by too much sensory stimuli. This is a very overwhelming experience for a person with autism, which often results in the person becoming very upset and having a “tantrum” or “meltdown.” In Mr. Johnson’s case, there was a lot of noise and commotion leading to his shooting of Mr. Cato. People were shattering the Mercedes’ windows and arguing, all while the Mercedes’ alarm was sounding. The evidence showed Ms. Porter was being loud and aggressive, which could be very overwhelming, especially if she was advancing toward Mr. Johnson. People with autism have problems with invasions of personal space; they do not like to be touched, and if they feel like they are going to be, it can be very upsetting. Mr. Johnson’s school and medical records indicate this was the case for him. When personal space is violated, people with autism can lose control and become dysregulated.
19. Some of Mr. Johnson’s medical records note uncontrollable anger that is believed to be related to autism. Uncontrollable anger is common for people with autism. When their routines and/or personal space is violated, and/or if their senses are overloaded (e.g., too much noise), they may become uncontrollably angry. This could have happened in Mr. Johnson’s case.
20. Although it did not come out at trial, there was evidence that Mr. Cato said he was going to get a gun before Mr. Johnson shot him. If Mr. Cato did make this statement, that would have amplified Mr. Johnson’s fear and reactions.
21. Mr. Johnson’s shooting fourteen times could be caused by a meltdown. Usually, if a person without autism is doing something for a specific purpose, they stop after they have achieved their desired result. For example, if a person without autism wants another person to get away from them, they might push the other person one time and then be done, because they have achieved their desired result: the other person is now further away. However, when a person with autism is having a meltdown, the meltdown does not end even if they have achieved their desired result. Instead, a person with autism will keep going until they are done. For example, a person with autism may continue hitting someone or hitting their own head on the floor even when the problem has already stopped. It is very atypical for a

person with autism to volitionally end a meltdown. Therefore, Mr. Johnson may have been unable to stop shooting Mr. Cato once he began.

22. If Mr. Johnson's trial attorney had contacted me about his case, I would have testified consistent with my opinions above.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

5/21/2018 Little Rock, AR
(Date and place)

Benjamin Silber, Ph.D.
Benjamin Silber, Ph.D.

BENJAMIN J. SILBER, Ph.D.

Arkansas License Number: 15-20P

Phone: (501) 444-2688; Email: Benjamin.Silber@psychological-evaluations.com

CURRICULUM VITAE

Education History:

Pacific Union College

Degree: Bachelor of Science in Psychology

Bachelor's graduation: June 2008

Loma Linda University

Degree: Doctorate of Clinical Psychology, Ph.D. Program

Master's graduation: June 2010

Ph.D. graduation: June 2014

Concentration: Neuropsychology/Health Psychology

APA Accredited Ph.D. Program

APA Accredited Internship: Federal Bureau of Prisons – FCC Butner, NC

Arkansas State Hospital/University of Arkansas for Medical Sciences

Postdoctoral Fellowship in Forensic Psychology

Completion: August 2015

Clinical Experience:

Forensic Psychologist for Expert Psychological Evaluations, Little Rock, AR, April 2016 – Present.

Description: Private forensic psychology practice providing assessment and consultation services for a range of legal referral questions. Evaluations are performed in jails, prisons, a private office, hospitals, or treatment facilities as needed.

Duties: Conducted forensically-relevant evaluations including competence to stand trial (fitness to proceed), culpable mental state (diminished capacity), malingering, violence risk, competence restorability, mental state at the time of the offense (criminal responsibility), disability eligibility, parental capacity, psychological/mental injury, capacity to waive Miranda rights, and fitness for duty. Consultation and expert testimony was provided.

Forensic Psychologist/UAMS Assistant Clinical Professor of Psychiatry for Arkansas State Hospital, Little Rock, AR, Sept 2015 – Present.

Description: State forensic psychiatric hospital housing patients who have allegedly committed a crime and are court ordered to receive evaluations intended to answer legal questions and/or receive treatment for mental illness.

Duties: Conducted forensically-relevant evaluations including competence to stand trial, culpable mental state, malingering, violence risk, competence restorability, and mental state at the time of the offense. Expert testimony in Arkansas state court was provided. Participated in semiweekly forensic seminars (advanced forensic seminar, landmark case seminar, and case conference seminar).

Post-Doctoral Fellow for Arkansas State Hospital, Little Rock, AR, Sept 2014 to Aug 2015.

Description: State forensic psychiatric hospital housing patients who have allegedly committed a crime and are court ordered to receive evaluations intended to answer legal questions and/or receive treatment for mental illness.

Duties: Conducted forensically-relevant evaluations including competence to stand trial, culpable mental state, malingering, violence risk, competence restorability, and mental state at the time of the offense. Expert testimony in Arkansas state court was provided. Participated in semiweekly forensic seminars.

Intern at Federal Correctional Complex - Butner, NC (APA Accredited), Aug 2013 to Aug 2014.

Description: A prison complex which houses inmates in five unique correctional institutions (as well as pre-trial, NGRI, and civilly committed individuals in specialized units or programs). The population consists of adult males of all security levels with a highly diverse range of backgrounds from across the country, often the world.

Duties: Conducted a variety of clinical (psychodiagnostic), forensic (dangerousness/violence risk, malingering, criminal responsibility, involuntary treatment, and competence to stand trial), educational (learning disabilities, ADHD, and cognitive disorders), and medically-relevant (interferon treatment and organ transplant) evaluations. Expert testimony was provided in federal court. Duties also included group and individual therapy sessions with patients, crisis management, program development, and consultation services. Participated in weekly general psychology and forensic seminars as well as general psychology and forensic group supervision.

Clerk for Patton State Hospital, Highlands, CA, Sept 2012 to Aug 2013.

Description: Patton State Hospital is a 1,200 bed maximum-security forensic psychiatric hospital housing judicially committed patients under various commitment types.

Duties: Administered a variety of clinical, forensic (competence to stand trial), malingering, and neuropsychological test batteries. Batteries provided diagnoses and recommendations to an interdisciplinary treatment team. Duties also included weekly group therapy and cognitive rehabilitation sessions with patients. Training included weekly training seminars and group supervision on topics regarding forensic and clinical psychology.

Pre-intern Supervisor for Loma Linda University, Behavioral Health Institute, Redlands, CA, July 2012 to July 2013.

Description: Internal clinic for the Department of Psychology at Loma Linda University.

Duties: Responsible for the supervision of two first year practicum students. Supervision included both individual and group supervision. Instruction on theory, diversity, psychodiagnostic decisions, empirically driven techniques, professionalism, and ethics were provided.

Practicum Extern II for Loma Linda University, Behavioral Medicine Center, Redlands, CA, Sept 2011 to Aug 2012.

Description: Private psychiatric hospital with inpatient and partial hospitalization population ranging in age from adolescence to late adulthood. Patients experienced moderate to severe mental illness with a broad range of psychiatric presentations. Clients were often involuntarily hospitalized.

Duties: Responsible for treating and assessing patients. Treatment included psychoeducation, coping skills, CBT, mindfulness, and process groups as well as individual therapy. Assessments were largely psychodiagnostic in nature with some cognitive and malingering evaluations.

Intermediate Trainee for Gestalt Associates Training Los Angeles (GATLA), Santa Monica, CA, October 2011 to June 2013.

Description: Additional therapy training at the gestalt psychotherapy training center.

Training: Intermediate didactic seminars on gestalt theory, observation and in-depth discussion of live therapy demonstrations (demonstrated by students and expert therapists), experience as a client, and practice as a therapist with live supervision and active feedback during and after sessions.

Intake Associate for Loma Linda University, Behavioral Health Institute, Redlands, CA, July 2011 to June 2012.

Description: The internal clinic for the Departments of Psychology, Psychiatry, Social Work, and Counseling and Family Sciences at Loma Linda University.

Duties: Responsible for conducting brief intakes with new or returning patients, assigning patients to clinicians in the various training programs located at the Behavioral Health Institute, and answering questions regarding diagnosis, therapy, assessment, and medication management services.

Psychological Trainee for Loma Linda University, Behavioral Health Institute, Redlands, CA, July 2010 to June 2011.

Description: Internal clinic for the Department of Psychology at Loma Linda University servicing a broad and diverse outpatient population.

Duties: Responsible for treating and assessing patients with issues spanning across mood, learning, psychotic, anxiety, personality, adjustment and disorders as well as relationship issues. Treatment was primarily individual with some couples therapy provided. Participated as a member of a neuropsychological assessment team and completed assessment batteries for learning, neurological, and personality disorders.

Publications

Miranda, P., McCluskey, M., **Silber, B.**, von Pohle, C., & Bainum, C. (2009). Effect of Adult Disapproval of Cartoon Violence on Children's Aggressive Play. *Psi Chi Journal of Undergraduate Research*, 14 (2).

Poster/Conference Presentations

Silber, B. (2016). Mental health considerations in capital murder cases. *Arkansas Trial Lawyers Association CLE Workshop, Little Rock, Arkansas.*

Silber, B. & Burris, B. (2016). The community mental health act. *Inns of Court Presentation, Little Rock, Arkansas.*

Silber, B. (2016). The science of morality. *Psychology Presentation, Arkansas State Hospital, Little Rock, Arkansas.*

Silber, B. (2016). The phenomenology of hallucinations. *Psychopharmacology Conference, Arkansas State Hospital, Little Rock, Arkansas.*

Silber, B., Morton, K., & Kothari, P. (2014). The impact of physical activity on depressed mood in middle aged & older Seventh-day Adventists. *Poster Presentation at the 2014 Annual Postgraduate Convention, Loma Linda, California.*

Gill, S., Smith, A., **Silber, B.,** James, S., & Freeman, K. (2013). The relationship between parent-child attachment and distress among adolescents who self-injure. *Poster Presentation at the 2013 American Psychological Association, Honolulu, Hawaii.*

Lavian, M., Mayo, D., **Silber, B.,** Sigrid, J., & Freeman, K. (2013). Factors influencing NSSI behaviors in adolescents. *Poster Presentation at the 2013 American Psychological Association, Honolulu, Hawaii.*

Silber, B., Morton, K., & Fraser, G. (2013). Convergent validity of self-reported physical activity. *Poster Presentation at the 2013 Western Psychological Association, Reno, Nevada.*

Silber, B. (2010). Adventist Health Studies Seminar Series lecture: Convergent validity of self-reported physical activity with a seven day recall. *Adventist Health Studies Seminar Series, Loma Linda, California.*

Dulcich, M., **Silber, B.,** & Hartman, R. (2010). Are grapes neuroprotective in a mouse model of stroke and Alzheimer's disease? *Poster Presentation at the 2010 Las Vegas Neuroscience Symposium, Las Vegas, Nevada.*

Miranda, P., McCluskey, M., **Silber, B.,** & Bainum, C. (2007). Effect of adult disapproval of cartoon violence on children's aggressive play. *Poster Presentation at the 2007 Western Psychological Association Conference, Vancouver, British Columbia, Canada.*

Von Pohle, C., Beck, S., **Silber, B.,** Tutu, & G., Bainum, B. (2006). Conformity and self-awareness. *Poster Presentation at the 2006 Western Psychological Association Conference, Palm Springs, California.*

Teaching Experience and Lectures

Evidence-based Psychological Practice I, Teaching Assistant and Lab Instructor, Loma Linda University, Summer 2012.

Objective Personality Assessment, Teaching Assistant and Lab Instructor, Loma Linda University, Summer 2011 and Summer 2012.

Human Phenomenology (Gestalt), Teaching Assistant and Lab Instructor, Loma Linda University, California, Winter 2011.

Additional Training Experience

- I. Audited a Psychiatry and the Law course at the University of Arkansas, School of Law (January – April 2015).
- II. DBHS Certified Forensic Examiner: 2015 – Present.
- III. Forensic Psychology Workshops Attended:
 1. Forensic Report Writing, San Antonio, TX (September 2014). Presenter: Deborah Collins, Psy.D., ABPP.

2. Critical Thinking in Forensic Psychological Evaluation, San Antonio, TX (September 2014). Presenter: Terry Kukor, Ph.D., ABPP.
3. Effective and Ethical Expert Testimony, San Antonio, TX (September 2014). Presenter: Joel Dvoskin, Ph.D., ABPP.
4. Insanity Defense Evaluations, San Antonio, TX (September 2014). Presenter: Philip J. Resnick, M.D.
5. Ethical Issues in Forensic Practice, San Antonio, TX (September 2014). Presenter: Alan Goldstein, Ph.D., ABPP.
6. Evidence-Based Evaluations of Criminal Responsibility, Cincinnati, OH (September 2015). Presenter: Terry Kukor, Ph.D., ABPP.
7. Evaluation of Competence to Stand Trial, Cincinnati, OH (September 2015). Presenter: Candyce Shields, Ph.D., ABPP.
8. Special Topics in Competency and Criminal Responsibility Evaluations, Cincinnati, OH (September 2015). Presenters: Candyce Shields, Ph.D., ABPP. and Terry Kukor, Ph.D., ABPP.
9. Forensic Assessment of Malingering and Feigned Mental Disorders: Theory and Practice, Cincinnati, OH (September 2015). Presenter: Richard Rogers, Ph.D., ABPP.
10. Forensic Report Writing, Cincinnati, OH (September 2015). Presenter: Richard L. DeMier, Ph.D., ABPP.
11. Controversies in Forensic Mental Health Assessment, Atlanta, GA (October 2016). Presenters: Terry Kukor, Ph.D., ABPP, and Richard L. Demier, Ph.D., ABPP.
12. Threat Assessment and Management, Atlanta, GA (October 2016). Presenter: Kostas A. Katsavdakakis, Ph.D., ABPP.
13. Assessing and Managing Violence Risk, Las Vegas, NV (November 2017). Presenter: Mary Alice Conroy, Ph.D., ABPP.
14. Ethical Issues in Forensic Psychology Practice, Las Vegas, NV (November 2017). Presenter: Randy K. Otto, Ph.D., ABPP.
15. Evaluating the Validity of Miranda Waivers and the Trustworthiness of Confessions, Las Vegas, NV (November 2017). Presenter: Alan Goldstein, Ph.D., ABPP.
16. Improving Testimony in Depositions and Trials, Las Vegas, NV (November 2017). Presenter: Phillip J. Resnick, M.D.
17. Comprehensive Assessment of Malingering, Las Vegas, NV (November 2017). Presenter: Richard L. DeMier, Ph.D., ABPP.

