

on this claim, at which he will establish that he is entitled to Rule 3.850 relief. See also Claim X infra.

CLAIM V

TRIAL COUNSEL'S FAILURE TO INVESTIGATE AND PRESENT A WEALTH OF COMPELLING MITIGATING EVIDENCE THAT WAS READILY DISCOVERABLE AND TO PROVIDE HIS MENTAL HEALTH EXPERT WITH ANY RECORDS OR BACKGROUND INFORMATION ON MR. LAMBRIX DEPRIVED MR. LAMBRIX OF HIS CONSTITUTIONAL RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL IN THE PENALTY PHASE OF HIS CAPITAL TRIAL, IN VIOLATION OF HIS RIGHTS UNDER THE SIXTH, EIGHTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION, AND ARTICLE I, SECTIONS 16 AND 17 OF THE FLORIDA CONSTITUTION.

This claim is evidenced by the following facts:

1. All other allegations and factual materials contained in this motion and the appendices are fully incorporated herein by specific reference.

Introduction

2. In Strickland v. Washington, 466 U.S. 668 (1984), the United States Supreme Court held that counsel has "a duty to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process." Id. at 688. The courts have repeatedly held that "[a]n attorney does not provide effective assistance if he fails to investigate sources of evidence which may be helpful to the defense." Davis v. Alabama, 596 F.2d 1214, 1217 (5th Cir. 1979), vacated as moot, 446 U.S. 903 (1980); see also Goodwin v. Balkcom, 684 F.2d 794, 805 (11th Cir. 1982), cert. denied, 460 U.S. 1098 (1983) ("at the heart of effective representation is the independent duty to investigate and prepare").

3. One of counsel's primary duties to his client is to prepare himself adequately for trial. Magill v. Dugger, 824 F.2d 879, 886 (11th Cir. 1987). As stated in Strickland, an attorney has a duty to undertake reasonable investigation or "to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. Counsel's failure to perform reasonably constitutes ineffective assistance of counsel. Id.

4. To prove prejudice resulting from counsel's ineffectiveness, the defendant must show that there is a reasonable probability that, but for counsel's errors, the result of the proceedings would have been different. Id. at 694. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the proceedings. Id. There can be no doubt that trial counsel's representation at penalty phase fell below the range of competence expected under the Constitution and that if counsel had performed competently in preparing for the penalty phase, Cary Michael Lambrix would not now be sitting on death row. Mr. Lambrix pleads, and at an evidentiary hearing will prove, both deficient performance and prejudice. Strickland v. Washington, 466 U.S. 668 (1984).

5. That an evidentiary hearing must now be held on this claim is obvious. These allegations, including that counsel undertook a wholly inadequate penalty phase investigation, are of a type that have consistently warranted relief. Deaton v. Dugger, 635 So. 2d 4 (Fla. 1993); Heiney v. State, 620 So. 2d 171 (Fla. 1993); Stevens v. State, 552 So. 2d 1082 (Fla. 1992). Blanco v. Singletary, 943 F.2d 1477 (11th Cir. 1991); Harris v. Dugger, 874 F.2d 756 (11th Cir.

1989); Armstrong v. Dugger, 833 F.2d 1430, 1433-4 (11th Cir. 1987); Thomas v. Kemp, 796 F.2d 1322, 1324 (11th Cir. 1986); Blake v. Kemp, 758 F.2d 523, 534 (11th Cir. 1985).

Had counsel performed competently in the penalty phase, the judge and jury would have learned the following compelling mitigating facts about Cary Michael Lambrix. But for counsel's incompetence, Mr. Lambrix would not have been sentenced to death.

Life History of Cary Michael Lambrix

The life history of Cary Michael Lambrix is not a pretty one; it is, rather, profoundly and fundamentally disturbing because of the premeditated cruelty done to him and the total failure of any person or entity to care for him or to act in his best interest.

It is hard to imagine a more precarious beginning than the one forced upon Cary Lambrix. Cary was conceived during a rape, and the fact that his mother was married to the rapist hardly diminishes the horror of his father's crimes. Cary's biological mother, Lorita, explains the circumstances in the Lambrix home around the time of Cary's conception:

I am Cary Michael Lambrix's mother. Cary is one of seven children I had with Donald Lambrix: three daughters, Debra, Mary and Jenny, and four sons, Donald Jr., Cary, Charles and Jeffrey. All of our children were born within a year of each other. Having seven children in seven years was an incredible strain on me and it was very difficult for me to meet their needs.

In the second week of our marriage, I was shocked when my husband got angry and hit me. As time went on, his abuse got worse and worse. He would beat me constantly and accuse me of being unfaithful.

My husband was an alcoholic, as were his father, his sister and his brother. His drinking got worse as time went by. He began drinking a half gallon of Pisano or Thunderbird wine every day.

After the birth of our first child, Debra, my husband began to use threats of violence toward the baby if I did not do what he wanted. These threats intensified with each child.

In 1957 I contracted polio. The polio left me paralyzed on my right side from my waist down. I had to lay in bed on a specially designed board for 9 months. My leg was strapped to this board to keep it from drawing up. My husband would come to my bed and have sex with me. I know that my oldest daughter Debbie heard me yell for Donald to leave me alone. The pain that I went through when he was on top of me was tremendous. Today this would be considered rape, but back then I was young and did not think that I could do anything. My doctor told me that I should not have any more children. Even knowing this, my husband would come to my bed, where I was unable to escape from him, and would forcibly have sex with me, which inevitably resulted in more pregnancies.

During my pregnancy with Cary, Donald constantly assaulted me. On many occasions I would walk past Donald, usually with one of the other children in my arms, and he would stick his foot out and trip me. I would fall to the floor trying to hold on to the baby in my arms and at the same time trying not to fall on my stomach. There were times I was unable to keep from falling on my stomach. Donald, who was always drunk, would laugh his hideous drunk laugh and call me a clumsy cow.

When I was pregnant with Cary, I was so anemic due to not eating properly. I was unable to eat because of the ever present threat of violence from Donald. My nerves were in such shambles that I would get physically ill at the sight of food. The doctor told me that this pregnancy would be dangerous for me and for the baby, not only because of the anemia but because of the damage the polio did to my organs. He told me that my organs did not recuperate like someone

who had not had polio. Coupled with the anemia, it left him in great doubt as to my ability to have Cary and his safety.

When it was time to deliver Cary, the doctor had me on an intravenous drip. The doctor had warned me not to have any more children because it was a severe strain on my body, but I continued with the pregnancies because I had no choice. My husband would not allow me to go to the doctor until I was at least six months pregnant, so I really got no medical attention until late in my pregnancies.

Affidavit of Lorita Yeafoli, Appendix 10.

By March of 1960, the month and year of Cary's birth, Lorita had already endured over two years of repeated spousal rape, immobility, and the pain and other disabilities caused by her early polio. Lorita's family tried to intercede, but her fear was so absolute that she couldn't pursue any self-protective course of action. She also couldn't protect her children, and no one else did either. Everyone in the Lambrix residence was at risk, but none was quite as vulnerable to Donald's brutality as was Cary. Despite Lorita's physical condition, confinement, physician's orders to avoid further pregnancies due to their dangerousness, and Donald's own repeated raping of her, he believed that Cary was the product of some sort of extramarital relationship and was not his son:

During those years [Cary's early childhood] we saw incredible abuse of Lorita and her children, especially Cary. Donald was a violent alcoholic who battered Lorita and Cary senselessly. Lorita had polio and every day was filled with pain from that horrible disease. On top of that, she was abused constantly by Donald. She couldn't run or hide or protect herself in any way. Neither could little Cary. They were easy prey, and the torment they suffered is still hard for me to believe.

When we would visit with my sister [Lorita], she would show us the bruises on her and Cary. Every time we saw Cary he always had bruises somewhere on his body. It broke my heart to see that sweet little boy tortured like that.

Donald always told Cary that he was not his son and that he was a bastard. He hated Cary so much that when my husband and I would buy Cary presents for his birthdays or Christmas, Donald would take the presents away and give them to the other children.

Affidavit of Virginia Brown, Appendix 11.

Lorita's husband, Donald, was an alcoholic and extremely violent. I saw so much pain caused by him that I tried to avoid going over there. I was always afraid that he might turn his violence towards me because his attacks on people happened for no reason and with no warning.

Lorita contracted polio a couple of years after she had married Donald. Donald never cared about the pain she went through from the polio. He seemed to blame her for getting the disease and constantly told her she was worthless. She would call our house in tears and tell me the awful things he would say to her. I was so outraged that I wished he would leave and never return. Donald, knowing that Lorita was paralyzed on her right side and tied to a board for stabilization, would go to her when she was confined to bed and have sex with her. I know that Donald knew that her doctor told her not to have any more children, and I was there when my father told Donald that the family doctor told Lorita that further pregnancies could cause her great harm. Donald said something like, 'that is the only thing she is good for.'

Donald was a mean and cruel person to Lorita and to Cary. He hated Cary and said as much many times in front of me and Cary. He had this unreal belief that Cary was not his child, and he made it clear to everyone that he did not want Cary around.

The whole time we were there I never knew Cary's father to do anything but verbally and physically abuse him. I can't ever remember a time in the five years we were there that I did not see Cary covered in bruises.

Affidavit of Ella Umland, Appendix 12.

For Cary, fatherly attention meant daily doses of rejection, hatred and abuse, much of which is remembered by family members. Among the "mundane" violence done to Cary during his early years, several life-threatening incidents are recalled with specificity and horror. The first was when Donald slammed the two month old Cary into the side of the crib; the second when Donald kicked Cary, age two, through a plate glass window, and; the third when Donald threw Cary into the pointed intersection of two hallway walls. Like a hit and run driver, Donald would brutalize and injure Cary and then disappear. This was especially cruel when the injuries he inflicted required professional medical attention, as Donald disabled Lorita's car before going to work each day, leaving Cary traumatized and bleeding and Lorita frantic.

The first act of serious violence Donald did to Cary after he was born happened when Cary was a young infant. Cary was in his crib crying. Donald yelled at him to stop but Cary continued to cry. I started into the bedroom to quiet Cary. Donald beat me into the room, grabbed Cary from the bed and slammed hm into the side of the crib. Cary just laid there trying to breathe. My sister, Ella, was at the house and she too saw what Donald had done. Even though I knew from painful experience what Donald was capable of and how much he hated Cary, I could not believe this attack was happening. Cary was a tiny baby and completely helpless. This was one of the cruelest and most upsetting things I ever witnessed.

Appendix 10.

When Cary was about two months old he was in his crib crying. Donald went into the bedroom where Cary was, picked him up out of the crib, and then slammed him into the side of the crib. Cary had the wind knocked out of him and was lying in the crib motionless, just gasping for air. I thought the poor thing might die; he was thrown so hard that the force should have killed him. Cary's father had enormous strength. To see a helpless baby brutalized like this was incomprehensible and devastating to me. I always wondered after that horrible incident whether it damaged Cary permanently.

Appendix 12.

Donald's assaults on Cary are too numerous to recall, but a few incidents stand out in my mind. I wish I could forget them, but I never will be able to. When Cary was two years old he was riding his bike in the basement of their home. Donald came home drunk, as usual. He got annoyed with Cary riding his bike and ordered him to stop. Cary tried to stop quickly, but evidently he did not stop riding his bike fast enough for Donald. Cary was just a baby, and he was trying the best he could. Donald was in a rage; he knocked Cary off the bike and sent him flying through the glass door. Cary was severely cut and had to be taken to the hospital for emergency surgery.

Appendix 11.

One day when Cary was two years old, Lorita called me at home. She said that Donald came home and had, for no apparent reason, got annoyed with Cary for riding his tricycle. Donald kicked the baby right off the tricycle and through a plate glass window. Lorita called me in a panic and said that she needed me to help her take Cary to the hospital. When I arrived at their home Lorita had towels on Cary trying to stop the bleeding. Cary was crying and was so scared and I wanted to be able to take the pain away like any loving person who witnessed someone in such great pain.

When we arrived at the hospital, Cary was taken right into the emergency room. There was a cut

just above his eye, which, the doctor said, could have blinded him if it had been a quarter of an inch lower.

Appendix 12.

When Cary was two years old he was down in the playroom riding his tricycle. Donald had come in from drinking and had entered the house through the playroom. I heard the sound of breaking glass and went to see what had happened. When I got to the room I found Cary outside of the house laying in glass and bleeding. One of the other children that was down there with Cary said that Donald had kicked him off the tricycle and through the plate glass window. Cary had a deep cut close to his eye which was bleeding a lot. Cary was sitting outside the door crying hysterically. When I got to Cary, he held his arms out to me, and had this stunned look on his face. I called my sister to come over to take me and Cary to the hospital. I was unable to drive our car because Donald would disable the car when he left for work. He would take the battery out or do something to the engine so I couldn't drive it. My sister Ella took us to the hospital emergency room. The doctor said that he was worried about Cary's eye. He said that if he could remove the glass without causing any more damage that Cary's eye would be alright. After the removal of the glass, he felt the eye would be okay. The doctor said that the glass came within a quarter of an inch from poking Cary's eye out.

One day I was in the kitchen cooking and I heard the children screaming and yelling. I came into the living room and found Cary lying on the floor in a pool of blood. My husband was sitting on the couch with his back turned to Cary. The children told me he had picked Cary up by the arm and thrown him into the corner of the hallway wall. Cary was motionless on the floor, and I thought he was dead. Because of my polio, it seemed like it took forever to get to Cary and kneel down beside him. He just lay there. He had a cut on his head that started from the hair line and went to the brow line. The cut was so deep that I could see his skull. My daughter Debra ran and got a towel to put on his head. My husband did not move from the couch. My daughter helped me to my feet while

I was holding Cary. His body was limp, and Cary made no sound.

Appendix 10.

There was another time when Donald threw Cary into a wall causing a deep cut to his head. Cary was again taken to the hospital emergency room. The doctor said that it was a miracle that Cary wasn't killed. From that point on Cary seemed different. He became very quiet and withdrawn and tried to keep away from everyone. It was like he was shell shocked; he had taken all the pain he could, but the pain didn't stop.

Appendix 11.

It is not surprising that Cary soon began acting strangely, as one would expect of a young child who was so severely abused. He avoided contact with others and tried to be "invisible" so that he might avoid being pummelled and could ignore his father screaming "bastard" and "son of a bitch" at him. He had frequent and terrifying nightmares, spent his time staring at nothing and rocking back and forth, and was slow to reach developmental milestones. Cary did not speak until he was three years old; soon thereafter he developed a prominent stutter, which served to ostracize Cary even further. It was soon apparent to Cary's siblings that any concern or compassion shown him lead to them being marked for retaliatory violence from Donald, who loudly and repeatedly threatened to kill Cary. Cary's mother was his only possible source of comfort, and there was an obvious bond between them. Even when the battered child reacted with detachment to his own pain, Lorita's suffering affected him deeply:

Even when Cary was very young, he was the target of dad's abuse. When he was angry, he would kick or hit little Cary; if he wasn't close enough to reach him, he'd scream things like 'you son of a bitch' and 'you bastar' at him.

Dad was always talking about how Cary wasn't his child, which didn't make much sense to me. Cary reacted as you'd expect an abused baby to act--totally traumatized. He became so withdrawn that he spent most of his time staring at nothing, rocking, just trying to stay out of everyone's way. He stuttered badly, which was another source of pain for him. I wanted so much to protect him, and, being the oldest, I felt kind of responsible for him. I used to try hard to get Cary out of dad's way, and sometimes I'd be horribly beaten for protecting him. Sometimes dad would tell me I was worthless like Lorita while he was beating me. The other children mainly shunned Cary and pushed him aside; nobody wanted more of dad's beatings than they had to endure.

Affidavit of Debra Lambrix, Appendix 13.

As a baby, Cary was slow in developing. he did not do the things other children did at his age. He was always at least six months behind other children his age. When Cary was around three years old he began to speak. His speech was very slow and he had alot of trouble forming words. I remember sitting down next to Cary waiting for him to get the words out. He would speak one word and then struggle to get the next word out. It seemed like it took forever for him to tell me what he wanted. Cary had other problems during the years I was with him. He had nightmares and would wake up in the middle of the night screaming and yelling. I never knew what these nightmares were about because of his trouble speaking. I would just hold him in my arms and sing to him until he fell back asleep. Other times he would calm down in a few minutes and then get up on his hands and knees and rock himself to sleep. Cary seemed to rock often when he was young. When eating, Cary would wrap his arm around his plate, and then put his face right down in his plate and shovel the food into his mouth. It was like he was afraid of Donald coming in and taking his food away. he had seen his father pick up the food off the table when he was mad and throw it on the floor..... Cary played by himself and never had any friends. When Cary played he never laughed or seemed to enjoy what he was doing. It was like he was just doing something to pass the time. When his brothers or sisters would

come into the room, Cary would stop playing and leave.

It is hard to convey the feelings of hopelessness and despair I felt for Cary. He was such a loving child. I would be in my bed in pain and Cary would come to me and lay his head on my stomach and say, over and over again, 'mommy hurting' and then he would cry. I would rub his head and he would stay there until someone came into my room. As soon as anyone else entered, he would jump up and leave.

Appendix 10.

When Cary was four years old, his world changed dramatically, and not for the better. In the mid-1960s, Lorita filed for divorce on the grounds of extreme cruelty, and an order dissolving their marriage for that reason was entered two years later. In the interim, the children remained with Lorita, who had sought and obtained a temporary restraining order against Donald (see Divorce Records, Appendix 14.)

In 1965 I finally got up the courage to divorce my husband, and he moved out of the house. All of the children stayed with me. During the separation he would come to the house and attempt to force me to have sex. On one occasion when Cary was four or five, Donald came to the house and kicked in the door. He was drunk as usual and wanted to have sex. Cary and his brother, Donald Jr., listened as their father screamed at me. I told them to go to their bedroom. Donald and I were standing close to the kitchen. Donald picked up a large butcher knife from the kitchen and threw it into the bedroom just missing Cary's head. I then got a temporary restraining order to keep Donald from having contact with the children and myself. The final judgment of the divorce was for extreme cruelty by Donald.

Appendix 10.

Times were rough for Lorita and her seven children. Still suffering from disabling polio, Lorita tried to earn and living and take care of the family, but Donald made things impossible for her:

I got a job in Colorado and the kids and I were gone for a short time. I returned to California after I lost my job due to my husband calling and telling lies to my boss.

When I returned to California, Donald came to where we were living. He was angry and wanted the children back. When I refused, he picked me up and threw me up against a wall. My husband was very strong and had well developed muscles. He threw me so hard my spine was damaged in two places. I stayed in the hospital for five months in traction.

Appendix 10.

During Lorita's five-month hospital stay, the children were divided up and sent to live with various maternal relatives. After Lorita's release, she experienced so much harassment from Donald that she was near total mental and physical collapse. Although she recouped most of the children, she lacked the strength or ability to raise them. At this low point in Lorita's life, Donald went to court and was able to gain custody of them. After obtaining physical control of the children, he began a campaign designed to ensure that they lost their mother for good:

My earliest memories all revolve around one thing; dad's cruelty and abuse. Although most of my brothers and sisters were too young to remember our real mother, Lorita, and how dad tortured her, I have some pictures that I can't get out of my mind. I remember dad coming home from work drunk, which he did all the time. Lorita was so terrified of him that she would lock the door to keep him out. Nothing stopped him though; he'd kick the door in and attack her--beating on her and throwing her around. It was like out of a nightmare. Lorita had to

call the police on more than one occasion. They ultimately separated, and then dad started telling us kids all kinds of lies about Lorita. He told me she was dead. It was a pretty shocking thing when she would try to see us; she'd come to school sometimes, or bring us presents. Dad would take the presents away, and, once when Lorita brought a pet for us, dad killed it. One of my last memories of Lorita from this early time was when she brought presents to the house and dad drove straight into her in his car.

Appendix 13.

Donald went to court and was able to get the children back. Donald told them that he would kill them if they spoke to me. I ended up losing contact with my children over the years because of how he scared them and because Donald moved so often. I always feared for their safety and well-being, especially Cary's. I was sick with fear that Donald would harm or even kill him.

Appendix 10.

A condition imposed on Donald when he obtained custody was that he hire a full-time housekeeper, which he did. His choice of domestic help, a non-english speaking woman named Consuela, could not have been more detrimental to the Lambrix children's physical and emotional well-being. Although Consuela initially hid her natural propensity for violence and cruelty, she showed her true colors just after Donald made her his wife. Consuela's elevation to stepmother status proved to be terribly destructive for all but Donald's favorite son and namesake, and was especially devastating for Cary:

Cary and I are just one year apart in age. When we were small, our real mother essentially vanished from our lives. For a brief period of time we saw her only occasionally, and then there would be terrible fights between her and our father. He ultimately refused to allow her to see us, and if she managed to see us somehow,

dad would beat us senseless. We were also beaten if we talked about her at all. Dad told all kinds of lies about her, which confused and hurt us very badly, He said she abandoned us, didn't love us, abused us, didn't want to see us. He and our stepmother, Consuela, told us Lorita was a whore. I know from my recent contact with her that none of this was true.

Consuela worked as our housekeeper before dad married her. She was decent to us until after the wedding; afterwards she turned into the most evil person I've ever known. She was a great match for dad, who was an incredibly violent alcoholic.

With the exception of our oldest brother, Donald Jr., all of us were badly beaten often. Cary, however, was beaten every single day. What made it really hard to take was that Cary just wasn't a fighter; in addition to dad and Consuela's beatings, Donnie and Jeff [brothers] beat Cary constantly. Even I was a better fighter than he was, and I'm ashamed to say that, even though I loved him and felt pity for him, I beat him some myself.

The kind of abuse Cary went through was senseless and extremely cruel. Consuela would beat him when he hurt himself, which is still hard for me to figure out. I remember one time when he fell out of a tree onto his head, cutting a big gash on his tongue. She picked him up by his ears--her favorite way of preparing to beat someone--and just pounded on him. Another time Cary put the top of a can in his mouth because he wanted to get every bit of the food he could; when he cut his cheeks on the top, Consuela beat him. But the time that was probably the sickest was when Cary got bitten by a snake while we were playing. I ran home for help, and dad finally got called at work. He did take Cary to the hospital for treatment, but dad was yelling and carrying on about having to leave work. Consuela refused to believe that Cary had been bitten, and she whipped him something awful. Cary was just a boy, hurt and scared by the bite. It was criminal what they put him through.

Affidavit of Mary Lambrich, Appendix 15.

In addition to constant beatings separate and apart from any theory of discipline or punishment, Cary and many of his siblings suffered other forms of abuse. Cary was berated for his mental limitations, and Consuela referred to him as "stupid" rather than by his given name. Cary was forced to work instead of attending school, even when he was quite young. He worked in the groves, picking fruit, and was required to give Consuela whatever money he was able to earn. Housework was also demanded of the children; not the normal kinds of chores most families share, but frequent and excessive labor, which was to be performed at all hours and to the satisfaction of cruel and unstable parents. Food was withheld from the children, and the refrigerator was kept padlocked; Cary and his siblings were often hungry, despite the presence of food in their home. Donald had his own food stash, which he denied the children but shared with his dog. As bad as things were for Cary and his siblings early in Donald and Consuela's marriage, once Consuela produced children of her own, the situation devolved even further.

Cary was a sweet child, not a troublemaker or a fighter. He was slow and did poorly in school which didn't help endear him to dad and Consuela. All he ever really wanted to do was please our dad and Consuela, but there just wasn't anything he could do to satisfy them. Consuela called him 'Burro,' which means stupid. She told me I was stupid too, and she treated our half brother and sisters--Elena, Ricky and Christina--like they were royalty. They had no chores to do, but Cary, I and the other stepchildren had to scrub the entire house--ceiling to floor--whenever she wanted. We did so much cleaning and work around the house that didn't make sense; it was just one of the ways we were mistreated. We were also forced to work outside the home, even when we were very young, and to turn over every penny to Consuela. I

worked as a maid and babysitter, and Cary and I picked oranges in the groves to meet Consuela's demand for money. Cary missed a lot of school because of the requirement that he bring in as much money as possible.

Even though we worked hard as children, we were not given enough to eat. Consuela kept the refrigerator padlocked, and all we were given during the day was cereal with powdered milk and a peanut butter and jelly sandwich. We were given one plate of food for dinner and nothing more. I remember being hungry as a child, and I know that Cary was too. What made the hunger so hard to take was that Ricky, Elena and Christina got to eat whatever they wanted.

As I said before, Cary was beaten daily for something or other. He was beaten for accepting a cookie from a neighbor, for running away with me, for things others of us had done. One of the things that the rest of us did that Cary would get beaten for was when we'd take dad's candy--he bought big bags of Brachs, but only he and the dog were allowed to touch it. No matter who had taken it, Cary was the one to get accused and attacked. Dad would just beat on him and beat on him; if Cary would move at all, he'd get whipped even harder. Dad couldn't stand to have any child move while he was 'punishing' them.

Dad's beatings were extreme and painful, and he was unpredictable. Consuela's beatings and abuse weren't any easier: I remember once when I was about ten and Consuela threw me all around the room, my arm going through a window and requiring a trip to the hospital, just because she thought I didn't take the clothes out of the dryer fast enough. She caused tremendous physical and emotional damage--hitting us with anything handy, jerking us around by our ears, beating on us like we were grown and could take it, and constantly shouting about how stupid and worthless we were.

Things got even more tense in the house when Consuela had her first baby. With all of her

three, we were given total responsibility and expected to take care of their every need, even when they were just born. We would be beaten if the babies burped too soon, or if they didn't burp at all. It was unbelievable. Cary and I were under ten years old and expected to perform as trained nursemaids, and we tried our best...

Ricky, Elena and Christina were never punished, even when they did something really wrong. If dad tried to beat them, Consuela would put a quick stop to that by threatening him. When we got a good grade, Consuela said we must have forged it; when Ricky, Elena or Christina did poorly in school, Consuela said that it wasn't their fault that the teachers obviously didn't like them.

Appendix 15.

Right after the wedding, Consuela showed her true colors. She stopped doing any work around the house, and the children became fulltime servants. We weren't allowed to have friends, and we spent every spare minute performing daily chores which dad kept track of on his chart. Dad had been a sergeant in the army, and it seems like he never got over the military way of doing things. Every day our work would be inspected. If there was one corner of a bed not tucked in well enough, the mattress would get turned over and thrown to the ground. If one drawer wasn't neat enough, they'd all be pulled out and thrown around the room. This was just a fact of life for us.

Another daily event was Cary getting abused. Consuela knew how dad felt about him, so she didn't hesitate one bit to torture him any way she could. She constantly told him he was stupid and worthless, and she beat him and dragged him by the ear all over the place. She also got dad to beat on Cary even more than he would have on his own. Cary got the blame for everything in that house; Consuela would set it up that way. She'd start us fighting and sit back and watch. Everyone would beat Cary, then dad would come home and beat on him too.

All of the children except Donald Jr. were afraid of dad and Consuela. Donnie was the favorite, and he was treated totally differently

from the rest of us. Cary, Charles, Mary and I began having some psychological problems and were sent to see a doctor for a while. Charles was bed-wetting again, Cary was doing silly things to get some kind of attention, and I was becoming unruly and refusing to listen to anyone. I don't remember too much about it, but I don't believe any of us went for long enough to benefit too much. We were all in desperate trouble, but Cary seemed less able to deal with the situation than the rest of us. Cary was also abused and despised the most, and had the most gentle and giving nature.

Dad and Consuela had three children together, Ricky, Elena and Christina. They could do no wrong and they didn't have to work around the house. It made things even worse on us to have to watch them getting treated like they were wanted, while we continued to be abused. Throughout all of this, Cary continued to get the worst treatment of us all; Donnie and Jeff and their friends took to beating him all the time, so he never had any peace. With Donnie and Jeff, letting their friends beat Cary was a form of recreation. It was truly sick what went on.

Appendix 13.

My stepmother always treated us in very different ways. She's always had favorites in the family and never hesitated to show who her favorites were. Eventually, she and my father had three more children (Ricky, Elena, and Christina), and those children were treated very special. Donnie, my oldest brother, was treated very well, but the rest of us were not. Cary, especially, had it bad. He was always treated like the 'black sheep' of the family and was always pushed away. He always came laast. It always seemed like he just wasn't welcome in the house, and nobody wanted him around. Looking back on it now, I wish I had done something about it, but we were just children, too, and didn't know what to do.

Though most of us got beaten by both our father and our stepmother, Cary got beaten much more often, really every day, and he got it much

worse, too. He always had black and blue marks on his legs and back. he didn't just get spankings; he got really badly beaten. Our father used a belt to beat us, but Consuela would use whatever was handy -- a broom, a belt, clothes hangers, a mop, or whatever else she could pick up first. She also threw things, like frying pans, at us. She didn't just whip us on the behind, either. We were just as likely to get hit in the head or the face or the back or whatever part of the body she reached.

After Consuela's children were born, things got even worse. As young as we were, we had to care for the babies, and we were held accountable for anything that happened to them. I remember once when Ricky was little, he had a glass bottle and broke it. He cut his finger and had to have stitches. I got beaten for it. Later that day, my grandmother took me out shopping and bought me a seahorse set. When I got home, it was taken away from me because Ricky had gotten hurt. I was very upset and tried to argue with my stepmother about it. She took a knife and heated it on the stove and told me she was going to burn my face with it. I was terrified but one of my older brothers stopped her from burning me. Things like this happened frequently in our house, and even more often to Cary, because he was considered by Consuela to be the 'worst' of us all.

Affidavit of Janet Lambrix Wheeler, Appendix 16.

When we first moved in with my father, he hired a housekeeper named Consuela. She did not speak any English, and it was hard to understand what she wanted or what was said. Looking back alot of the problems our family has started when Consuela became our housekeeper and later our step-mother. I have never approved of the ways she raises kids. When we were young, Cary and I would get beaten by Consuela with a broom handle or what ever else was handy. In addition to her abusive behavior, she kept the pantries and refrigerator padlocked so she could control what we ate. We also had numerous chores to do, and we were expected to do them before we went to school. If you did not finish your chores you were not allowed to eat...

Affidavit of Jeffery Dean Lambrix, Appendix 17.