



U. S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Complex

*Federal Medical Center
P. O. Box 1600
Butner, NC 27509
(919) 575-3900*

December 13, 2007

The Honorable Dennis L. Howell
Western District of North Carolina
325 United States Courthouse
100 Otis Street
Asheville, North Carolina 28801

RE: TARZWELL, Kenneth Howard
Register Number: 22002-058
Docket Number: 1:07cr65

Dear Judge Howell:

In accordance with your Court Order of August 21, 2007, a psychiatric evaluation of Mr. Tarzwell has been completed.

In our opinion, Mr. Tarzwell is not suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings filed against him, or properly assist an attorney in his own defense. It is also our opinion Mr. Tarzwell was able to appreciate the nature and quality or wrongfulness of his actions. I have enclosed the report prepared by our staff reflecting these opinions.

If you require additional information or clarification of issues presented in the attached report, our clinicians are available by phone or video conferencing. Unfortunately, our budget does not include funding for travel, therefore, if a clinician's presence in court is required, we will have to request reimbursement of expenses.

Mr. Tarzwell left our facility on December 3, 2007, via the United States Marshals Service, for return to your District Court for further legal proceedings.

If we can be of further assistance to the Court in this or other matters, please do not hesitate to contact me.

Respectfully,


A.F. Beeler, Complex Warden

cc: Corey Frazier Ellis, Assistant United States Attorney
Claire J. Rauscher, Defense Attorney
Raquel K. Wilson, Defense Attorney

FORENSIC EVALUATION
Mental Health Department
Federal Medical Center
Butner, North Carolina

NAME: TARZWELL, Kenneth Howard
REGISTER NUMBER: 22002-058
DOCKET NUMBER: 1:07 CR 65
DATE OF BIRTH: 04/17/75
DATE OF REPORT: 11/27/07
DATE SIGNED: 12/14/07

IDENTIFYING INFORMATION: Mr. Tarzwell is a 32-year old, Caucasian male from Asheville, North Carolina. He was admitted to the Mental Health Department of the Federal Medical Center (FMC) in Butner, North Carolina, on 09/11/07, pursuant to a Court Order by the Honorable Dennis L Howell, United States Magistrate Judge for the Western District of North Carolina. On 08/21/07, Judge Howell ordered Mr. Tarzwell be committed pursuant to Title 18, U.S.C., Section 4241(b) for a 30-day period for competency evaluation. The Court also requested an assessment of his criminal responsibility (sanity) at the commission of the alleged offense and his level of dangerousness, pursuant to Section 4243(b) if he is not competent or is insane.

Mr. Tarzwell is charged with seven separate counts including four counts of Attempted Murder by the use of Arson, one count Arson of a Building owned by the United States, one count of Destruction of a conveyance, and one count Breaking and Entering a Dwelling without consent. This activity allegedly occurred on or about 06/05/07 in Asheville, North Carolina.

Mr. Tarzwell is being represented by Claire Rauscher and Raquel Wilson, the Assistant United States Attorney assigned to the case is Corey Frazier Ellis.

DATES OF CONTACT AND PROCEDURES ADMINISTERED: During the evaluation Mr. Tarzwell was interviewed jointly by Kristopher L. Clouch, M.A., Psychology Intern, and Robert E. Cochrane, Psy.D., Staff Psychologist. Mr. Clouch and Dr. Cochrane also administered and interpreted psychological testing. Psychiatric consultation was provided by Bryon Herbel, M.D., Staff Psychiatrist. Other members of the Forensic Team, Correctional, and Mental Health staff also had the opportunity to observe Mr. Tarzwell's behavior throughout the course of the evaluation.

Their comments were considered prior to preparation of this report. The following procedures were administered during this evaluation:

Clinical Interviews (ongoing)
Behavioral Observations (ongoing)
Physical Examination (09/11/07)
Magnetic Resonance Imaging Brain Scan (09/14/07)
Electroencephalogram (09/28/07)
Physical Therapy Consultation (10/04/07 and 10/11/07)
Neurological Consultation (11/19/07)
Psychological testing:
 Personality Assessment Inventory (10/04/07 and 11/09/07)
 Shipley Institute of Living Scale (10/04/07)
 Validity Indicator Profile (10/04/07 and 11/09/07)
 Test of Memory Malingering (11/19/07)

COLLATERAL INFORMATION: Available for review included the following: Court Order, dated 08/21/07; Bill of Indictment, dated 06/26/07; Criminal Complaint, dated 06/05/07; Prosecution Report, Defense records and Central Index System criminal history records, undated; Bureau of Prisons (BOP) SENTRY Security and Designation data, dated 08/22/07; records from the North Carolina State Bureau of Investigation, including Case Identification Report and Physical Evidence Report, dated 08/14/07; United States Department of the Interior National Park Service Criminal Incident Report, including Witness Statements, pictures of fire damage to room, and subject's statement, dated 06/05/07-06/11/07; medical records from Broughton Hospital, dated 06/06/07 to 06/12/07; and school records from Portsmouth, Virginia Public Schools; Hampton City Schools; Yale, Michigan Public Schools; and Tidewater Community College.

Telephone interviews were also conducted with the following individuals: Mr. Tarzwell's mother, Irene Caine, on 10/04/07; Ms. Claire Rauscher on 09/27/07; and two friends of Mr. Tarzwell, Jonathan Stievie on 10/29/07 and Geoffrey Lay on 11/06/07 and 11/19/07.

BACKGROUND INFORMATION: Mr. Tarzwell was informed he was referred to FMC Butner for evaluation of his competency, sanity, and dangerousness pursuant to Sections 4241, 4242, and 4243. He was told the interviews and any other information he provided or was obtained about him would not be confidential and would be reported back to the Court, as well as defense and prosecuting attorneys, in a written report and/or through oral testimony. He indicated understanding this information and agreed to proceed.

Mr. Tarzwell was considered a fairly good historian. He was cooperative and could recall historical information without difficulty. Further, his accounts were generally consistent with collateral records. The following information is based on his self-report and collateral data where indicated.

Mr. Tarzwell was born and raised in Detroit. His father was absent from his life and his mother was in the military, limiting his contact with her during his childhood. He stated he had lived with several family members including his grandmother and several aunts. He denied ever being placed in foster care or a residential facility. He reported having a rather unremarkable childhood, with the exception of emotional abuse and neglect perpetrated by several family members.

Mr. Tarzwell has a high school education and attended approximately one year of college at Tidewater Community College. Hampton Elementary School records reveal he had average to above average standardized test scores in all subjects and typically had A's and B's throughout all grades. The Churchland Junior High and High school records indicate that Mr. Tarzwell did well, academically, through the seventh grade; however, his grades and attendance began to decline following that year. He had to repeat the eighth grade because of failing four classes; he completed the eighth grade the following year.

Through the first three years of high school, Mr. Tarzwell had a grade point average of 1.7-2.1 on a four point scale. He failed three semesters of Algebra I and two semesters of Typing and had poor attendance. Following his first semester in eleventh grade, Mr. Tarzwell withdrew from Churchland and apparently transferred to Ft. Defiance High School; however, available records do not contain information from Ft. Defiance. For the twelfth grade, he moved to Michigan and graduated from Yale High School.

Mr. Tarzwell was accepted into Tidewater Community College in 2002 and completed 20 credit hours with an A- average. He completed Algebra I with a satisfactory, but was required to repeat Algebra II.

Disciplinary reports from several schools indicate Mr. Tarzwell had difficulty behaving appropriately. He was suspended three times from Churchland for indecent language, disrespectfulness, opposition to authority and making threats. According to Geoffrey Lay, Mr. Tarzwell was "kicked out of school" which resulted in him attending school in Michigan. Yale High School records cite negative behavior, including disruption, unpreparedness, excessive absences and/or tardiness and behavior that created a safety hazard.

Concerning employment history, Mr. Tarzwell has worked in various restaurant server positions including Pizza Hut, Ruby Tuesday's and TGI Fridays. He reportedly was fired from his position with Ruby Tuesday's because, as he described it, poor management required him to participate in tasks which were not specific to his job description. He was working at TGI Friday's at the time of his arrest, but reported he was likely going to be fired because the owners were replacing all staff. According to Geoffrey Lay, Mr. Tarzwell's closest friend, Mr. Tarzwell was the best server there and he was working routinely up until his arrest.

Mr. Tarzwell has never been married and has no children. He was living with his girlfriend Dusty, the alleged victim in this case, for several months prior to their breakup. According to Geoffrey Lay, Mr. Tarzwell and Dusty began their relationship approximately a year prior and were considering marriage. He stated Mr. Tarzwell was in love with Dusty and that the break-up was very difficult for him. Previously he dated intermittently but was never involved in a long-term relationship. He and Dusty were living together for several months until she moved to Pisgah for her new job. Following her move, Mr. Tarzwell moved in with Mr. Lay and was living there when the alleged offense occurred.

Mr. Tarzwell reported being in relatively poor physical health. He has a history of serious injuries and reported frequent severe migraines and joint pain. He reported two head injuries which consist of him falling off a bicycle and hitting a concrete floor between the 3rd and 5th grade and being hit with a baseball in junior high school. He never sought medical attention for these injuries. He reported having a seizure secondary to a high fever while at the Asheville jail that resulted in him hitting his head on a metal bed. This incident was not documented on the transfer medical records. He also reported experiencing episodic dizzy spells when he walks around for more than ten minutes.

Mr. Tarzwell reported a significant history of depression and suicidal ideation. He reported attempting suicide on four occasions. Except for immediately preceding his arrest, he has never been psychiatrically hospitalized. According to Mr. Tarzwell, he was hospitalized for his most recent suicide attempt following the alleged offense. He was committed on 06/05/07 to Broughton hospital from the emergency room of Mission Hospital after being treated for a self-inflicted laceration on his left wrist. Records indicate Mr. Tarzwell informed the hospital that he had never had any prior suicide attempts and reported a maternal family history of Bipolar Disorder. Dr. P. Jackson diagnosed Mr. Tarzwell with Major Depressive Disorder,

Polysubstance Abuse and Personality Disorder NOS. He reported memory concerns and was assessed as having poor judgement and low insight. Upon being released from Broughton Hospital while in federal custody, he was prescribed Remeron (antidepressant) 30mg, Motrin 600mg, and Keflex 500mg. He reported briefly receiving counseling years ago in Virginia at Tidewater Community College. No records were available about this counseling and no psychotropic medications were reported. Mr. Tarzwell also stated he attended therapy in Virginia Beach at Pembroke, a free mental health clinic. He indicated the therapy was ineffective because he could not remember anything and his therapist became frustrated with him. Mr. Tarzwell's accounts of his psychiatric history contrasted sharply with collateral sources. Further, Mr. Tarzwell's mother and friends (Mr. Lay and Mr. Stieve), indicated that he never appeared depressed and they were not aware of any attempts to harm himself.

Mr. Tarzwell denied any history of alcohol or illicit substance abuse. He reported episodic use of marijuana and alcohol, most recently the night of the current offense. According to collateral information, Mr. Tarzwell has used cocaine, morphine and benzodiazepines. The Broughton Hospital records described a much more extensive substance use history. Mr. Tarzwell started drinking alcohol by the age of 16 and he continued use until the night of the alleged incident, including a reported six pack of 12-ounce beers. He began using marijuana at the age of 25 and used until approximately 2 ½ years ago. At that time he also reported episodic use of cocaine and sedative hypnotics during 2005 and 2006, respectively. Mr. Tarzwell reported to the medical staff that he would hoard narcotics in his home and use them when he was attempting to treat or avoid pain. He denied use of any other illicit substances. He did not report involvement in any substance abuse treatment, outside of a ten-week class after receiving a drunk driving citation in Virginia Beach in 2002. Mr. Tarzwell reported being intoxicated with several others, but was upset that he was the only one arrested. Available records do not indicate any prior criminal history.

Additionally, the psychiatrist on the evaluation team conducted a telephone interview with Mr. Tarzwell's close friend Geoffrey Lay on 11/06/07, who provided the following information. Mr. Lay has known Mr. Tarzwell since they were both age 11. As boys, they had lived in the same neighborhood a few houses apart. Mr. Lay described both of them having some fairly troubled years during their childhood, since they were the only two Caucasian boys residing in a predominantly African-American neighborhood in Virginia. However while Mr. Lay had grown up in a stable nuclear family, Mr. Tarzwell's father had left the family when he was

very young and his mother had a boyfriend whom Mr. Lay described as a drug addict. Mr. Tarzwell spent most of his free time at the house with Mr. Lay's family, since his mother's apartment was filthy with roaches and she was away for extended periods of time, including being on military duty. Mr. Tarzwell had never disclosed being the victim of physical or sexual abuse, but had alluded to his mother's boyfriend (whom she later married) as being violent. During these years, Mr. Tarzwell never made any negative comments about his mother, but Mr. Lay described Mr. Tarzwell's mother as being "oblivious, emotionally barren."

According to Mr. Lay, Mr. Tarzwell had no history of aggression toward persons or property, with the only known violence occurring as a boy while shooting the window out of an abandoned house. Mr. Tarzwell did have some problems of manifesting defiance against social convention and would engage in activities such as setting off fireworks in the school or spelling out profanity using Christmas lights during the holiday season. Mr. Tarzwell coped with his unhappiness by making jokes and acting like a clown. He got in trouble at school, was expelled twice, and finished high school in Michigan while residing with an aunt. He returned to Virginia after completing high school and lived with his mother for some time. Not long after completing high school, Mr. Lay had opened a computer repair store in Virginia Beach, which became financially quite successful. Mr. Lay, Mr. Tarzwell, and a mutual friend shared an apartment near the beach for several years. Mr. Tarzwell worked delivering pizza and various restaurant jobs, apparently earning an adequate income, as Mr. Lay commented "People with college degrees making less money than the bartender."

Mr. Lay also reported Mr. Tarzwell had a pattern of making odd comments in a "crazy, wacky" manner. For example, he once yelled loudly in the mall for no apparent reason "You damn dirty Jew." Mr. Lay had no knowledge of Mr. Tarzwell receiving inpatient or outpatient psychiatric treatment. Mr. Tarzwell had a "warped sense of humor" and would make reference to getting or needing help for his problems, but Mr. Lay had no knowledge of whether Mr. Tarzwell ever followed through by engaging in mental health treatment. Approximately two years ago Mr. Lay sold his computer repair business, which he had found boring. He moved from Virginia to Asheville, North Carolina, where he lived in his own apartment and worked as a day trader. At the same time, Mr. Tarzwell and a mutual friend also moved from Virginia to Asheville and shared an apartment. After one year, the mutual friend moved in with his girlfriend, after which Mr. Tarzwell also began living with his girlfriend. Finally, Mr. Lay was surprised by the alleged incident offense, indicating he had no

knowledge of any difficulties between Mr. Tarzwell and his girlfriend.

Mr. Tarzwell is currently charged with several arson related offenses resulting from the events on the morning of 06/05/07. He was arrested on June 8, 2007 upon his release from Broughton Hospital. He initially reported to police he was angry with his ex-girlfriend so he got a knife and a can of gas and drove with a friend to Pisgah Inn to see her. He went to her room and saw her with another man and became more angry. He returned to his vehicle, retrieved his knife and slashed the canvas top and tires of his ex-girlfriend's jeep. In interviews with the current evaluators, Mr. Tarzwell reported he was not angry and that the top of the jeep belonged to him. He then took the can of gas from his car and returned to the room. He proceeded to kick in the bedroom window and pour gas on the bed, threw the gas can in the room and lit the bed. After lighting the fire, Mr. Stievie drove him home. Mr. Tarzwell then decided to walk to a nearby construction site and climbed down into a ditch. Once in the ditch, he reportedly cut his wrist using a dull kitchen knife. Due to the condition of the knife, he reportedly had to chop, saw and hack at his wrist until he reached the bone. He then fell asleep. In the morning, he awoke and walked to his friend's house and used his car to drive himself to the hospital. Available records indicate he received sutures for the laceration on his left arm. The degree of damage to the wrist was not reported, but Mr. Tarzwell denied any medical problems at the laceration site. Police records also indicate Mr. Tarzwell had written a suicide note in which he left all his belongings to Geoffrey Lay.

COURSE IN INSTITUTION: On admission to the Mental Health Department of FMC Butner, Mr. Tarzwell underwent the routine physical exam and laboratory studies. The admission physical exam conducted on 09/11/07 described him as having a normal physical appearance. He was 70 inches tall and weighed 150 pounds. His blood pressure was 110/74 and his pulse was 78. He was afebrile. No significant medical or neurological findings on examination were present. Mr. Tarzwell's self reported past medical history was significant for a suicide attempt in June 2007 with stitches in his wrist. He complained of headache and reported that he "cannot comprehend things - cannot take care of self - hears voices - mind races a lot." He reported a history of depression, migraine headaches, iron deficiency, shortness of breath, decreased hearing, and chest pain. Mr. Tarzwell reported no known drug allergies.

Admission laboratory studies included complete blood count, thyroid profile with TSH, liver profile, electrolytes, serum glucose, cholesterol, BUN and creatinine, and screens for HIV and syphilis. All results were negative, clinically insignificant, or within normal limits. Serum B12 and folate levels were normal. Serum blood samples were collected to evaluate for possible heavy metal toxicity from arsenic, mercury, and lead, but all results were normal. A PPD skin test for tuberculosis was applied on 09/11/07 and read as negative at 0mm. induration two days later.

In order to rule out possible underlying brain tissue injury, a non-contrast magnetic resonance imaging (MRI) brain scan was performed on 09/14/07. There was no evidence of mass effect or focal signal abnormality in the brain parenchyma. The ventricles, cisterns, and sulci were without hydrocephalus or atrophy. No abnormalities were noted in the intracranial vasculature or extraaxial fluid collections. The radiologist concluded the study was normal. A routine electroencephalogram (EEG) conducted on 09/28/07 was interpreted as normal.

Mr. Tarzwell was assessed by the consultant neurologist on 11/20/07, who reviewed the reports of the previous normal MRI and EEG. After conducting a neurological examination, the consultant concluded Mr. Tarzwell had a normal neurological evaluation. The history of chronic headaches appear to have a psychogenic pattern. Most likely because the consultant did not review information in the records describing Mr. Tarzwell's pattern of exaggeration or feigning of symptoms, the neurologist described Mr. Tarzwell as possibly having schizophrenia or schizoaffective disorder with suspected suicidal ideation.

Mr. Tarzwell was medically stable during the evaluation period. He was prescribed the anti-inflammatory naproxen sodium (Naprosyn) 550 mg twice daily as needed for pain and Maalox 30 cc two or three times daily as needed for dyspepsia. He was referred to the Physical Therapy Department to assess his complaints of pain.

Mr. Tarzwell was first assessed in the Physical Therapy Department on 10/04/07. During the initial evaluation, Mr. Tarzwell stated "I was supposed to have my wrist looked at but I was put in prison before I was seen. I can't move my wrist left back." On examination, Mr. Tarzwell's left hand had decreased grip strength compared to the right hand. The physical therapy treatment plan consisted of progressive stretch and strengthening exercises for the left hand. Mr. Tarzwell was seen a second time in physical therapy on 10/04/07 for complaints of

bilateral knee pain. He complained of sharp pains in both knees exacerbated by walking, with "The worst use when I collapse onto the floor." On examination, there was no evidence of meniscal or ligamentous involvement in the knees. The muscle strength and range of motion of both lower extremities were within normal limits. There was some tightness of both quadriceps as well as pes planus and significant callus of the right big toe. Alternative institution shoes were recommended, and Mr. Tarzwell was prescribed stretching exercises to loosen the tightness in the quadricep muscles.

During the initial clinical interview, Mr. Tarzwell presented as calm and appropriate. His hygiene was good. His eye contact was fair. He was oriented to person, place, time, and circumstance. He displayed an organized thought process and did not evidence loose associations, tangentiality, or neologisms. There was no evidence of derailment, thought blocking, or circumstantially. He answered questions posed to him coherently and logically. His speech was clear, goal-directed, and normal in tone and prosody; however, his rate of speech was slow. He currently complained of disturbed sleep and fatigue as well, but reported having a good appetite. Mr. Tarzwell reported feeling "fine" but his affect was flat. His concentration and attention were good during the extended interview. His vocabulary and grammar suggested approximately average intelligence. Mr. Tarzwell did not exhibit any tics, abnormal movements, stereotypies, or bizarre posturing. His recall for recent information and experiences appeared good. For example, he had no difficulty recalling his attorney's name and phone number and what he had done on the unit since his arrival.

Mr. Tarzwell reported a significant history of depression and suicidal ideation and attempts. Reportedly, he has made five suicide attempts in his life, dating back to age 20. With the exception of his most recent attempt prior to his arrest, he has attempted to kill himself via drug overdose, stepping into traffic, and suffocation by placing a bag over his head. On each of these occasions he aborted the attempt and he never required medical attention. Further, each suicide attempt or gesture was in response to a loss or breakup with a girlfriend. Initially, he reported being in intense emotional pain and saw no hope for his future. He stated he has no current suicidal thoughts but he believed that the best course of action for him would be to be sentenced to death by the Court. Friends and family of Mr. Tarzwell were not aware of these reported suicide attempts.

Mr. Tarzwell denied any history of problems with generalized anxiety, posttraumatic stress, phobias, or mania (e.g., elevated

mood, pressured speech, decreased need for sleep). He also reported the presence of auditory hallucinations that consisted of two ex-girlfriends' and his aunt's voices and a phone ringer. Reportedly, each voice makes negative statements about him and the two girlfriends' voices tell him he is a failure and should kill himself. He stated that the auditory hallucinations began approximately three years ago. He reported no other psychiatric symptoms.

After arrival at FMC Butner, Mr. Tarzwell was assessed by the staff psychiatrist on the evaluation team. During the admission interview on 09/11/07, he reported psychotic, depressive, and anxiety symptoms, along with five previous suicide attempts. Mr. Tarzwell stated "I hear voices outside my head and inside my head. They say I have depression...They say I have a problem because I don't think what I did was a crime. I was charged with arson. Then later attempted murder by arson...They tried Abilify, Risperdal, Effexor XL, Wellbutrin, Tegretol, Celexa...I don't remember the other names...They said I'm competent at Broughton but I have a mental deficiency." He appeared suspicious, mildly distressed, and physically unwell, holding his head in his hands. He was prescribed the antidepressant mirtazapine (Remeron) 45 mg at bedtime for symptoms of depression.

On 09/20/07, Mr. Tarzwell appeared depressed, although he was functioning well on the unit. The mirtazapine was increased to the maximum dose of 60 mg at bedtime.

While he appeared significantly depressed upon admission, Mr. Tarzwell denied suicidal ideation and was not considered a high risk for self injury. Therefore, suicide watch was not indicated. Mr. Tarzwell expressed a desire to receive help; in fact, he reportedly turned himself into the authorities in order to obtain assistance; however, it was later determined through collateral reports that he used a false name at Broughton Hospital and did not inform them of his crime. It appears the authorities located him after questioning witnesses and friends. Nonetheless, he appeared depressed and expressed willingness to receive treatment. Mr. Tarzwell was initially placed on Remeron and he reportedly received some benefit, including elimination of the "voices." He was also referred to a therapist that was not associated with the evaluation team. Mr. Tarzwell was encouraged to remain active and participate in other activities. He became involved in various activities, such as assisting a wheelchair bound inmate, engaging in recreation activities and watching television with other inmates.

Mr. Tarzwell was seen for several individual therapy sessions. Initially, he did not remember he had the scheduled appointments and typically had to be seen on the unit. He presented as depressed and referred to his learning and memory difficulties often. Mr. Tarzwell reported not remembering his evaluation team and when asked who Dr. Cochrane was, he responded "Are you Dr. Cochrane?" to the therapist. Mr. Tarzwell offered several other implausible accounts. Further, despite his accounts of experiencing significant depression, no depressive symptoms were observed and Mr. Tarzwell displayed little interest in participating in therapy. Therefore, the therapist decided to terminate treatment.

Mr. Tarzwell quickly adjusted to the routine at the FMC and did not need any assistance with daily living activities. He maintained adequate personal hygiene and an organized and clean cell. He was prompt to many of his scheduled medical appointments, with the exception of failing to show up for the second psychological testing session and the therapy sessions. He was behaviorally stable throughout his admission. He did not violate any institutional rules. He ate well but reported sleep difficulties because of his joint pain and negative thoughts. Mr. Tarzwell attributed this to cessation of the Remeron. However, he was never really in any acute distress and his energy level was within normal limits. He was never observed to be responding to internal stimuli (i.e., auditory hallucinations). He remained active on the unit; however, Mr. Tarzwell appeared to present as lethargic and sad whenever he saw the evaluators, but was otherwise noted to smile and interact normally when he thought the evaluators were not observing.

During clinical interviews, Mr. Tarzwell consistently displayed flat affect and slow speech. He was calm and compliant, but often sarcastic in his responses. His thoughts were logical and goal-directed, although he had a tendency to minimize his abilities. He also would speak at length and direct the topic to how inadequate and depressed he was. Further, while he did not verbalize any specific memory disorder or dementia, he continued to portray himself as ignorant because he could not easily learn and retain new information. In fact, he mentioned this throughout each interview. He complained that staff continued to ignore and become angry at him because of his learning and memory problems. He described situations in which he was dismissed and sent to his cell because he was aggravating the nurses with questions about the inner-workings of the institution. Unit nursing staff reported he made frequent requests and would typically come to the nurses' station with a valid question but ultimately end up asking several tangential and simple questions,

to which he clearly knew the answer. During evaluation sessions, Mr. Tarzwell frequently interjected comments highlighting his depression and poor memory. For example, he stated on multiple occasions he simply plans to request the death penalty if convicted of the alleged offense. As described below, this contrasted remarkably with his statements to his friends during telephone calls. He also reported not knowing things that were clearly within his ability. For example, he claimed to not understand the role of a jury, but then later he made sarcastic statements about how a jury of his peers would have to include twelve individuals who were depressed and want to kill themselves. Further, he complained of having no friends; however, Mr. Lay indicated he had several friends. In fact, several friends inquired about, and completed the necessary paperwork, in order to visit Mr. Tarzwell at the FMC.

Due to several discrepancies in Mr. Tarzwell's presentation and concerns of symptom exaggeration, several of his monitored phone calls were reviewed by the primary evaluators. During these phone calls to his friends and mother, Mr. Tarzwell was frequently laughing and using sarcasm. He mood was upbeat and he complained of no mental health problems. He stated to his friends that he was clearly competent and just wanted to return to court. Not only did Mr. Tarzwell not appear depressed on the phone, he had no difficulty remembering technical information (i.e., hard drive capacity of his X-Box game system), nor conversing with others about several past experiences. Further, he used his knowledge of the visitation policies and restrictions to manipulate the system, by reporting that he would list friends as family members so that they could more easily enter the institution. Overall, his presentation was *remarkably* different when conversing with friends and family than with the evaluators.

On 10/19/07 Mr. Tarzwell told the psychiatrist "I feel sad all the time. I'm having nightmares and bad dreams." He complained of insomnia with frequent waking and poor concentration. Although Mr. Tarzwell presented clinically as having significant depressive symptoms, at that point several converging lines of evidence provided a convincing clinical formulation that Mr. Tarzwell was grossly exaggerating or fabricating symptoms of mental illness. The mirtazapine was likely not beneficial at the maximum recommended dose because Mr. Tarzwell was not really suffering from any genuine depressive symptoms in the first-place. The dose of mirtazapine was lowered to 30 mg at bedtime for seven days, then reduced again to 15 mg at bedtime for seven days, and then discontinued. No additional psychotropic medication was recommended or prescribed.

PSYCHOLOGICAL TESTING: Mr. Tarzwell was prompt for the first testing session, however, he exhibited disruptive behavior. He appeared sluggish and had difficulty getting motivated for the testing session. He reported the items were distressing and difficult. He verbalized his complaints loudly, disrupting other inmates who were taking tests. He appeared to understand all directions and the items presented to him. He did not exhibit any difficulties with vision, hearing, or motor functioning. Mr. Tarzwell requested and temporarily left the testing room before completing the tests to go to his unit. He was informed to come directly back when he was finished; however, he did not return on his own and had to be retrieved by the evaluator. Mr. Tarzwell completed additional testing on a later date, during which time he was compliant and his behavior unremarkable.

Mr. Tarzwell completed the Validity Indicator Profile (VIP), an instrument used in forensic settings because it assesses a person's response style, that is, the extent to which he is motivated to perform well and the extent to which he expends sufficient effort to demonstrate his abilities. The VIP can also be used as a validity indicator for concurrently administered tests of intellectual and cognitive ability. The results of the nonverbal subtest were considered invalid and indicated Mr. Tarzwell responded irrelevantly with respect to item content. The verbal subtest was administered on a later date since he failed to complete this section initially. The verbal subtest of the VIP revealed that Mr. Tarzwell answered in a valid and compliant manner. These results indicate Mr. Tarzwell more closely attended to the verbal material than he did the nonverbal.

Mr. Tarzwell was also administered the Test of Memory Malingering (TOMM). The TOMM is a well validated instrument designed to assess whether an individual is feigning memory deficits by comparing the person's performance with the recall ability of unimpaired and neurologically injured groups, as well as comparing performance to that expected by chance. The test is a 50-item memory recognition task in which an individual is presented with a list of 50 pictures and later asked to select each of the pictures shown previously from a list of two choices. On trials one and two and the retention trial of the TOMM, Mr. Tarzwell had 14, 8 and 6 items incorrect, respectively. His scores are below the recommended cutoffs, indicating he was exaggerating memory deficits. Overall, the VIP and TOMM results suggest the following intelligence testing should be considered an invalid estimate of his cognitive abilities.

The Shipley is an intelligence screening test which provides an estimate of the individual's current level of intellectual functioning. On the Shipley, Mr. Tarzwell's Full Scale IQ was estimated to be 62, which would suggest he is functioning in the mentally retarded range of intelligence; however, this is grossly inconsistent with his educational background and not considered a valid estimate of his abilities.

Mr. Tarzwell completed the Personality Assessment Inventory (PAI), an objective and well validated questionnaire used to assess personality styles and symptoms of mental disorders. This instrument is also frequently used in forensic settings because of its ability to assess invalid types of responding.

Mr. Tarzwell failed to complete many of the test items. He explained that he simply did not comprehend the meaning of most items or could not choose an answer. Despite the high number of incomplete items, Mr. Tarzwell responded consistently to items and had a very significant elevation on the Negative Impression Management scale. This strongly suggests he was exaggerating psychiatric symptoms. As a result, no clinical interpretation could be provided.

IMPRESSIONS: According to the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR)*, by the American Psychiatric Association, Mr. Tarzwell's preliminary diagnoses are considered to be the following:

Axis I: Malingering (Principal Diagnosis)
Axis II: Personality Disorder NOS, with Antisocial and Borderline features
Axis III: Medically Stable
Axis IV: Problems with the Legal System
Axis V: GAF = 60

Based on all of the available data, Mr. Tarzwell does not appear to be suffering from a severe mental illness. He has likely experienced recent distress due to the breakup of his romantic relationship; however, he currently is not suffering from depression. He is malingering significant mood and memory symptoms. He presents with several features from both Antisocial and Borderline Personality Disorders. Most notably, a history of antisocial acts, little remorse, behavioral problems in school, emotional instability, fear of rejection and abandonment, and a history of self-harming behaviors.

The essential feature of Malingering is the intentional misrepresentation or exaggeration of physical or psychological symptoms for secondary gain, such as evading criminal prosecution

or receiving diminished legal ramifications. Mr. Tarzwell claimed to the current evaluators that he remembers the alleged offense, however, has difficulty learning new information. However, he was able to recall numerous events discussed during previous interviews. He recalled several recent events when speaking with family and friends on the telephone. Also, psychological testing strongly suggested malingered memory deficits. Finally, he does not suffer from any condition that would explain such significant memory loss. While he may have some mild problems with forgetfulness, school records, his personal history, accounts from his mother and friends, and observations of his behavior, all suggest his memory and learning abilities are grossly intact.

Further, Mr. Tarzwell also reported being extremely depressed and having no social support. However, collateral information contradicts this claim. During phone interviews with Jonathan Stievie and Geoff Lay, both reported Mr. Tarzwell is well liked and has many friends. None of these individuals ever saw him appear depressed or complain of depression. Further, Mr. Tarzwell's behavioral presentation was inconsistent with his reported symptoms. Over the course of his 60 day evaluation, he functioned at a high level, including socializing routinely, attending to his personal needs and hygiene, talking frequently on the phone, and remaining active on the unit. Mr. Tarzwell's reports of recurrent depressive symptoms and four previous suicide attempts were also suspicious due to the fact that no collateral contacts reported any significant mental health issues nor knowledge of any incidents of self-harm. His account of recently cutting his wrist to the bone also lacked credibility, as such an invasive injury would have resulted in significant nerve damage to the hand and digits, which is clearly not the case. Additionally, psychological testing indicated Mr. Tarzwell exaggerated psychological symptomatology. Given the nature of his test results, the inconsistencies noted between his self-report and collateral information, the behavioral observations, and the psycho-legal context of his evaluation, a diagnosis of Malingering was warranted.

Mr. Tarzwell was diagnosed with Personality Disorder NOS, with Antisocial and Borderline features. This diagnosis is made when an individual meets the general criteria for a Personality Disorder and traits of several different Personality Disorders are present. Antisocial features include such things as a lack of empathy and remorse, irresponsibility, antisocial behaviors and a disregard for the safety and well-being of others. Mr. Tarzwell has a history of antisocial behaviors including illegal substance use and driving under the influence. School

records indicate he was frequently disruptive and exhibited behaviors that were hazardous to the safety of the school. He was suspended several times for disrespectful and oppositional behavior. According to Mr. Tarzwell, he has demonstrated some irresponsibility as well, indicated by an inability to maintain a stable residence and consistent employment. Further, during a monitored phone call, Mr. Tarzwell used his knowledge of the visitation policies and restrictions to manipulate the system. Additionally, during interviews he demonstrated a lack of remorse for any of his past negative behaviors, specifically the alleged offense.

Borderline features include affective instability, unstable self-image, impulsivity, self-harming behaviors and gestures, unstable interpersonal relationships, and a fear of rejection and abandonment. Insufficient data was available to indicate Mr. Tarzwell meets the full criteria for Borderline Personality; however, he appears to have several features of this condition. He has a history of instability in romantic relationships and likely a strong fear of separation from ones he loves. He reported a history of suicide attempts or suicide gestures and has at least one documented attempt in response to an ended relationship. It is not uncommon during stressful events or relationship break-ups for the person to experience intense, but transient periods of depression and anger. These individuals will also engage in dramatic behavior in attempts to keep others from leaving them, or to draw attention to themselves. This would be consistent with Mr. Tarzwell's' conduct at and around the time of the alleged offense. He likely became despondent for a period and then made either a legitimate attempt to end his life, or made a superficial suicide gesture to gain the sympathies and attention of others. However, his symptoms were neither in sufficient number or duration to warrant a diagnosis of a major mood disorder. Further, at the present time he appears stable and free from depressive symptoms.

In regard to his competence to stand trial, Mr. Tarzwell has no mental disorder or condition that would suggest he could not understand the nature and consequences of the proceedings against him or properly assist his attorney in his defense. Unfortunately, when an attempt was made to assess his competency related abilities, he reported having virtually no understanding of the legal proceedings or ability to assist counsel in his defense.

Mr. Tarzwell was unable to clearly articulate his understanding of the legal system in response to direct questions as well as during informal discussion of his legal situation. He provided

information that was far off topic and was clearly minimizing his understanding of the legal system. For example, when asked what the term guilty meant, he replied "It means that I must die, I am a criminal and must die." Using a hypothetical situation of the appropriate punishment the evaluator would receive if guilty of stealing a candy bar from a store, he replied "you are guilty and should be put to death." Further, he indicated that his defense attorney would ask him questions to determine if he is guilty and stated that the role of the prosecutor is "to work at the courthouse and be like the police, policing people." Despite the absurd nature of many of his replies, Mr. Tarzwell was able to relay appropriate descriptions of the judge and witnesses. He stated "the judge sits in a chair in a black robe with a hammer and decides if I am guilty or not guilty." Mr. Tarzwell stated that witnesses "tell what happened," because they see things while they happen. He reported he did not understand the charges against him and could not appreciate the potential penalties if found guilty. He stated he was charged with "Arson and Attempted Murder" and indicated he had asked his lawyer to ask for the death penalty. Mr. Tarzwell discussed the concept of a plea bargain and indicated in this type of arrangement the defendant is "saying you did a lesser crime than what you're charged for." Despite his assertion that he wished to receive the death penalty for his crime, his comments during monitored telephone conversations revealed he wanted to return to court so he could conclude his case and tell his version of the events. He never mentioned any plans to ask for a death sentence and reported to his friends that he does not know why he needed to be sent to the FMC in the first place since "I have told them I'm competent and to send me back to trial." Mr. Tarzwell's intellectual level and current functioning suggests he has the capacity to understand and learn various types of legal information with which he may be unfamiliar, if he is so motivated.

Mr. Tarzwell also presented as if he was unable to reason in a rational manner about his case. For instance, he was unwilling to utilize any information to develop possible defense strategies. He was able to identify potential evidence in the prosecution's case against him, but he would not offer plausible explanations to refute some of their likely arguments. Due to his implausible responses and unwillingness to provide complete answers, we were unable to review how he would make various legal decisions, such as proceeding with trial versus accepting a plea arrangement.

Mr. Tarzwell never verbalized any delusional or irrational beliefs about his counsel, the charges, or the Court proceedings. When asked about his relationship with his lawyer, Mr. Tarzwell

stated, "she is supposed to help me get the death penalty." Mr. Tarzwell expressed confidence that his attorney had his best interest at heart. Despite his reportedly wanting the death penalty, he cooperated with the current evaluators at all times and has the capacity and willingness to do the same with his attorney. He appears able to disclose appropriate information to his attorney, consider various courses of action, provide testimony if needed, and make reasoned decisions following consultation with an attorney. He also understands expected courtroom behavior for a defendant and his recent behavior indicates he can act appropriately in Court.

In summary, Mr. Tarzwell has likely had transient periods of depression in the past, but is currently asymptomatic. He is exaggerating deficits and does not have a major mental disorder. He currently understands the nature and consequences of the proceedings against him and can assist properly in his defense. Therefore, it is our opinion he is competent to stand trial.

Mr. Tarzwell was not suffering from a major mental disorder at or around the time of the alleged offense. Further, by all accounts he could appreciate the nature and quality of his actions at that time. During his initial post-arrest interviews, Mr. Tarzwell denied participation in the alleged event. He reported that he was drunk and using morphine and went into the ditch near his friend's home to kill himself. In the face of substantial evidence, Mr. Tarzwell admitted guilt in an interview with police on 06/11/2007. He stated his girlfriend had broken up with him and he was angry, he was drinking and he and a friend drove to the Pisgah Inn, and once there he saw his girlfriend with another man and became even more angry. He then went back to the parking lot to damage her vehicle and retrieve the gas can from his car. He returned to his girlfriend's room, kicked in the bedroom window, poured gasoline in the room and lit the gasoline. Reportedly, some of the gasoline splashed onto the occupants of the room and Mr. Tarzwell, and Mr. Tarzwell stated the occupants screamed when he lit the room with them still inside.

Initially, Mr. Tarzwell reported memory loss for the event and blamed his memory for his denial in the first set of interviews. He stated that he was not lying to police but that he had just began to remember the fire a week after the incident. Reportedly, his memory loss was due to his severely depressed state or the drugs he had consumed on the night of June 4, 2007. Additionally, police records indicated he responded relevantly to questions and exhibited no bizarre or unusual behavior.

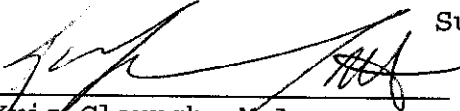
During clinical interviews, Mr. Tarzwell expressed the belief that his actions were warranted because of his ex-girlfriend's behavior and how she had mistreated him. He stated he had to destroy her bed because she was in it with another man. According to Mr. Tarzwell, he was going to the Pisgah Inn to kill himself in his ex-girlfriend's vehicle and had no plan to commit the alleged offense. During these interviews, he never verbalized any delusional beliefs and provided an accurate recollection of details described in the investigative material. He never suggested auditory hallucinations told him to commit the offense; however, admitted he was distraught and intended to kill himself in his ex-girlfriend's vehicle to punish her. At some point, he decided to vandalize her vehicle and return to the room to burn the bed. According to Mr. Tarzwell, he had been drinking that night, beginning at a restaurant and continuing during a poker game at Geoffrey Lay's home earlier that evening. Police reports indicate that Luke Payton, Mr. Tarzwell's friend, stated that Mr. Tarzwell was drinking heavily. Several accounts indicate Mr. Tarzwell was receiving "hateful" messages from Ms. Dusty Gaddy, his ex-girlfriend, and Mr. Lay reported that earlier that evening he overheard Mr. Tarzwell arguing with Ms. Gaddy on the telephone. After the phone call, he and Mr. Stievie left Mr. Lay's home together.

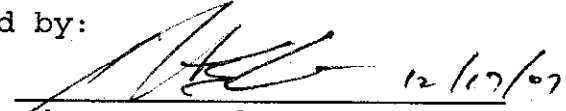
Further, Mr. Tarzwell appeared to understand the wrongfulness of his alleged actions at that time. For example, he ran to his car and quickly left the vicinity, which suggests he was aware he had to leave the area prior to police arrival. Further, he drove to and from the Pisgah Inn with a friend. Conversing with and joining others is not typically the behavior of someone who cannot appreciate the wrongfulness of what they are doing. Also, Mr. Tarzwell reported that he had stopped on his way to Pisgah Inn to fill the gas can, which suggests he had some level of planning prior to the alleged offense. He also used an alias during his hospital stay which likely made it more difficult to identify him as a suspect in a criminal investigation. He never informed the hospital staff that he had committed the alleged offense and did not request that the staff contact the police, contrary to his claim.

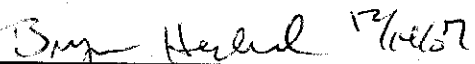
Based on all of the available information, there is no indication Mr. Tarzwell was suffering from a major mental disorder, at or around the time of the alleged offenses, that caused him to be unable to appreciate the nature and quality or the wrongfulness of his acts. Therefore, we opine that he was criminally responsible for his behavior at that time.

Mr. Tarzwell is medically stable. He is currently prescribed naproxen sodium (Naprosyn) 550 mg twice daily as needed for pain. He will need access to routine outpatient medical care for assessment of any emerging medical ailments. He will need access to routine outpatient mental health care for assessment of any emerging psychiatric disorder, although all future assessing clinicians will need to be vigilant for the possibility that Mr. Tarzwell may be exaggerating or feigning neuropsychiatric symptoms. There are no special precautions needed during his transportation back to Court.

Supervised by:


Kris Clouch, M.A.
Psychology Intern
Mental Health Department
Federal Medical Center
Butner, North Carolina

 12/17/07
Robert E. Cochrane, Psy.D.
Board Certified Forensic Psychologist
American Board of Professional Psychology

 12/16/07
Bryon Herbel, M.D.
Board Certified in General Psychiatry
Board Certified in Child and Adolescent Psychiatry
Subspecialty Certification In Forensic Psychiatry
American Board of Psychiatry and Neurology

KC:rec:bh/deh