

STATE'S
EXHIBIT
5

AFFIDAVIT

page 1 of 2

THE STATE OF MARYLAND *

COUNTY OF HOWARD *

BEFORE ME, the undersigned authority, on the 22nd day of April, 1993, appeared MERVYN WEST, and who being by me duly sworn, did depose and state on oath the following:

"My name is Mervyn West. I am the same Mervyn West that executed an affidavit dated March 31, 1993 at the request of members of the Texas Resource Center concerning my involvement in the defense investigation in the Gary Graham capital murder case.

As was explained briefly in my earlier affidavit, I suffer from a very serious heart condition. It is a hereditary disease, having affected every male member of my family. I am totally disabled by this disease and cannot drive, work, walk any distance, or travel farther than 100 miles from the Johns Hopkins Hospital where my doctors practice. I currently have a computer implant in my ^{stomach} stomach that is hooked up to my heart that monitors my heartbeat. When my heart goes into arrhythmia, the implant fires, shocking my heart into beating on its own correctly. I have suffered several heart attacks; I've had open heart surgery; and I've had the situation develop where I've been in cardiac arrest and without oxygen a long, long time, resulting in some brain cell destruction and significant memory loss. Because my memory loss is so bad, as well as my health, my doctors have forbidden me from even thinking about working. I informed the Texas Resource Center investigator of all of the above prior to my executing my affidavit dated March 31, 1993. I also informed the investigator that while

page 2 of 2

I would answer his questions as best I could, and tell him what I remembered happening, it could be faulty as hell due to my memory problems caused by the heart disease. I also told the investigator that I couldn't guarantee anything that I said as being 100% accurate and that I didn't want anyone relying on what I was saying as gospel because although I was trying to be as accurate as I could, I am totally aware of the fact that I have before recalled an event one way when it in fact occurred an entirely different way, and that there are holes in my memory.

I am executing this second affidavit to make sure that anyone reading my earlier affidavit understands that while I did the best I could reconstructing the events in 1981, I feel uncomfortable with anyone relying solely on my memory of events as being the gospel. I want to make sure that anyone reading my earlier affidavit does so with the understanding about my cautions concerning my health.

This statement is true and correct to the best of my knowledge."

Merrin H. West

(NAME)
Affiant

SUBSCRIBED AND SWORN TO before me this 22nd day of April, 1993.

My Commission Expires:

Nov. 19, 1996

Madelene Harrison

Notary Public in and for
Howard County, Maryland