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UNITED STATES DISTRICT COURT CAROL C. FITZGERALD, CLERK

FOR THE DISTRICT OF NEVADA: BY _____
DEPUTY

United States of America,)
Plaintiff-)
Respondent)
v.) Cr. 76-88
Phillip Craig Carrédo,)
Defendent-)
Petitioner)

MOTION UNDER RULE 35, RULES
OF CRIMINAL PROCEDURE, TITLE 18 USC.

Defendant - Petitioner alleges as follows:

The Defendant-Petitioner will hereinafter be referred to as the
Petitioner in his motion to reduce sentence.

1. The Petitioner Phillip Craig Carrédo is restrained of his liberty
by Plaintiff-Respondent, the United States Government and their agents,
the Attorney General and the Warden of the U.S. Penitentiary, Leavenworth,
Kansas, in violation of Section 1201, Title 18 USC (1) Interstate kidnapping).
The Defendant-Petitioner was convicted by a jury after a verdict of Guilty,
February 11, 1977. On March 11, 1977, Defendant-Petitioner was sentenced to
imprisonment for fifty (50) years.

2. The Cause of Pretense of such restraint by Plaintiffs is judgment
of the United States District Court for the District of Nevada, the Honorable
Bruce R. Thompson, Judge.

3. At the time of the crime the Petitioner was suffering from the
effect of marijuana and a drug known as L.S.D. which caused Petitioner to
withdraw reality, which caused the lacked substantial capacity to conform
his conduct to the requirement of the law. SEE: pp. 238; 239; 240; 241;
242; 243 of Trial Transcript.

4. After Petitioner was committed to the United States Penitentiary, Leavenworth, Kansas, he has been seeing Dr. John B. Kiehlbauch of the Mental Health Division.

5. The Petitioner has finished high school and prepared for college. He has been working at the carpenter shop with desire to learn the carpentry trade. This training will last four years.

6. This summer Petitioner starts college after this training the four years in drafting and carpentry. Petitioner plans on a two year computer course.

7. The Petitioner's long sentence deny's Petitioner from certain training and rehabilitation. It is the Petitioner who has set his own goal to reform his old way and live a new life on his own.

8. The Petitioner could become a very useful citizen and be rehabilitated if he could have his sentence reduced to twenty-five (25) years, which would make him a parole date in eight (8) years, where he could be released to the State of Nevada as an Educated Person and being a rehabilitated person.

9. The Honorable Court can request a copy of all reports from Dr. Kiehlbauch and the Director of Education at the United States Penitentiary, Leavenworth, Kansas to be made a part of the Proceedings.

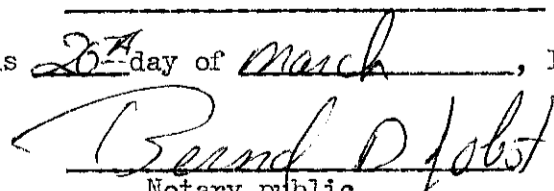
CONCLUSION

Wherefore:

Petitioner prays the Honorable Court request all progress reports from the Warden, Director of Education and Dr. Kiehlbauch before ruling on this petition. The United States Penitentiary will furnish these records upon request. After reading these progress reports that the Honorable Court reduce his sentence to twenty-five (25) years

Respectfully submitted by,

Subscribed and sworn to before me this 20th day of March, 1978.


Notary public
BERND D. JOEST, NOTARY PUBLIC
MY APPOINTMENT EXPIRES: AUG. 05 1980

Honorable: Bruce R. Thompson

When living at home and going to school, my life was free from the influences of drugs. I had been raised in the country and lived in a very clean home. I was the baby of the family and spoiled in the long run.

In 1969 marijuana was reaching out to the rural area in Calif. From that point on my life was slowly changing. The drugs would bring more association and in turn more contact with drugs. It wasn't long before a few months passed and L.S.D. had become a part of my life.

Slowly it began to take me to another style of living and thinking, in the long run I lost much of my reasoning powers. Seven years of using made me fall from reality.

On my own I have been seeing Dr. Kiehlbauch of Men. Health. We have private one hour sessions, in which we have progressed very well.

At this time I have started and finished high school in order to prepare for college.

I have been working at the carpenter shop as I desire to learn the trade. So I have enrolled in an apprentice carpentry program lasting four years. Along with that I enrolled in drafting school as I felt it was a very important part of carpentry.

This summer I start college. After my four years of drafting and carpentry I plan on a two year computer course.

I have set my goals and find myself well on my way. It shall take seven years of schooling

to complet these courses.

In all respects my life has changed. Of course that is because I wanted to, knowing this is my chance to get my life in line. Drugs have been my down fall. I am so ashamed of my past. But my future is now in control.

If I may please, all I ask is to be given the chance. By writing and asking for a report on me from Dr. Hehlbauch and all departments would be giving me the fairest examination I could hope for.

Sincerely

Phillip C. Garrido

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A Yes, it would

Q Now, I showed you in the course of getting ready for your testimony today Dr. Gerow's report and Dr. Peterman. And you know Dr. Gerow to be a psychiatrist like yourself. And you reviewed those reports?

A Yes, I did.

Q Now, Dr. Gerow refers to a mixed sexual deviation. Is that what we have been talking about here?

A I would agree with that term. I am not familiar with whether that exists in our manual or not.

Q But you would --

A That would be more descriptive than trying to specify each.

Q And you would concur with his chronic drug abuse--

A Yes.

Q -- diagnosis?

THE COURT: As long as we don't know what Dr. Gerow had to say, your examination, I am sure, doesn't mean anything to anybody.

MR. VAN HAZEL: I am sorry, your Honor. I was trying to see if I could pull the terminology together here.

BY MR. VAN HAZEL:

Q In your examination, you refer to a term "reality testing," and state it was seriously impaired during much of that time. And that time, by the concept of the report,

1 would seem to indicate the time that the crime occurred on
2 or around November 22nd-23rd. Is that when you are referring
3 to, first of all?

4 A No, I wasn't referring to that. That inclusive,
5 I was referring to a period that was many years; five or six
6 years.

7 Q And what does the term "reality testing" mean?

8 A It is the function that allows us to discern what
9 is real in terms of actions, observe people, from what isn't.

10 Q In your professional opinion, did Mr. Garrido have
11 some difficulty in separating this sexual fantasy from
12 reality?

13 A I think there are two different issues involved in
14 terms of the degree of control or the degree of awareness of
15 Mr. Garrido and this type of behavior. One of the issues
16 involves the sexual aberration itself and the implications
17 of that in terms of how that determines or shapes his behavior;
18 and then the other issue, of course, is the drug involvement
19 and the prolonged or lasting effect of that. In some
20 respects I feel that the question you are asking, or the
21 question that is being raised, is how do I view the effect
22 of his drug use in terms of his ability to conform his
23 behavior with what the law demands.

24 My point of view on that is that I feel that he, and
25 many other people in similar positions, don't, or can't get

1 involved with certain real issues, such as the legal issue or
2 the moral issue. It isn't a question of whether he is think-
3 ing or feeling something is right or something is wrong. It
4 seems to me that in most cases these people don't even raise
5 that question. That is not even a part of their behavior;
6 just as it isn't a part of the behavior if they are in the
7 private confines of their own bedroom and they are engaged in
8 some type of sexual behavior.

9 One of the issues around reality testing would be the
10 normal change in one's thinking or one's attitude when they
11 leave the bedroom.

12 Without the influence of any of this drug involvement,
13 I think Mr. Garrido would pause before carrying out sexual
14 fantasies.

15 Q Well, are you ascribing the responsibility for Mr.
16 Garrido's act to his use of drugs?

17 A Responsibility for his acts?

18 Q Because --

19 A I am describing his inability to use a reasonable
20 degree of self-control or self-discipline when it comes to
21 doing things that are clearly wrong, clearly illegal and
22 clearly self-destructive.

23 Q Well, surely, Doctor, everybody that takes drugs
24 does not go out and commit these type of offenses, do they?

25 A I don't believe that the drug, in this case LSD,

1 if that is the drug we are talking about -- because I happen
2 to feel the other drugs would have almost the same effect --
3 I don't think the drug is responsible for creating either the
4 obsession or the content or quality of the fantasy. I really
5 don't believe the drug did that. I think the drug permitted
6 it to flourish, so to speak, and survive; and ultimately the
7 drug, or the effects of the drug, permitted it to get acted
8 out.

9 Q So you are saying that Mr. Garrido had this sexual
10 fantasy for reasons apart from the drug; the drug merely
11 enabled him to detach himself further from --

12 MR. LUTFY: Objection, your Honor. Counsel is testifying
13 and not asking the questions.

14 THE COURT: Objection sustained.

15 BY MR. VAN HAZEL:

16 Q What was the causation of Mr. Garrido's sexual
17 fantasy?

18 A I think that would be too difficult to explain
19 in any short period of time. But in any case I do not feel
20 that the drug caused the fantasy.

21 Q Now, when we talk about fantasy, Doctor, it sounds
22 like Disneyland, Fantasy World. Is it something stronger,
23 more vivid, that you can convey to the jury when you are
24 talking about fantasy?

25 A Yes. I think that is a poor choice of words on my

1 part. It would be much better to refer to it as a sexual,
2 either preoccupation or obsession, because, among other
3 things, it is a very complex ideation, it is something that
4 pushes its way into a person's conscious thoughts, and in
5 this case into his actions.

6 One of the issues that I am trying to deal with is what
7 did he have available to keep it in check. It seems to me
8 that that was very limited.

9 Q Why?

10 A Because of the drug.

11 Q So we have an impulse or an obsession compounded
12 by drug use; is that it?

13 A Exactly.

14 Q And the restraint that the rest of us would have
15 was impaired by the drug usage?

16 A I think that is correct.

17 Q Doctor, in discussing this case with me, did you
18 use a term "autistic," a-u-t-i-s-t-i-c?

19 A Yes, I did.

20 Q Now, I had to look up a definition, and I will ask
21 you whether you would agree with this definition --

22 MR. LUTFY: Objection. Just have the witness define it.
23 It is his term.

24 THE COURT: What?

25 MR. LUTFY: If it is the witness' term, why doesn't he

1 define it instead of counsel coming up with a definition.

2 THE COURT: All right, let him define it. You are trying
3 to lead the witness.

4 MR. VAN HAZEL: I was trying to use Webster's Dictionary
5 to keep it within the terms of the jury.

6 BY MR. VAN HAZEL:

7 Q Go ahead.

8 A Well, the term gets used a number of different ways
9 in the profession. The way I used it, the meaning I had
10 when I did use it, was that it is a phenomena that occurs
11 wherein a person's feelings are more responsible for determin-
12 ing their thoughts or their actions than their conscious
13 awareness of the reality about them.

14 Q Now, Doctor, do you have an opinion on the issue X
15 of whether the defendant lacked, as a result of mental disease
16 or defect, substantial capacity either to appreciate the
17 wrongfulness of his conduct or to conform his conduct to the
18 requirements of the law?

19 A Yes, I do. I am fairly strong about the latter
20 part of that alternative. I think that the defendant did not
21 have adequate control to conform his behavior.

22 Q So it would be your professional opinion that he
23 lacked substantial capacity to conform his conduct to the
24 requirements of the law?

25 A Yes.

CERTIFIED

No. 467853

MAIL

