

The following is from "Assisting People with Mental Retardation in the Criminal Justice System", manuscript of a curriculum for training attorneys and judges. This was prepared by Deborah Greenblatt, Esq., Executive Director, Carolina Legal Assistance, A Mental Disability Law Project.

"From the colloquy between Detective Crawford and Billy Moore in *S. v. Moore*, I made a list of words that I thought would present comprehension problems for someone with mental retardation. I wrote the words out on two sheets of ruled yellow paper and gave the sheets to someone I know who has mild mental retardation. This person has an IQ of 62 and can read and write. This person maintains a job in the mainstream economy and can converse with you about many topics (including ACC basketball) in a way such that you would not necessarily identify them as mentally retarded, although you would know that they were not a highly educated person.

"I asked this volunteer to copy each word on the same line next to where I wrote the word. My instructions were to then, underneath each word, tell what the word meant. If they did not know the meaning of the word, my instructions were to write "I don't know".

"The attached sheets are copies of that person's responses.

Res Ipsa Loquitur."

Deborah Greenblatt

Note: The individual transcribing the words was not given the type written page.

renewed motion for the appointment of a psychiatrist to assist in the preparation of his defense. We agree.

Before denying defendant's renewed motion for the appointment of a psychiatrist, Judge Burroughs had conducted an extensive hearing on defendant's earlier motion to suppress his confession. At this hearing Gastonia Police Department Detective Fred Crawford recounted the two occasions on which he questioned defendant. The first was on the afternoon after the assault on G.G., 12 October 1986, when defendant admitted to being in G.G.'s neighborhood on the evening of the assault, but denied entering her home or attacking her. Detective Crawford declared that he advised defendant of his rights by reading from a standard form containing *Miranda* warnings and a waiver of *Miranda* rights. The defendant signed the form and agreed to have his photograph taken. Detective Crawford took defendant home.

Detective Crawford next questioned defendant on 15 October 1986. He went to defendant's residence and, pursuant to a warrant, arrested him for the first degree rape of G.G.. Detective Crawford took defendant to the police station and reminded him of his rights by reading from the same standard form used three days previously. The colloquy between Detective Crawford and defendant, which was read in its entirety at the suppression hearing, went as follows:

Detective Crawford: Mr. Moore, we previously went over your rights and I would like to go over them with you again. Answer yes or no if you understand. You understand that you have a right to remain silent?

Defendant: Yes, sir.

Detective Crawford: Anything you say can and will be used against you in court?

Defendant: Yes.

Detective Crawford: You have a right to talk to a lawyer for advice before I ask you any questions and have him with you during questioning?

Defendant: Yes.

Detective Crawford: If you cannot afford a lawyer, one will be appointed before any questioning if you wish?

Defendant: Yes, sir.

Detective Crawford: If you decide to answer questions now without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering any time until you talk to a lawyer.

Defendant: Yes.

Detective Crawford: Do you understand each of these rights that I have just explained to you?

Defendant: Yes, sir.

Detective Crawford: Do you each of these rights that I have just explained to you? (sic)

Defendant: Yes, sir.

Detective Crawford: Mr. Moore, you previously stated that you cannot read. I have got to read this paragraph and I am going to read it for you. (sic) If you understand that, answer yes. The paragraph states: "I have read a statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand what I am doing. No promises or threats have been made to me. No pressure or coercion of any kind has been used against me." Do you understand this paragraph?

Defendant: Yes.

Detective Crawford: Okay, with that paragraph in mind, are you still willing to talk to me and answer questions I might ask you, knowing that you have the right to have a lawyer with you?

Defendant: Yes.

Detective Crawford: Are you willing to talk with me without a lawyer present at this time knowing full well you have the right to have one at this time?

Defendant: Yes.

Detective Crawford: Is this your signature there?

Defendant: Yes.

Defendant then made a statement in which he admitted assaulting G.G. on her back porch.

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Defendar He declare October 19: tim, and tv where defe defendant home. En the attack T.G. showe assault. D to leave, bu the police

Repeated on
June, 1998

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SO YOU CAN BE SEATED

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