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The Honorable Paul Grewal  
Department 616  
United States District Court, Northern District  
Robert F. Peckham Federal Bldg,  
280 S 1st Street  
San Jose, CA 95113

Re: U.S. v Barnes  
James Buchanan Barnes  
Case Number: 03-1941JK

Dear Judge Grewal:

This report reviews the case of Sgt. James Buchanan Barnes (Defendant). Sgt. Barnes was accused of multiple charges, among them multiple counts of assassination, murder attempts, acts of terrorism, and treason. In my professional opinion, I believe that Sgt. Barnes did not have the capacity to distinguish right from wrong at the time of the committed crimes.

### **Informed Consent**

Sgt. Barnes provided both oral and written consent for the evaluation.

### **Sources of Information**

- Interview with Sgt. James Barnes (Defendant)
- Interview with Captain Steve Rogers, aka Captain America
- Interviews with eye witness, Jim Hammond
- Strategic Scientific Reserve Personnel Record
- Incident-Based Event Report from the Metropolitan Police Department
- Military psychiatric and education records
- National Transportation Safety Board Aircraft/Marine Accident Brief
- HYDRA Project Insight Attack After Action Report
- fMRI test/medical records
- Mental Status Examination
- Beck Depression Inventory –II

Defense Trial Exhibit A

- Dissociative Disorders Interview Schedule – DSM V
- Mississippi Scale for Combat related PTSD
- PTSD Checklist-Military Version

## **Forensic Psychiatric Evaluation**

### Identifying Information

The Defendant is James Buchanan Barnes, age 98 at the time of the assessment is a Caucasian male, oldest child of four, slim build, with an appearance of a male in his early 30s. He has a cybernetic arm (left side) and multiple scars on his body.

The Defendant is being charged with the following:

- Collaboration with the Enemy (23 CMR 591, 596)
- Terrorism (18 USCS § 2331(5))
- Acts of Terrorism Transcending National Boundaries (18 USCS § 2332b)
- Bombings of Places of Public use, Government facilities, Public Transportation Systems and Infrastructure Facilities (18 USCS § 2332f)
- Murder (18 USCS § 1111)
- Treason (18 USCS § 2381)
- Rebellion or Insurrection (18 USCS § 2383)
- Enlistment to Serve Against the United States (18 USCS § 2390)

### Social History

The Defendant was best friends with Captain Steve Rogers, whom he known since childhood. The Defendant had several romantic interests but no known romantic partners.

### Educational History

The Defendant attended and completed Roosevelt High School in Brooklyn, NY.

### Military History

The Defendant enlisted in the Army, joining 107<sup>th</sup> Infantry under Captain MCoy and was deployed to England during WWII in 1942. He was captured and subjected to unknown torture and possible experimentation by HYDRA in October, 1943 as a prisoner of war (POW). The Defendant was later liberated by Captain Steve Rogers in November 1943 and joined Rogers' mission, Howling Commando, intended to stop the Nazis and HYDRA. He was later recommended for the Silver Star by Col. Chester Philips for gallantry in action against HYDRA on his final mission.

In winter of 1945, the Defendant and Captain Rogers attempted to capture Arnim Zola, Swiss scientist and a HYDRA operative, who conducted numerous experiments

on POWs, including the Defendant. During the attempted capture, the Defendant was thrown off the train, causing him to fall into the river and freeze, causing him to lose his left arm. He was listed Missing in Action and his body never recovered.

The Defendant was eventually found by Soviet soldiers and held as a prisoner by Leviathan, the Soviet Union's counterpart to the SSR, until 1949. Leviathan turned Barnes over to HYDRA (presumed by SSR prison records confirming Zola and Johann Fennhoff were held in the same cell after a Soviet nerve gas attack in New York in 1946), where Barnes received a cybernetic arm and was subjected to electroconvulsive therapy and psychological torture. He was later ordered to kill SHIELD operatives and after each mission his memory was erased.

#### Relationship History

Several romantic interests, no known romantic partners.

#### Substance Use History

Occasional alcohol use.

#### Legal History

No known legal history prior to the current charges.

#### Past Psychiatric History

Possible past history of PTSD during WWII, possible past history of traumatic brain injury (TBI) from the fall from the HYDRA high speed train, possible dissociative disorder at the time that the acts in question were committed.

#### Family Psychiatric History

Unknown

#### Past Medical History

The Defendant was subjected to extensive electroconvulsive therapy (ECT), full extent of type and amount of experimentation is unknown. In addition, he may have potentially experienced TBI from the fall from the train. He fell into the freezing waters and was frozen for an unknown amount of time. The full effects of his freezing in the water are not fully known. Furthermore, the Defendant lost his left arm in the fall and later was given a cybernetic arm by HYDRA, after which he continuously underwent extensive ECT and cryogenics over 60 years.

#### Current Medications

Advil.

#### Allergies

Peanut.

#### Mental Status Examination August 15, 2015

The examination was conducted on August 15, 2015. The Defendant was oriented X 4 (person, time, space, and situation). His affect was restricted, sad mood, tearful during the examination, linear though process, no concentration difficulties, some memory problems, specifically about his services with HYDRA, no current suicidal or homicidal ideation/intent.

### **Summary of Instant Offense**

The Defendant is being charged with being a co-conspirator in the largest attempted terrorist attack in the history of the world. The Project Insight Helicarriers were ordered by SHIELD Secretary Alexander Pierce (deceased) to target 20 million Americans for mass killing based Armin Zola's predictive analytic algorithm on whoever was a threat to HYDRA. This "purification" included the President of the United States, Congress, the United States Supreme Court, military leaders, in what would have been a total overthrow of the United States government.

James Barnes also was used by HYDRA to carry out assassinations on US and NATO officers for the length of the entire Cold War to present day.

The charges against James Buchanan Barnes include:

#### **Count 1: Collaboration with the Enemy**

James Buchanan Barnes willfully collaborated with HYDRA since his capture in 1945.

#### **Count 2: Terrorism**

James Buchanan Barnes willfully committed domestic acts of terrorism by 1) assassinating Nicholas Fury; 2) attempting to publicly kill Captain Steven Rogers, Natasha Romanoff, and Samuel Wilson in downtown Washington, DC, with reckless regard for human life on buses and city streets; 3) Assisting in the launch of the Project Insight Helicarriers.

#### **Count 3: Acts of Terrorism Transcending National Boundaries**

James Buchanan Barnes willfully committed acts of terrorism transcending national boundaries by 1) murdering Nicholas Fury 2) assaulting Nicholas Fury, Captain Steven Rogers, Natasha Romanoff, and Samuel Wilson with dangerous weapons; and 3) conspiring to launch the Project Insight Helicarriers.

#### **Count 4: Bombings of Places of Public use, Government facilities, Public Transportation Systems and Infrastructure Facilities**

James Buchanan Barnes willfully used 1) firearms and explosives on US Route 29, expanding onto the city streets of Washington, DC; 2) used explosives on the airfield of the Triskelion; and 3) the attempted terrorist actions resulted in the destruction of the Triskelion.

#### **Count 5: Murder**

James Buchanan Barnes willfully killed: 1) Nicholas Fury; 2) 10 SHIELD airman; 3) three US soldiers in Berlin as a field test on November 5, 1954; 4) an entire UN Diplomatic Negotiation Team in Cairo on January 11, 1955; 5) NATO General James Keller on May 14, 1955; 6) British Ambassador Dalton Graines in Madripoor on January 1, 1956; 7) French Defense Minister Jacques Dupuy on April 1, 1956; 8) Algerian Peace Conference Envoy in Paris on May 12, 1956; US Colonel Jefferson Hart in Mexico City on February 17, 1957; and US Senator Harry Baxtor on March 12, 1973.

#### **Count 6: Treason**

James Buchanan Barnes willfully levied war against the United States by participating in air piracy of the Project Insight Helicarriers to be used against the United States.

#### **Count 7: Rebellion or Insurrection**

James Buchanan Barnes willfully engaged in rebellion against the United States in the mutiny and air piracy of the Project Insight conspiracy.

#### **Count 8: Enlistment to Serve Against the United States**

James Buchanan Barnes willfully served in armed hostility against the United States in the mutiny and air piracy of the Project Insight conspiracy.

#### Sargent Barnes Account of Instant Offenses

James Buchanan Barnes does not remember all of the times he was taken in and out of suspended animation. After each mission HYDRA doctors would electrocute him before putting Sargent Barnes back in suspended animation. Alexander Pierce ordered Barnes to kill Nick Fury the final time Barnes was revived from suspended animation.

Sargent Barnes reported to Secretary Pierce after completing his mission to kill Nick Fury. Pierce ordered him to kill Steve Rogers and Natasha Romanoff at that time. Sgt. Barnes ambushed Rogers and Romanoff while they were driving on US Route 29. Barnes grabbed and threw Jasper Sitwell out of Roger's car and into oncoming traffic. He ripped the steering wheel off their car and they eventually crashed. A

huge gunfight and eventually engaged in hand-to-hand combat.

Barnes shot Romanoff in the back and was about to finish her off when Captain Rogers attacked him. The two engaged in hand-to-hand combat. Captain America unmasked Barnes during the fight. Barnes stated Rogers looked at him very confused and said "Bucky?"

Barnes had no idea what Rogers was talking about at the time. Barnes asked, "Who the Hell is Bucky," before Romanoff shot a grenade launcher at Barnes.

James Barnes escaped the fight and went back to the National Bank of Washington. He said he was upset because he recognized his childhood friend Steve Rogers, but did not know who he was. Barnes told Secretary Pierce, "There was a man...I knew him..."

Pierce told Barnes that his work had been a gift to mankind and that Pierce needed Barnes to do it one more time. Pierce then ordered the doctors to electrocute Barnes again.

James Barnes was deployed by Pierce to ensure the Project Insight Helicarriers were launched. Barnes expressed extreme remorse for the 19 SHIELD airmen he killed. This included shooting a pilot through the canopy of his Quintjet, commandeering the aircraft, and flying the plane to one of the Project Insight Helicarriers.

Barnes tried to stop Steve from switching out one of the targeting chips on the Helicarrier. The two had a bloody fight where Barnes shot, stabbed, and did all he could to kill Captain Rogers.

Barnes expressed relief that he failed to stop Captain America. Barnes ended up pinned under wreckage and Captain Rogers freed him. Rogers said to Barnes, "You know me" and that Barnes had known Rogers his entire life. Captain Rogers told the patient that his name was James Buchanan Barnes.

Barnes told Rogers to shut up. Rogers told Barnes he was not going to fight him and that they were friends. Barnes told him, "You're not his mission" and repeatedly punched Rogers repeatedly in Rogers' face with Barnes' bionic arm. Barnes repeated during the battery, "You're my mission."

Barnes stated that Captain Rogers looked up at him and said, "Then finish it. 'Cause I'm with you 'til the end of the line."

Barnes stopped his battery on Rogers. Barnes claimed he started to remember, but did not know who he was exactly. Part of the Helicarrier started to break-up, with Captain Rogers falling below into the Potomac.

Barnes jumped from the crashing Helicarrier, found Rogers unconscious

underwater, and brought him safely to shore.

Barnes hid for a period of time, ultimately stealing some clothes and went to the Smithsonian. That is where he read about his history as a Howling Commando.

### **Summary of Medical Records**

Medical assessment (fMRI) found brain damage consistent with extensive ECT. In addition, the Defendant's left arm has been replaced with a cybernetic arm. The Defendant has multiple scars and bruises on his body. Vital signs are within normal range with the exception of blood pressure, which was slightly elevated (160/100). No known physical illnesses, no reported STD's. No additional medical information is available.

### **Summary of Additional Records**

Captain Rogers reported that he had known the Defendant since the two were young children. He stated that the Defendant used to protect him from bullies when the two were growing up. Captain Rodgers also stated that he was able to free Sgt. Barnes from HYDRA during WWII, where the Defendant was being held as a POW and tortured. Captain Rodgers added that the two joined forces to stop HYDRA and Sgt. Barnes risked his own life to try to stop a HYDRA operative on a high speed train but was pushed off of it. Rodgers knew that the likelihood of survival on the drop from the train was highly unlikely and he did not radio for help. Captain Rodgers reported that he was surprised to find Sgt. Barnes years later as he did not believe that his friend survived the fall and frozen water. Rodgers stated that when the Defendant saw him during the recent events, he did not appear to recognize him despite multiple attempts to let him know who he was. Captain Rodgers stated that Sgt. Barnes denied his identity and "was not himself."

### **DSM-5 Diagnoses at Time of Instant Offenses**

F44.89 Other Dissociative Disorder – Identity disturbance due to prolonged and intense coercive persuasion

R/O F44.81 Dissociative Identity Disorder

R/O F44.0 Dissociative Amnesia

### **Current DSM-5 Diagnoses**

F43.10 Posttraumatic stress disorder (PTSD)

F32.2 Major Depressive Disorder, severe, single episode

### **Explanation of Diagnoses**

Typically dissociative disorders have to do with a loss of one's reality or personal identity. Often the individuals might lose memory for personal information, in

particular relating to a traumatic event. Dissociative disorders might be triggered by traumatic events. Some symptoms of dissociative disorders include *depersonalization* (a sense of detachment from oneself), *derealization* (feeling as if one's experiences are not real), and disconnection from one's identity.

The disorder that should be considered (and perhaps reevaluated and ruled out in the future) for this patient is dissociative amnesia. Dissociative amnesia refers to an inability to recall significant information about one's identity. This disorder is often triggered by trauma and can co-occur with posttraumatic stress disorder (PTSD). If left untreated, it can lead to self-harm or harm to others.

The reason why this patient was not diagnosed with dissociative amnesia at this point is because dissociative amnesia requires no physiological cause. Given the fact that Sgt. Barnes underwent extreme amounts of electroconvulsive therapy, which can occasionally cause persistent memory loss, this patient was diagnosed with unspecified dissociative disorder.

<http://www.ncbi.nlm.nih.gov/pubmed/20060172>

Another disorder, which needs to be ruled out for this individual is dissociative identity disorder (DID). This disorder is typically diagnosed when an individual has two or more distinct personalities. Given the Defendant's presentation and how vastly different his Winter Soldier personality is to his original personality or Sgt. Barnes, one might argue that a DID is warranted. However, one of the main reasons why this disorder was not diagnosed is because individuals with DID typically experience a switching of personalities. In the case of the Defendant, his switch from James Barnes to the Winter Soldier appears to have lasted many years with no evidence of switching; rendering the diagnosis of DID unlikely.

The Defendant's current diagnosis is posttraumatic stress disorder (PTSD). PTSD is diagnosed when an individual witnesses or experiences a traumatic event and experiences the following symptoms for at least one month – flashbacks or nightmares, hypervigilance (increased startle response, hyper-arousal), negative changes in mood (irritability, rage, or extreme guilt), and avoidance symptoms (not wanting to talk about or participate in activities, which remind one of the traumatic experiences).

## **Criminal Responsibility Opinion**

### **1. Does the Defendant suffer from a mental disease, defect or disorder at present?**

Yes, the Defendant appears to suffer from PTSD but appears competent enough to stand trial.

### **2. If so, what is your diagnosis, and what are his symptoms?**



PTSD with the following symptoms: flashbacks, mood changes, hypervigilance, and avoidance

**3. Is it probable that the Defendant suffered from a mental disease, defect, or disorder at the time(s) the acts were committed?**

In my clinical opinion, yes.

**4. If so, what would have been the probable nature of the mental disease, defect, or disorder and what would the Defendant's probable symptoms have been at the time(s) the acts in question were committed?**

I believe that Sgt. Barnes suffered from an Unspecified Dissociative Disorder. The nature of dissociative disorders is that the individual may not be able to have a connection to reality and one's personal identity. I speculate that in the case of Sgt. Barnes, the psychological and physical torture that he endured from HYDRA likely caused him to lose touch with his identity and adopt a new identity. The Defendant's probably symptoms most likely included a disconnection from his identity, a lack of empathy, a lack of understanding the wrongfulness of his acts, and a strong impulse to follow orders.

**5.a. At the time of the commission of the acts in question, did the Defendant have the ability to understand the nature of quality of his acts?**

In my professional opinion, at the time of the commission of the acts, the Defendant had the ability to understand the nature of the quality of his acts in so far as he knew what they would accomplish. However, in my professional opinion, I believe that he did not have the capacity to understand that these acts were wrong.

**5.b. At the time of the commission of the act(s) in question, did the Defendant have capacity to predict the natural consequences of his acts?**

In my opinion, yes, the Defendant did have the capacity to understand the natural consequences of his acts.

**5.c. At the time of the commission of the acts(s) in question, did the Defendant have the capacity to distinguish right from wrong?**

In my professional opinion, at the time of the commission of the acts in question the Defendant did not have the ability to understand right from wrong. When Sgt. Barnes failed to act in a way that was consistent with HYDRA requirements he was tortured again until he was able to comply with their requests. This kind of punitive conditioning likely taught him that it was right to follow orders and it was wrong not to.

Since the psychological and physical torture he endured appears to have caused him to dissociate from his identity, I believe that Sgt. Barnes' HYDRA assigned identity of "The Winter Soldier" did not have the same moral code as Sgt. Barnes himself does. I believe that when the Defendant was acting under HYDRA's command, his ability to differentiate right from wrong was impaired and if he attempted to reconnect with his old identity of "Bucky," he was tortured again.

In my clinical opinion, this kind of torture and brainwashing created a different understanding right from wrong, where following orders was right and disobeying orders was wrong.

**5.d. At the time of the commission of the act(s) in question, did the Defendant have the capacity to make a plan of action?**

In my professional opinion, I believe that he did.

**5.e. At the time of the commission of the act(s) in question, did the Defendant have the capacity to act in a purposeful, goal-directed way and/or execute a plan of action?**

I believe that he did.

**5.f. At the time of the commission of the act(s) in question, did the Defendant have the capacity to act in a considerate, calculating, controlled way?**

I believe that he did not.

**5.g. At the time of the commission of the act(s) in question, did the Defendant have the capacity to understand and consider the lawful rights of others?**

In my professional opinion, I believe that the Defendant did not have the capacity to understand and consider the lawful rights of others.

**Summary**

In summary, I believe that the Defendant suffered from severe physical and psychological trauma, which caused him to not be able to distinguish right from wrong. I recommend providing this individual with intensive inpatient individual therapy intended to treat PTSD (Cognitive Processing Therapy).

Respectfully submitted,

Dr. Janina Scarlet, PhD  
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