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THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES HORTON, et al., on behalf of )  
themselves and all others similarly )  
situated, ) No. C94-5428 RJB  
Plaintiffs, ) DECLARATION OF  
vs. ) MICHAEL A. MILAN  
BOB WILLIAMS, et al., )  
Defendants. )

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1. My name is Michael A. Milan. I am a professor in the Department of Psychology at Georgia State University, and I reside in Atlanta, Georgia. I am a licensed psychologist in Florida and Georgia, and I am listed in the National Register of Health Service Providers in psychology.

1           2. I received my Ph.D. in psychology from the University of Florida in 1970.  
2 Since that time I have written extensively on behavioral procedures and interventions in  
3 prisons and other closed institutions. Much of this research is relevant to the behavioral  
4 management of delinquent youth in secure institutions. For example, I have written about  
5 behavior modification and token economies in secure institutions; academic performance of  
6 prisoners; correctional mental health training needs; effective treatments of aggressive  
7 behavior; and anger control for adolescent psychiatric patients.

9           3. I have been on the faculty of the Department of Psychology at Georgia State  
10 University in Atlanta for almost twenty years. I have served as Director of Graduate Studies  
11 in Psychology, and I am currently Chair of the Clinical Psychology Program Committee. I  
12 teach both undergraduate and graduate courses in psychology, including courses in applied  
13 behavior analysis and cognitive behavior therapy.

15          4. I belong to a number of professional associations relevant to psychology and  
16 delinquent youth. For example, I served as newsletter editor, then president of the  
17 American Association for Correctional Psychology. I have been active in Florida and  
18 Georgia Associations for Behavior Analysis, and I have served on the editorial board of  
19 Criminal Justice and Behavior. I also belong to the American Correctional Association.

21          5. I have been a consultant in a number of projects and cases involving  
22 institutional practices. For example, I have provided staff training in a security hospital for  
23 mentally disordered offenders in Ohio; evaluated mental health services at psychiatric

hospitals in Indiana and Alabama; and consulted on conditions of confinement and inmate management practices in prisons in Arizona, Hawaii, Virginia, Kentucky, and Missouri.

6. I have also been a consultant in a number of cases which pertain specifically to practices and conditions in secure institutions for delinquent youth. For example, I evaluated inmate management practices at the Broward County, Florida juvenile detention center and in secure institutions for delinquent youth in the District of Columbia, Florida, Mississippi, and New York.

7. My vitae, which sets out more fully my education, employment history, professional affiliations, and consultantships, is attached at Exhibit 1.

8. In May, 1994 I was contacted by David Lambert, one of the attorneys for the plaintiffs in this case, and asked to view videotapes in which staff at Green Hill School spray youth with an aerosol containing cayenne pepper extract. I viewed these videotapes, and reviewed incident reports and other documentation of these incidents prepared by staff at Green Hill contemporaneously with the incidents. I also reviewed the policies governing the use of the spray.

9. From my review of this material, it is my conclusion that staff at Green Hill School use the pepper spray to punish youth for misbehavior, not to protect the safety of other youth or staff. Of the 27 applications shown on the videotapes, 7 involved youths who were quiet and composed at the time they were sprayed. Most of the other incidents involved youth who were noisy or engaging in offensive behavior, but who clearly posed no threat of imminent danger. Only two of these incidents appeared serious enough to possibly present

1 a clear threat of imminent danger, and I believe that even in those incidents, alternative and  
2 less invasive procedures would have obviated the need for the spray. My report, which sets  
3 out more fully my analysis of the episodes shown on the videotapes, is attached as Exhibit  
4 2.

5 10. The undesirable effects of this punishment are many. It causes severe pain  
6 and discomfort to the youths who are sprayed, but has little value in deterring their  
7 inappropriate conduct. In fact, the spray may well exacerbate behavioral problems within  
8 the facility by providing a vehicle for youths to demonstrate their toughness and defiance of  
9 staff in order to enhance their reputations among their peers. It also poisons the environment  
10 within the facility and undermines efforts at rehabilitative treatment.

11 11. For all of these reasons, it is my opinion that the use of pepper spray at Green  
12 Hill School as shown on the videotapes and described on the documentation that I reviewed,  
13 does not comport with minimally accepted standards of professional judgment in the area of  
14 behavior management.

15 16 Dated: October 26, 1994

17 18 19 Michael A. Milan, Ph.D.  
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