

**United States District Court  
Western District of Washington**

**No. 2:17-cv-00561-RAJ**

Duy T. Mai, Plaintiff,

vs.

United States; and

Department of Justice; and

Bureau of Alcohol, Tobacco, Firearms, and  
Explosives; and

Federal Bureau of Investigation; and

Jefferson B. Sessions III, as Attorney  
General; and

~~James B. Comey~~ Christopher A. Wray, as  
Director of the Federal Bureau of  
Investigation; and

Thomas E. Brandon, as Acting Director of the  
Bureau of Alcohol, Tobacco, Firearms, and  
Explosives

**First Amended Complaint**

Plaintiff Duy T. Mai brings this action against the United States and other named defendants and makes the following allegations and complaints:

917 S 10th St  
Tacoma, WA 98405  
253-905-8415  
vitaliy@kertchenlaw.com  
www.kertchenlaw.com

I. PARTIES

1. Plaintiff Duy T. Mai is an individual residing in Seattle, King County, Washington.
2. Defendant Department of Justice (DOJ) is a United States agency charged with enforcing the laws of the United States.
3. Defendant Jefferson B. Sessions III is the Attorney General of the United States, and the head of the Department of Justice.
4. Defendant Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) is an agency of the DOJ responsible for enforcing United States laws pertaining to firearms.
5. Defendant Thomas E. Brandon is the Acting Director and head of the BATFE.
6. Defendant Federal Bureau of Investigation (FBI) is an agency of the DOJ responsible for conducting background checks for firearm sales through its National Instant Criminal Background Check System (NICS).
7. Defendant ~~James B. Comey~~ Christopher A. Wray is the Director and head of the FBI.
8. Defendant United States is the United States of America.

II. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question) and § 1346 (United States as defendant). One of the defendants is the United States of America and the plaintiff resides within the Western District of Washington. This Court has venue under 28 U.S.C. § 1391(e)(1).

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III. FACTS

1. In October 1999, when he was a seventeen-year-old juvenile, Mr. Mai was involuntarily committed for mental health treatment by the King County Superior Court under cause number 99-6-01555-4. That court later transferred venue of the proceedings to Snohomish County under cause number 00-6-00072-6. As a result, Mr. Mai lost his firearm rights under RCW 9A.040(2)(a)(iii) and 18 U.S.C. § 922(g)(4).
2. Mr. Mai's commitment expired by August 8, 2000. He has never been committed since.
3. Since that time, Mr. Mai has enjoyed a fruitful and fulfilling life. In 2001, he enrolled in Evergreen Community College where he completed his GED and earned college credit that enabled him to transfer to a university. In 2002, he transferred to the University of Washington and graduated with a bachelor's of science in microbiology and a cumulative 3.7 GPA. After graduating, Mr. Mai enrolled in a master's program at the University of Southern California (USC) and graduated with a master's degree in microbiology in 2009.
4. He moved back to Seattle, where he began a job at Benaroya Research Institute, studying viruses. As part of his job, he has successfully passed an FBI background check and is allowed to have unescorted access and use of a JL Shepherd Mark II Cesium – 137 irradiator.
5. In April 2016, Mr. Mai briefly worked as a contractor for Seattle Genetics doing cancer research.

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- 1           6. In October 2016, he began working for Fred Hutchinson Cancer Research Center as  
2           an immune monitoring specialist and remains employed there presently.
- 3           7. While living in Los Angeles and attending USC, Mr. Mai met Michelle Ross and the  
4           two had a pair of twins. Although Mr. Mai and Ms. Ross are no longer together  
5           romantically, Mr. Mai continues to be active father in his children's lives.
- 6           8. In all, Mr. Mai has completely recovered from the condition that lead to the  
7           involuntary commitment seventeen years ago. He no longer uses any medication to  
8           control his condition; in fact, he no longer has any condition to control in the first  
9           instance. By all accounts, he lives a socially-responsible, well-balanced, and  
10          accomplished life.
- 11          9. In 2014, Mr. Mai petitioned the King County Superior Court under RCW 9.41.047  
12          for restoration of his firearm rights, supplying the court with medical and  
13          psychological examinations and supportive declarations from over ten people. ~~The~~  
14          ~~court granted his petition.~~ The petition is attached as Exhibit A.
- 15          10. As part of the restoration of firearm rights procedure under Washington state law, the  
16          superior court must find that: 1) the petitioner is no longer required to participate in  
17          court-ordered inpatient or outpatient treatment; 2) the petitioner has successfully  
18          managed the condition related to the commitment; 3) the petitioner no longer presents  
19          a substantial danger to himself or herself, or the public; and 4) the symptoms related  
20          to the commitment are not reasonably likely to recur. RCW 9.41.047(c)(i)-(iv).
- 21          11. The Court made these findings and restored Mr. Mai's Washington state firearm  
22          rights on December 5, 2014. The order is attached as Exhibit B.

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1       12. In support of his petition to the King County Superior Court, Mr. Mai submitted  
2       evaluations from three doctors/licensed psychologists. All of the evaluators concluded  
3       that Mr. Mai posed no risk to himself or others. Dr. Cecchet concluded that “Mr. Mai  
4       . . . does not present with any observable psychopathology.” These evaluations are  
5       attached as Exhibit C.

6       13. Mr. Mai also submitted at least fourteen declarations from close friends and family  
7       members, attesting to his health and character.

8       14. After having his Washington state firearm rights restored, Mr. Mai attempted to  
9       purchase a firearm and received a denial from NICS. After requesting to know the  
10      reason for the denial, NICS informed him that the denial was based on 18 U.S.C. §  
11      922(g)(4), involuntary commitment.

12      15. Subsequently, Mr. Mai received a phone call from someone at BATFE, informing  
13      Mr. Mai that the BATFE legal department has determined that his state restoration  
14      order is not sufficient to overcome the federal prohibition in 18 U.S.C. § 922(g)(4).

15      16. 18 U.S.C. § 925(c) provides for a “relief from disability” program to be administered  
16      through the Attorney General. However, due to lack of funding, this program has not  
17      functioned since 1992.

18      17. In the NICS Improvement Amendments Act of 2007 (NIAA), Congress provided that  
19      involuntary commitment firearm restorations from certain states would remove the  
20      (g)(4) federal prohibition. To qualify, the restoration requirements under state law  
21      must match certain criteria included in the NIAA. Washington state does not qualify.

22      18. Therefore, Mr. Mai has no statutory relief available to him.

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1 19. As a direct consequence of each of the defendants' actions, together and separately,  
2 Mr. Mai has suffered a lifetime prohibition on firearm possession under federal law  
3 for an involuntary commitment he suffered seventeen years ago as a juvenile, despite  
4 no longer being mentally ill.

5  
6 IV. CAUSES OF ACTION

- 7 1. Each of the defendants, together and separately, has violated Mr. Mai's constitutional  
8 rights by denying him the ability to keep, bear, and purchase firearms as guaranteed  
9 to him by the Second Amendment. As a direct and proximate result, Mr. Mai has  
10 suffered and continues to suffer from an unlawful deprivation of his fundamental  
11 constitutional right to keep and bear arms.
- 12 2. Each of the defendants, together and separately, has violated Mr. Mai's Fifth  
13 Amendment rights by denying him the ability to keep, bear, and purchase firearms  
14 without due process of law. As a direct and proximate result, Mr. Mai has suffered  
15 and continues to suffer from an unlawful deprivation of his fundamental  
16 constitutional right to keep and bear arms.

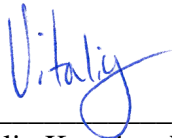
17  
18 V. REQUESTED RELIEF

- 19 1. That the Court enter a declaratory judgment, ruling that 18 U.S.C. § 922(g)(4), its  
20 derivative regulations, and all related laws, policies, and procedures violate Mr. Mai's  
21 right to keep and bear arms as secured by the Second Amendment.

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2. That the Court enter a declaratory judgment, ruling that 18 U.S.C. § 922(g)(4), its derivative regulations, and all related laws, policies, and procedures violate Mr. Mai's right to due process under the Fifth Amendment.
3. That the Court enter a permanent injunction prohibiting defendants, their officers, agents, servants, employees, and all persons in concert with them from enforcing 18 U.S.C. § 922(g)(4) and all its derivative regulations, and all related laws, policies, and procedures that would impede or criminalize Mr. Mai's exercise of his Second Amendment rights.
4. That the Court award Mr. Mai his attorney's fees and costs.
5. Any other legal or equitable relief as the Court sees fit.

Respectfully submitted,



Vitaliy Kertchen WSBA#45183  
Attorney for Mr. Mai  
Date: ~~4/11/17~~ 2/12/18

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# EXHIBIT A



COPY RECEIVED

JUL 31 2014

CRIMINAL DIVISION  
KING COUNTY PROSECUTOR'S OFFICE

SUPERIOR COURT OF WASHINGTON  
KING COUNTY

DUY TRAN MAI,  
Petitioner,  
v.  
STATE OF WASHINGTON,  
Respondent.

No.

PETITION FOR ORDER RESTORING  
RIGHT TO POSSESS FIREARMS  
PURSUANT TO RCW 9.41.040(4) AND  
RCW 9.41.047(3)

**Relief Requested**

Duy Mai respectfully petitions this Court for an Order Restoring the Right to Possess Firearms pursuant to RCW 9.41.040(4), RCW 9.41.047(3), and LCR 40(b)(16).

**Statement of Facts**

The basic procedural history relevant to this Petition is as follows:

On or about 10/21/1999 a Petition for Initial Detention was filed in this court. See In re the Commitment of Dui Mai Tran; King County Superior Court Cause No. 99-6-01555-4. Later, on or about 2/9/2000, this court entered an Order for Change of Venue to Snohomish County. Then on or about 2/11/200 the Snohomish County Superior Court entered Amended Findings of Fact; Conclusions of Law, and Order for An Additional 180 days of Less Restrictive Alternative Treatment. See In re the Detention of Duy Mai, Snohomish County Superior Court Cause No. 00-6-00072-6. Ultimately, these proceedings caused Mr. Mai to lose his right to possess a

*Petition for Order Restoring  
Right to Possess Firearms—Page 1  
RCW 9.41.040; 9.41.047, LCR 40(b)(16)*

*Filed on  
8.5.14*

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Attorneys at Law  
P.O. Box 727  
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firearm. See Amended Findings of Fact; Conclusions of Law; and Order for an Additional 180 days of Less Restrictive Alternative Treatment at 5, ¶5.3 attached as "Appendix A." By August 14, 2000 the Snohomish County Superior Court entered a Notice of Disposition of Civil Commitment Proceeding. See attached as "Appendix B." The Notice of Disposition provides "The period of commitment has expired on August 8, 2000 and no additional commitment will be sought under this cause." *Id.*

Additional procedural history is contained in the docket sheets attached hereto as "Appendix C."

### Statement of Issues

Issue: Whether Mr. Mai's right to possess a firearm must be restored pursuant to RCW 9.41.040 and 9.41.047.

Short Answer: Mr. Mai's right to possess a firearm should be restored because he meets all criteria under the applicable statutes.

### Evidence Relied Upon

1. Declaration of Petitioner (below).
2. Amended Findings of Fact; Conclusions of Law; and Order for an Additional 180 days of Less Restrictive Alternative Treatment attached as "Appendix A."
3. Notice of Disposition of Civil Commitment Proceeding. See attached as "Appendix B."
4. Declaration of Nancy Connolly, M.D.
5. Declaration of Stacy Cecchet, Ph.D.
6. Declaration of Brendon Scholtz, Ph.D.
7. Letter prepared by Benaroya Research Institute. See attached.
8. Declaration of Michelle Ross
9. Declaration of Elisha Willburn
10. Declaration of Richard Notturmo
11. Declaration of Diana Sorus
12. Declaration of Heather Marie Knapp
13. Declaration of Tina DeWeese
14. Declaration of Krista Garrett

- 1 15. Declaration of Allison Evans
- 2 16. Declaration of Jessica A. Martin
- 3
- 4 17. Declaration of Kaegan Faltys-Burr
- 5
- 6 18. Declaration of Scarlett Mai
- 7
- 8 19. Declaration of Trevar Telford
- 9
- 10 20. Declaration of Micah Dumas
- 11
- 12 21. Declaration of Rebecca J. Pearce
- 13
- 14 22. Etc./Other Declarations filed herein

15 **Authority**

16 RCW 9.41.040(4) provides in pertinent part:

17 (4)(a)...if a person is prohibited from possession of a firearm under subsection (1) or (2)  
18 of this section and has not previously been convicted or found not guilty by reason of  
19 insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this  
20 section and/or any felony defined under any law as a class A felony or with a maximum  
21 sentence of at least twenty years, or both, the individual may petition a court of record to  
22 have his or her right to possess a firearm restored:

23 (i) Under RCW 9.41.047; and/or

24  
25 (ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony  
26 offense, after five or more consecutive years in the community without being convicted  
27 or found not guilty by reason of insanity or currently charged with any felony, gross  
28 misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions  
29 that prohibit the possession of a firearm counted as part of the offender score under RCW  
30 9.94A.525; or

31  
32 (B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony  
33 offense, after three or more consecutive years in the community without being convicted  
34 or found not guilty by reason of insanity or currently charged with any felony, gross  
35 misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions  
36 that prohibit the possession of a firearm counted as part of the offender score under RCW  
37 9.94A.525 and the individual has completed all conditions of the sentence.

38  
39 (b) An individual may petition a court of record to have his or her right to possess a  
40 firearm restored under (a) of this subsection (4) only at:

41  
42 (i) The court of record that ordered the petitioner's prohibition on possession of a firearm;  
43 or  
44

(ii) The superior court in the county in which the petitioner resides.

Wash. Rev. Code Ann. § 9.41.040. RCW 9.41.047 provides in pertinent part:

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) of this subsection, the court shall restore the petitioner's right to possess a firearm if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment are not reasonably likely to recur.

Wash. Rev. Code Ann. § 9.41.047. LCR 40(b)(16) provides in part:

If the conviction resulting in loss of the right occurred in a court of limited jurisdiction or the Superior Court of another county, the petitioner must file an original cause of action in King County Superior Court and the motion shall be noted without oral argument before the Chief Criminal Judge or the Chief Maleng Regional Justice Center Judge pursuant to LCR 7.

WA R KING SUPER CT LCR 40(b)(16).

Respectfully submitted this 29th day of July, 2014.

  
Brent Thompson, WSBA# 44778  
Attorney for Petitioner

**Declaration of Petitioner**

My right to possess a firearm should be restored for the following reasons:

**A. General Requirements For Restoration Of Right To Possess Firearms—9.41.040(4)**

I have never been convicted of or found not guilty by reason of insanity of any sex offense, felony, or nonfelony offense. I am not currently charged with any felony, gross misdemeanor, or misdemeanor crime. This Petition is brought in the superior court of the county in which I reside.

**B. No Requirement To Participate in Court-Ordered Inpatient or Outpatient Treatment—RCW 9.41.047(c)(i)**

My period of commitment expired by August 8, 2000. No additional commitment was sought after that time. See attached "Appendix B." I am not subject to any court order that requires me to participate in inpatient or outpatient treatment. I am fully rehabilitated, stable, productive, law abiding, and do not require any treatment.

**C. Successful Management of the Condition Related to the Commitment—RCW 9.41.047(c)(ii)**

I have successfully managed the condition related to the commitment that occurred nearly fifteen years ago. About two months after my commitment ended, I began working full-time at K-Mart in Everett. I worked there as a porter for about six months. During my time at K-Mart I developed relationships of trust and respect with my supervisors. I also developed friendships with co-workers. My time at K-Mart also caused me to develop a good work ethic.

Later in 2001, I enrolled at Everett Community College. During my time in community college I developed a thriving social life. I also studied hard. I completed my GED and obtained college credit that enabled me to transfer to a university. I also developed an interest in science during my time at Everett Community College. Ultimately, I successfully managed my condition during my time in community college.

In 2002, I transferred to the University of Washington (UW). My major at UW was initially in bioengineering, but later I switched my major to microbiology. My change in major was inspired by my desire to help impoverished and disease stricken peoples plagued by AIDS. I also devoted time to studying salmon and became involved in a salmon conservation laboratory. I tracked the genetic adaptations of farmed salmon that had been released into the



1 wild and compared them with wild salmon. Eventually, I also began an internship at James  
2 Mullins' Lab where I researched the HIV virus. There, my main project was tracking genetic  
3 changes associated with the HIV virus from first infection through the development of AIDS.  
4

5 At UW my social life thrived. I also dedicated myself to volunteering for good causes  
6 aimed at protecting the environment. I became a member of People for Puget Sound and  
7 devoted time to removing non-native weeds to protect the natural habitat of salmon. I also  
8 became a member of Amnesty International and would write to representatives about  
9 humanitarian issues. Ultimately, I successfully managed my condition during my time at UW  
10 and graduated with a B.S. in microbiology and cumulative GPA of 3.7.  
11  
12

13 I enrolled in a Master's program at the University of Southern California (USC) after  
14 completing my studies at UW. At USC my studies shifted toward cancer. My research helped to  
15 determine the cause of certain kinds of cancer and also helped improve cancer treatments. I  
16 continued to excel academically. At the same time I began tapering off of my anti-depressant  
17 medications. I also developed important, long lasting, and loving relationships during my time at  
18 USC.  
19  
20

21 Living in Los Angeles allowed me to develop relationships with the maternal side of my  
22 family. I was able to get to know my mother's family and also grew close to my grandmother  
23 before she passed away. I also met Michelle Ross while living in Los Angeles. Michelle and I  
24 now have four-year-old twins together. Although we are not currently in a romantic relationship  
25 together, Michelle and I remain friends and have maintained a copasetic relationship of trust. I  
26 have filed a declaration prepared by Michelle wherein she describes our good relationship and  
27 my role as a father.  
28  
29

30 In 2009, I completed my studies at USC and graduated with a Master's degree in  
31 microbiology. I also successfully discontinued my anti-depressant medications without issue.  
32 Ultimately, I successfully managed my condition during my time at USC.  
33  
34

35 Eventually, I moved back to Seattle where I became employed at Benaroya Research  
36 Institute. There my work concentrates on virology—the study of viruses. At present, I am still  
37 employed at Benaroya Research Institute and remain dedicated to my employer. I have also  
38 successfully completed annual Radiation Safety Training Safety Training courses for my  
39  
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1 employment five times. I have also successfully passed an FBI background check that allows me  
 2 to have unescorted access and use of JL Shepherd Mark II Cesium – 137 irradiator. See  
 3 Attached. I remain very careful, professional, and continue to be in good standing at Benaroya.  
 4 I am trusted at my work and have never had any safety issues.  
 5

6  
 7 Overall, I have successfully managed the condition related to my commitment. In fact, I  
 8 believe that I am fully rehabilitated and no longer have a condition. I no longer need medication  
 9 and am a completely stable, productive, law abiding, and am a responsible member of society. I  
 10 have filed additional declarations from witnesses who agree. Experts also agree that I have  
 11 successfully managed my condition as explained below.  
 12

13  
 14 **D. No Danger to Self or Public and Symptoms Related to the Commitment Are Not**  
 15 **Reasonably Likely To Recur—RCW 9.41.047(c)(iii)-(iv)**  
 16

17 Experts agree that I am not a danger to myself or the public and that the symptoms  
 18 related to my commitment are not reasonably likely to recur:  
 19

20 (1) Nancy Connolly, M.D., in her declaration filed herein, writes:  
 21

22 Mr. Mai has been under my care since 2010 and during this time he has never  
 23 demonstrated evidence of clinical depression. In office depression screening has  
 24 consistently been negative and he has consistently demonstrated healthy lifestyle and  
 25 behaviors. I do not believe that he represents a significant suicide risk nor do I  
 26 believe that he is at risk for harming others.  
 27

28 See Sealed.  
 29

30 (2) Stacy Cecchet, Ph.D, in her declaration filed herein, writes:  
 31

32 Based on the review of the information provided in the clinical interview, it is the  
 33 opinion of the undersigned that Mr. Mai is of low risk for future violence and  
 34 nonviolent criminal behavior and does not present with any observable  
 35 psychopathology.  
 36

37 See Sealed.  
 38

39  
 40 (3) Brendon Scholtz, Ph.D., in his declaration filed herein, writes:  
 41  
 42  
 43  
 44

1 The results of the measures administered and interpreted by Dr. Cecchet are  
2 summarized in her reported dated 5/2/2014. In short they place Mr. Mai's risk of  
3 violent and non-violent recidivism at or below the baseline of his normative group.  
4 In addition Mr. Mai does not appear to be currently experiencing any significant  
5 psychological distress and he does not appear to have any overt symptoms of a major  
6 disorder of thought or mood.

7 See Sealed.  
8  
9

10 I pose no danger to myself or the public. The symptoms related to my commitment are not  
11 reasonably likely to recur. I meet all criteria for restoration of firearm rights under RCW  
12 9.41.040(4) and 9.41.047(3). I therefore respectfully request that this court grant my petition and  
13 restore my right to possess a firearm.  
14  
15

16  
17  
18 I declare under penalty of perjury under the laws of the state of Washington that the foregoing is  
19 true and correct to the best of my knowledge.

20 Signed at Seattle, (City) WA (State) on 7/29/14 (Date).  
21

22  
23 Duy Mai  
24 Duy Mai  
25 Petitioner  
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**Appendix A**

Snohomish County Superior Court Cause No. 00-6-00072-6

Amended Findings of Fact; Conclusions of Law; and Order for an Additional 180 days of Less  
Restrictive Alternative Treatment

FILED

00 FEB 11 PM 4:57

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY CLERK  
IN AND FOR THE COUNTY OF SNOHOMISH

IN RE THE DETENTION OF

DUY MAI,  
Respondent.

Cause No. 00-6-00072-6

AMENDED

FINDINGS OF FACT; CONCLUSIONS  
OF LAW; AND ORDER FOR AN ADDITIONAL  
180 DAYS OF ( ) INPATIENT or (XX) LESS  
RESTRICTIVE ALTERNATIVE TREATMENT.  
(RCW 71.05.280) ORDER COMMENCING  
10/28/99 (Amended)

[Clerk's Action Required]

1.1 THIS MATTER having come before the undersigned judge of the above-entitled court on the Petition for 180 days of additional involuntary treatment, Respondent having been represented by Kelli K. [Signature], and Petitioner having been represented by Dennis K. [Signature], Deputy Prosecuting Attorney.

1.2 (X) Stipulation. The parties having agreed and stipulated to the facts set forth in the Petition for 90/180 days of Additional Inpatient/Less Restrictive Alternative Treatment under RCW 71.05.280; or

1.3 ( ) Trial. After a ( ) jury trial or ( ) bench trial and testimony and evidence having been presented on the same, the Court enters the following

**I. FINDINGS OF FACT**

There is clear, cogent and convincing evidence, pursuant to Chapter 71.05 RCW, that:

2.1 The Court has jurisdiction over the person and subject matter of this cause and that all notices and statements of rights relative to this petition and proceeding have been given and afforded to the respondent.

2.2 The respondent continues to suffer from a mental disorder.

2.3 As a result of a mental disorder, and after a period 90 (14/90/180) days of

( ) inpatient involuntary treatment or (X) less restrictive alternative treatment pursuant to an Order of this Court dated Feb 10, 2000, the Respondent continues to present:

- X a likelihood of serious harm to others;  
 \_\_\_\_\_ a likelihood of serious harm to him/herself;  
 \_\_\_\_\_ is gravely disabled;  
 \_\_\_\_\_ a likelihood of substantial damage to the property of others.

2.4 Evidence of this condition includes the following: \_\_\_\_\_

*Respondent stipulated to facts as follows*

2.5 These findings of fact are based upon the factual allegations and mental health professional opinions contained in the Petition for 90 (90-180) Days of Additional Involuntary ( ) Inpatient or (X) Less Restrictive Alternative Treatment filed by the County designated mental health professional for Snohomish County in this matter and the accompanying Co-Affidavits of Petitioners and the pleadings filed with the Court, and the

(X) stipulation and agreement of the parties to the factual allegations contained therein; or

( ) testimony and evidence received by the Court at a trial on the Petition.

2.6 Having considered Respondent's condition and the treatment options available, the Court finds that less restrictive alternative treatment ( ☒ ) is or ( ) is not in the best interest of the Respondent.

2.7 The Respondent has been offered voluntary treatment and has ( ) declined treatment or ( ~~X~~ ) has not volunteered for treatment in good faith.

Based upon the foregoing Findings of Fact shown by clear, cogent and convincing evidence, the court renders the following:

## II. CONCLUSIONS OF LAW

3.1 This court has jurisdiction over the person and subject matter of this cause.

3.2 As a result of a mental disorder, the Respondent continues to present within the meaning of RCW 71.05:

- ( ☒ ) a likelihood of serious harm to others;
- ( ) a likelihood of serious harm to her/himself;
- ( ) a likelihood of substantial damage to the property of others; and/or
- ( ) respondent is gravely disabled;

3.3 Less restrictive alternative treatment to involuntary detention and treatment ( ☒ ) is or ( ) is not in the best interest of the Respondent.

3.4 Respondent ( ) has declined treatment on a voluntary basis or ( ~~X~~ ) has not in good faith volunteered for such treatment.

## III. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED that: (check appropriate item)

### ( ) 90-180 DAYS ADDITIONAL INPATIENT TREATMENT

4.1 INPATIENT PLACEMENT: Respondent is hereby remanded to the custody of Western State Hospital, or other certified facility as deemed appropriate by the Washington State Department of Social & Health Services, for a period not to exceed 180 days from the date of this Order for inpatient mental health treatment under RCW 71.05.

02/10/00 THU 08:38 FAX 425 388 7218

SNOH CO MNTL HLH

002

1 4.2 CHANGE OF VENUE: Venue and jurisdiction over this matter are hereby  
 2 transferred to the Superior Court of \_\_\_\_\_ County, Washington. The Clerk shall forward  
 3 copies of all pleadings and correspondence and related documents of this matter to the Clerk of  
 4 the Superior Court of \_\_\_\_\_ County, Washington.

5 4.3 ESCAPE AND RECAPTURE: In the event of the Respondent's unauthorized  
 6 absence from the required inpatient treatment facility, any peace officer shall apprehend, detain  
 7 and return the Respondent or place Respondent in such facility designated by the Washington  
 8 State Department of Social & Health Services as is consistent with this order.

9 4.4 FIREARM POSSESSION PROHIBITED: Respondent is prohibited from possessing  
 10 in any manner, a firearm as defined in RCW 9.41.010, unless and until a hearing is held and  
 11 such right is restored under RCW 9.41.04(6)(c).

12 or

13 **(XX) 90-180 DAYS ADDITIONAL LESS RESTRICTIVE ALTERNATIVE TREATMENT**

14 5.1 Respondent shall be required to comply with the following terms and conditions of  
 15 less restrictive alternative treatment for a period not to exceed 90 days:


- 16 a. Participate in and follow the treatment recommendations of his/her case  
 17 manager at COMPASS HEALTH, and keep all appointments with the case  
 18 manager.
- 19 b. Reside at residence approved by his/her case manager.
- 20 c. Take medications as prescribed and cooperate with lab work, where required.
- 21 d. Refrain from use or abuse of non-prescription drugs and alcohol.
- 22 e. Refrain from threats or acts of harm to self, others, and property.
- 23 f. Refrain from possessing, in any manner, a firearm as defined in RCW 9.41.010,  
 24 unless and until a hearing is held and such right is restored under RCW  
 25 9.41.04(6)(c).
- 26 g. Maintain his/her own health and safety within the community.
- 27 h. Not own or possess any bombs, bomb making materials, explosive devices, nor  
 any plans, printed or otherwise, which describe the methods and/or materials  
 necessary to build explosive devices or bombs.
- i. Refrain from eliciting any violent stimuli, specifically over the internet.
- j. Actively involve self with the development and implementation of treatment  
 plan.
- k. To remain at Stevens Hospital until testing is completed, and discharged by  
 Physician.




1 Clerk shall forward copies of all pleadings and correspondence and related documents of this  
2 matter to the Clerk of such Superior Court.

3 5.3 FIREARM POSSESSION PROHIBITED: Respondent is prohibited from possessing  
4 in any manner, a firearm as defined in RCW 9.41.010, unless and until a hearing is held and  
5 such right is restored under RCW 9.41.04(6)(c).

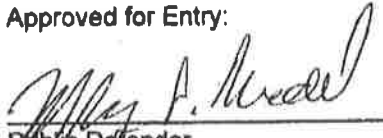
6 DONE IN OPEN COURT this 9<sup>th</sup> day of February, 2000.

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9 JUDGE/COURT COMMISSIONER

10  
11 Presented by:

12   
13 Deputy Prosecuting Attorney  
14 WSBA # 27532  
15 Attorneys for Petitioner

Approved for Entry:

16   
17 Public Defender  
18 WSBA # \_\_\_\_\_  
19 Attorneys for Respondent

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**Appendix B**

Snohomish County Superior Court Cause No. 00-6-00072-6

Notice of Disposition of Civil Commitment Proceeding

*Petition for Order Restoring  
Right to Possess Firearms—Page 10  
RCW 9.41.040; 9.41.047, LCR 40(b)(16)*

**PLATT & BUESCHER**  
*Attorneys at Law*  
P.O. Box 727  
Coupeville, WA 98239  
Phone: (360) 678-6777

FILED

00 AUG 14 PM 12:10

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

SNOHOMISH CO. WASH.

No. 00-6-00072-6

IN RE THE DETENTION OF:

DUY TRAN MAI,  
RESPONDENT.

NOTICE OF DISPOSITION OF  
CIVIL COMMITMENT  
PROCEEDING

**CLERK'S ACTION REQUIRED**

**NOTICE TO THE CLERK OF THE COURT FOR SNOHOMISH COUNTY:**


This is to notify you that this case is now closed and no further proceedings will be filed under this cause number. This case file should be closed and any trial date stricken because:

☐ The respondent has been unconditionally released/discharged from the facility on \_\_\_\_\_ (DATE)

☒ The period of commitment has expired on August 8, 2000, and no additional commitment will be sought under this cause.

☐ The respondent has been transferred to a certified facility outside of Snohomish County and the current period of commitment has expired.

DATED this 11<sup>th</sup> day of August, 2000.

  
☐ Certified Evaluation and Treatment Facility Staff  
☒ County Designated Mental Health Professional



**Appendix C**

Docket Sheets Re:

- (1) King County Superior Court Cause No. 99-6-01555-4
- (2) Snohomish County Superior Court Cause No. 00-6-00072-6

03-23-01

KING COUNTY SUPERIOR COURT

PAGE 1

CASE#: 99-6-01555-4 SEA MENTL  
 TITLE: DUY MAI TRAN  
 FILED: 10/21/1999  
 CAUSE: MIJ MENTAL ILLNESS-JUVENILE  
 RESOLUTION: CDTC DATE: 10/28/1999 COURT DECISION TO COMMIT  
 COMPLETION: JODF DATE: 10/28/1999 JUDGMENT/ORDER/DECREE FILED  
 CASE STATUS: CMPL DATE: 10/28/1999 COMPLETED/RE-COMPLETED  
 CONSOLIDATED:  
 NOTE1: \*\*CHANGE OF VENUE TO SNOHOMISH COUNTY\*\*  
 NOTE2:

-----PARTIES-----  
 CONN LAST NAME, FIRST MI TITLE LITIGANT DATE  
 RSP01 TRAN, DUY M

-----ATTORNEYS-----  
 CONN LAST NAME, FIRST MI TITLE LITIGANTS DATE  
 ATP01 CORGAN, LLOYD PATRICK  
 ATRO1 LOUIS, MARY FRANCES  
 ATP02 WILCOX, KATHARINE BILIMORIA

-----APPEARANCE DOCKET-----  
 SUB# DATE CD/CONN DESCRIPTION SECONDARY  
 1 10/21/1999 PTINDT PETITION FOR INITIAL DETENTION  
 2 10/21/1999 NTHG NOTICE OF HEARING 10-25-1999HM  
 ACTION PET FOR 14 DAY INVOL TREATMENT  
 3 10/25/1999 PTIT14 PET FOR INVOL TREATMENT 14 DAY  
 4 10/25/1999 WV WAIVER  
 5 10/25/1999 ORCNT ORDER OF CONTINUANCE 10-28-1999HM  
 ACTION 14 DAY CONT  
 6 10/25/1999 HCNTPA CONTINUED: PLAINTIFF ATTY REQUESTED  
 COM02 COMMISSIONER LEONID PONOMARCHUK  
 - 10/25/1999 AUDIO AUDIO LOG 335/2369  
 7 10/28/1999 FNFCL FINDINGS OF FACT&CONCLUSIONS OF LAW  
 8 10/28/1999 ORDRSP ORDER DETAINING RESPONDENT AGREED  
 9 10/28/1999 180HRG 180 DAY HEARING  
 COM02 COMMISSIONER LEONID PONOMARCHUK  
 - 10/28/1999 AUDIO AUDIO LOG 342/2492  
 10 12/07/1999 PTRV PETITION/MOTION FOR REVOCATION  
 11 12/07/1999 NTHG NOTICE OF HEARING 12-13-1999HM  
 ACTION 180 DAY REVOCATION  
 12 12/13/1999 MTHRG MOTION HEARING  
 PRO00 JUDGE PRO TEM KATHARINE HERSHEY  
 - 12/13/1999 AUDIO AUDIO LOG 386/1313  
 13 12/13/1999 ORDSM ORDER OF DISMISSAL  
 14 02/09/2000 ORCHV ORDER FOR CHANGE OF VENUE TO  
 SNOHOMISH COUNTY  
 15 02/28/2000 RTRCM RETURN RECEIPT - CERTIFIED MAIL  
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 !!!DO NOT DOCKET UNDER THIS LINE!!  
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-----END COPY CASE-----

SNOHOMISH SUPERIOR COURT 05-12-01 06:30 PAGE 1

CASE#: 00-6-00072-6

JUDGMENT#

TITLE: DUY MAI AKA

FILED: 02/09/2000

CAUSE: MIO MENTAL ILLNESS-JUVENILE

DV: N

RESOLUTION: CD10 DATE: 02/11/2000 COURT DECISION TO COMMIT

COMPLETION: UNCL DATE: 08/14/2000 UNCONTESTED COMPLETION

CASE STATUS: CMPL DATE: 08/14/2000 COMPLETED/RE-COMPLETED

ARCHIVED:

CONSOLIDIT:

NOTE1:

NOTE2:CLOSED

## PARTIES

CONN.	LAST NAME, FIRST MI	TITLE	LITIGANTS	DATE
INC01	MAI, DUY			
AKA	TRAN, DUI MAI			

## APPEARANCE DOCKET

SUB#	DATE	CODE/ CONN	DESCRIPTION/NAME	SECONDARY
1	02/09/2000	PTRV	PETITION/MOTION FOR REVOCATION OF LRA	
-	02/09/2000	CUSATH	CUSTODY AUTHORIZATION	
-	02/09/2000	NTSRIP	NOTC/STMT, RHTS, FOR INVOL PATIENT	
2	02/11/2000	NTSRIP	NOTC/STMT, RHTS, FOR INVOL PATIENT	
3	02/11/2000	OAPJPS PRO.	OR, OATH & APPR JDGE PRO TEM & STIP JUDGE PRO TEM PAUL HANSEN	
-	02/11/2000	EXWACT	EX-PARTE ACTION WITH ORDER	
4	02/11/2000	ORDTLRA	OR OF DETENTION/LESS RESTRICT ALT	
-	02/11/2000	FNFCI PRO	FINDINGS OF FACT&CONCLUSIONS OF LAW JUDGE PRO TEM PAUL HANSEN	
-	02/11/2000	EXWACT	EX-PARTE ACTION WITH ORDER	
5	02/24/2000	RCDCHV	RECORD ON CHANGE OF VENUE FROM KING COUNTY	
6	08/14/2000	NT	NOTICE OF DISPOSITION	

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=====END=====

# EXHIBIT B

**FILED**  
KING COUNTY, WASHINGTON

DEC 08 2014

SUPERIOR COURT CLERK

SUPERIOR COURT OF WASHINGTON  
KING COUNTY

DUY TRAN MAI,  
(DOB: 10/3/1978)

Petitioner,

v.

STATE OF WASHINGTON,  
Respondent.

No. 14-2-21620-3 SEA

ORDER RESTORING RIGHT  
TO POSSESS FIREARMS  
PURSUANT TO RCW 9.41.040(4)  
AND RCW 9.41.047(3)

Clerk's Action Required

THIS MATTER having come on for hearing before the above entitled court on a  
Petition for Order Restoring Right to Possess Firearms Pursuant to RCW 9.41.040(4), RCW  
9.41.047(3), and LCR 40(b)(16) and the court having reviewed the petition, declarations, and  
sworn testimony of expert witnesses, and having heard any objections thereto, and being  
otherwise fully advised:

THE COURT HEREBY FINDS:

1. Mr. Mai is no longer required to participate in court-ordered inpatient or outpatient treatment;
2. Mr. Mai has successfully managed the condition related to the commitment;
3. Mr. Mai no longer presents a substantial danger to himself, or the public; and
4. The symptoms related to the commitment are not reasonably likely to recur.

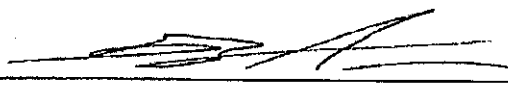
1 THE COURT HEREBY ORDERS that Mr. Mai's right to possess firearms is fully  
2 restored pursuant RCW 9.41.047(3). The clerk of the court shall, forthwith, provide certified  
3 copies of this Order to the Washington State Patrol-Identification Section, King County Sheriff,  
4 and Seattle Police Department. The Washington State Patrol shall transmit a copy of this Order  
5 to the Federal Bureau of Investigation.  
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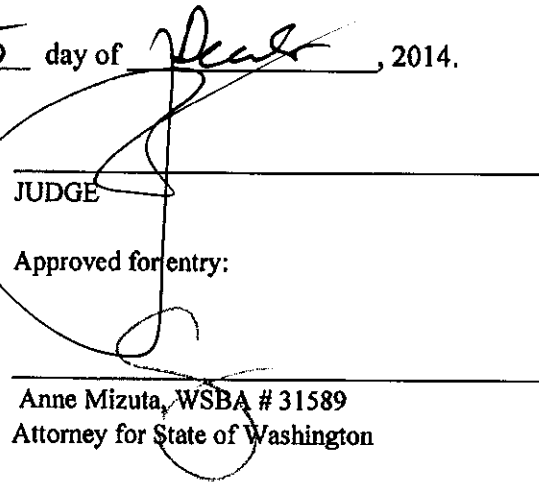
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10 DONE IN OPEN COURT this 5 day of March, 2014.  
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14 JUDGE  
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16 Presented by:

17 Approved for entry:  
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21 Brent Thompson, WSBA #44778  
22 Attorney for Petitioner  
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21 Anne Mizuta, WSBA # 31589  
22 Attorney for State of Washington  
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# EXHIBIT C

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JUL 31 2014

CRIMINAL DIVISION  
KING COUNTY PROSECUTOR'S OFFICE

**Superior Court of Washington  
County of King**

DUY MAI,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

**No.**

**Sealed Medical and Health  
Information (Cover Sheet)  
(SMHI)**


**Clerk's Action Required:  
Information Shall be Sealed  
Automatically under GR 33(b)(2)**

**Sealed Medical and Health Information**

(Write "Sealed" at least one inch from the top of the first page of each document.)

Attached are records or correspondences that contain health information that relates to the past, present, or future physical or mental health condition of an individual and/or past, present, or future payments for health care.

Submitted by:

  
Brent Thompson/WSBA No. 44778  
Signature

Filed on  
08.05.14



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(FAX)10018

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5/22/2014 17:05

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SEALED

SUPERIOR COURT OF WASHINGTON  
KING COUNTY

DUY MAL,

Petitioner,

No.

Declaration of:

Dr. Nancy Connolly (Name)

v.

STATE OF WASHINGTON,  
Respondent.

This declaration is made by:

Name:

Nancy Connolly MD

Age:

Relationship to the parties in this action:

Primary Care

Address:

19116 33rd Ave W  
Lynnwood WA 98036

Phone:

425-712-7900

I declare,

(See Attached).

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at VM Lynnwood (city) WA (state) on 05-23-2014 (date).

Signature of Declarant

Declaration—Page 1

PLATT & BUESCHER  
Attorneys at Law  
P.O. Box 727  
Coupeville, WA 98239  
Phone: (360) 678-6777

2014 13:00

(FAX)10018

P.001/001

**TEAM**  
**MEDICINE**<sup>™</sup>



Medical Center

(MAI, DUY TRAN 6303223)  
(Author: Connolly MD, Nancy, 20 May 2014)

**SEALED**

**DUY TRAN MAI**  
**2725 NE 137TH ST**  
**SEATTLE WA 98125-3515**

05/20/2014

Date of Birth: 06/12/1982

To Whom it May Concern:

Mr. Mai has been under my care since 2010 and during this time he has never demonstrated evidence of clinical depression. In office depression screening has consistently been negative and he has consistently demonstrated healthy lifestyle and behaviors. I do not believe that he represents a significant suicide risk nor do I believe that he is at risk for harming others.

For further questions or concerns, and with his permission, please feel free to contact our office.

Sincerely,

  
Nancy Connolly MD

Virginia Mason Medical Center  
19116 33rd Avenue West, Lynnwood, WA 98036  
(425) 712-7900

**Signature Line**  
(Electronically Signed on 05/20/14 10:58 AM)  
Connolly MD, Nancy

SUPERIOR COURT OF WASHINGTON  
ISLAND COUNTY

DUY TRAN MAI,

Petitioner,

and

STATE OF WASHINGTON,

Respondent.

No.

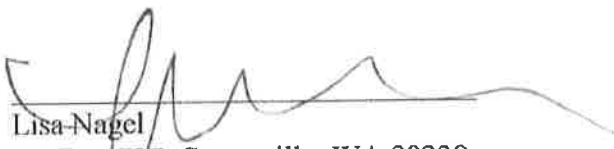
DECLARATION REGARDING FACSIMILE  
TRANSMISSION PURSUANT TO GR 17

The undersigned has examined the preceding DECLARATION OF DR. NANCY CONNOLLY and has determined that it consists of 3 pages, including this page, but not including exhibits, and that it is complete and legible.

This declaration is made pursuant to GR 17.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Coupeville, WA on July 29, 2014



Lisa Nagel

PO Box 727, Coupeville, WA 98239

Fax: 360-678-0323, Phone: 360-678-6777

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JUL 31 2014

CRIMINAL DIVISION  
KING COUNTY PROSECUTOR'S OFFICE

**Superior Court of Washington  
County of King**

DUY MAI,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

No.

**Sealed Medical and Health  
Information (Cover Sheet)  
(SMHI)**

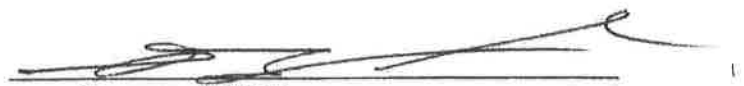
**Clerk's Action Required:  
Information Shall be Sealed  
Automatically under GR 33(b)(2)**

**Sealed Medical and Health Information**

(Write "Sealed" at least one inch from the top of the first page of each document.)

Attached are records or correspondences that contain health information that relates to the past, present, or future physical or mental health condition of an individual and/or past, present, or future payments for health care.

Submitted by:



Brent Thompson/WSBA No. 44778  
Signature

Filed on  
08.05.14

SEALED

SUPERIOR COURT OF WASHINGTON  
KING COUNTY

DUY MAI,  
Petitioner,

No.

v.

**Declaration of:**

Dr. Brendon Scholtz (Name)

STATE OF WASHINGTON,  
Respondent.

This declaration is made by:

Name: BRENDON P. SCHOLTZ, Ph.D.

Age: 44

Relationship to the parties in this action: Licensed Clinical Psychologist

Address: 2600 SW BARTON STREET # A24  
SEATTLE WA 98126

Phone: 914-255-1955

I declare,

(See Attached).

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at SEATTLE (city) WA (state) on 6/15/14 (date).

[Signature]  
Signature of Declarant

Declaration—Page 1

PLATT & BUESCHER  
Attorneys at Law  
P.O. Box 727  
Coupeville, WA 98239  
Phone: (360) 678-6777

**\*\* CONFIDENTIAL MATERIAL \*\*****SEALED****FORENSIC CONSULTATION / REVIEW****IDENTIFYING DATA**

**Name:** MAI, Duy  
**Date of Birth:** 6/12/1982 (31-y/o)  
**Location:** PsychLaw, Seattle, WA  
**Date of Referral:** 5/19/2014  
**Date of Interview(s):** 6/04/82014  
**Date of Report:** 6/11/2014

**REASON FOR REFERRAL**

A forensic consultation and review regarding a prior forensic psychological risk assessment completed by S. Cecchet, Ph.D. was requested by the client Mr. Duy Mai and is being provided to his attorney Brent Thompson of Platt & Buescher Attorneys at Law. As a comprehensive forensic psychological evaluation and risk assessment is a costly and time consuming process, I consulted with Mr. Mai, discussed with him his goals and available options and suggested that it most parsimonious for the undersigned to conduct and interview, review records, psychological reports and all available clinical materials and provide an opinion of the prior assessment as well as its conclusions. The information below is not intended to be a comprehensive assessment or a diagnostic evaluation but instead a review and opinion as to the substance and veracity of the previous evaluation performed by Dr. S. Cecchet, Ph.D. on 5/2/2014.

**NOTIFICATION OF THE PURPOSE AND LIMITATIONS OF THE EVALUATION**

Mr. Duy Mai was interviewed at the PsychLaw offices in Seattle, Washington on 6/04/2014 for a total of approximately 1.25 hours. Prior to beginning the interview Mr. Mai was informed in simple language that this evaluation was being conducted at his request for the purpose of forming an opinion as to the veracity of the substance and recommendations of a prior forensic risk assessment completed by S. Cecchet, Ph.D. Mr. Mai was informed that there was a possibility, that this written review could be determined to be discoverable and therefore disclosed in a court proceeding. In addition, Mr. Mai was informed that participation in the evaluation was entirely voluntary and that he could choose to discontinue the evaluation at any time without repercussion. Mr. Mai was asked to reiterate in his own words the purpose, scope, potential impact and voluntariness of this interview. Mr. Mai's responses indicated that he had an adequate understanding of the information and he reported that he was willing to continue.

**PROCEDURES**

Specific procedures used to arrive at clinical opinions include the following:

**Review of the following records:** At the time of the interview with Mr. Mai, all of the records reviewed had been provided by S. Cecchet, Ph.D. and are detailed in her report dated 5/2/2014.



**\*\* CONFIDENTIAL MATERIAL \*\***

This included the records she had relied upon, as well as her final report and her psychological test data and protocols. In addition, Mr. Mai was asked to review the report by S. Cecchet, Ph.D. and inform the undersigned of any inaccuracies, discrepancies or concerns that he identified in the report.

**Clinical Interviews:**

- Face to face interview conducted with Mr. Mai at PsychLaw offices in Seattle, WA on 6/4/2014, approximately 1.25 hours.
- Telephone conversation with Mr. Mai on 6/6/2014 approximately 10 minutes.

**Tests Reviewed:**

- HCR-20
- VRAG
- MMPI-2
- BDI-II

**RELEVANT BACKGROUND INFORMATION**

**Reasons for Referral.** Mr. Mai was civilly committed as a juvenile, both voluntarily and involuntarily, for psychiatric evaluation and treatment in 1999-2000. As a result he lost his right to possess a firearm. Mr. Mai is now interested in petitioning the court to expunge his record and or restore his possession rights under RCW 9A.047.

Mr. Mai telephoned the undersigned two days after our interview and stated that he had been able to read and review the final report submitted by S. Cecchet, Ph.D. Mr. Mai indicated that with one exception, he did not identify any inaccurate or misrepresented information. The exception was the presentation of Mr. Mai having obtained "top level security clearance." Mr. Mai clarified that he was subjected to and passed a background check including fingerprinting, prior to being allowed to collaborate on projects with the Army but he did not believe that had been granted a formal level of security clearance by the United States Army or Department of Defense.

**ASSESSMENT RESULTS**

Results of the measures administered and interpreted by Dr. Cecchet are summarized in her report dated 5/2/2014. In short they place Mr. Mai's risk of violent and non-violent recidivism at or below the baseline of his normative group. In addition Mr. Mai does not appear to be currently experiencing any significant psychological distress and he does not appear to have any overt symptoms of a major disorder of thought or mood.

**OPINION**

The results as they are articulated in the report dated 5/2/2014 and arrived at by Dr. Cecchet appear to be an accurate and clinically sound representation of the available facts and information. In addition, Dr. Cecchet's procedures, interview, record review, test administration, interpretation and assignment of risk level appear to reflect appropriate clinical acumen and

**\*\* CONFIDENTIAL MATERIAL \*\***

should be considered a valid and reliable forensic risk assessment. The undersigned agrees with the conclusions drawn by Dr. Cecchet with regards to the information presented in the Diagnostic Formulation and Summary sections of the Forensic Psychological Evaluation – Risk Assessment dated 5/2/2014.

Thank you for your referral. Please contact me if I can be of further assistance.



---

Brendon Scholtz, Ph.D.  
Licensed Clinical Psychologist  
914.255.1955



SEALED

**COPY RECEIVED**

JUL 31 2014

CRIMINAL DIVISION  
KING COUNTY PROSECUTOR'S OFFICE

**Superior Court of Washington  
County of King**

DUY MAI,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

**No.**

**Sealed Medical and Health  
Information (Cover Sheet)  
(SMHI)**

**Clerk's Action Required:  
Information Shall be Sealed  
Automatically under GR 33(b)(2)**

**Sealed Medical and Health Information**

(Write "Sealed" at least one inch from the top of the first page of each document.)

Attached are records or correspondences that contain health information that relates to the past, present, or future physical or mental health condition of an individual and/or past, present, or future payments for health care.

Submitted by:



Brent Thompson/WSBA No. 44778  
Signature

Filed on  
08.05.14

**SEALED**

SUPERIOR COURT OF WASHINGTON  
KING COUNTY

DUY MAI,  
Petitioner,

No.

**Declaration of:**

Dr. Stacy Cecchet (Name)

v.

STATE OF WASHINGTON,  
Respondent.

This declaration is made by:

Name: Stacy Cecchet, Ph.D.

Age: 30 Years

Relationship to the parties in this action: Forensic Psychologis

Address: Snohomish Psychology Associates

1721 Hewitt Ave, Ste 416, Everett WA 98201

Phone: 425-681-5003

I declare,

**(See Attached).**

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Everett (city) WA (state) on 01/4/14 (date).

Signature of Declarant

Stacy Cecchet, PhD

Declaration—Page 1

**PLATT & BUESCHER**  
Attorneys at Law  
P.O. Box 727  
Coupeville, WA 98239  
Phone: (360) 678-6777

**SEALED**

## Confidential Forensic Evaluation

**FORENSIC PSYCHOLOGICAL EVALUATION – RISK ASSESSMENT**

Snohomish Psychology Associates  
Stacy Cecchet, Ph.D.  
Everett, WA

---

Name: Mai, Duy  
Date Of Birth (Age): 06/12/1982  
Evaluation Date(s): 03/05/2014, 03/10/2014, 04/14/2014  
Date Of Report: 05/02/2014  
Psychologist: Stacy Cecchet, Ph.D.

---

**Reason For Referral:**

Mr. Mai is a 31 year-old, single, Vietnamese male referred by his attorney, Mr. Brent Thompson, J.D., for psychological testing and a risk assessment. A risk assessment was requested to provide information to the court regarding future dangerousness, mental illness, the identification of risk as well as protective factors for future aggression, and other information relevant to the question of whether Mr. Mai should be considered for the restoration of his right to possess a firearm.

**Description of Risk Assessment:**

A risk assessment involves a systematic review of past aggressive behavior, looking specifically at the antecedents of the behavior, as well as the degree of harm and context in which the behavior occurred. This review is combined with assessment tools designed specifically for evaluation of future risk for aggression. In considering this assessment, is important to note that mental health professionals often over predict aggression. Whether a person will behave aggressively is a function of a variety of factors that include history, personal disposition, and situational variables that cannot all be known in advance. In addition, it is important to consider that due to unknown future events and their impact on dynamic risk and protective factors, statements concerning an individual's potential for future aggression may become less valid with the passage of time. Despite these limitations, it is possible to consider the available current and historical clinical data to identify and form an opinion regarding risk of future violence and make recommendations regarding ways in which risk may be mitigated.

Please note that the historical information compiled in risk assessments often comes from a variety of sources and its presentation here is not intended to represent it as a "finding of fact." Histories often contain inaccurate and sometimes contradictory information. The information in this report serves to inform the reader of the information that was reported to the evaluator and to indicate this evaluator's understanding of the relevant history. Presentation of any specific statement in this report does not necessarily mean that the statement is true, only that it was observed by, or reported to, this evaluator.

**Confidential Forensic Evaluation****Notification Of The Purpose And Limitations Of The Evaluation:**

Prior to the interview, Mr. Mai was informed in simple language that this was a voluntary evaluation requested by his attorney to provide an opinion regarding Mr. Mai's current risk in the context of owning a firearm and that the standard doctor-patient relationship did not exist and information contained in the evaluation was not confidential. Mr. Mai was informed that a report would be prepared and submitted to his attorney for presentation in court. Mr. Mai's responses indicated he had an understanding of the information supplied to him and that he was willing to continue.

**Procedures:**

Specific procedures used to arrive at clinical conclusions include the following:

**Review of the following records:**

- Review of Mr. Mai's Medical & Behavioral Health Files
- Review of the following psychiatric evaluations:
  - Stevens Hospital: Richard McClelland, M.D., 10/18/1999
  - Fairfax Hospital: Tom Newlyn, M.D., 10/21/1999, 10/28/1999, 12/07/1999, 12/13/1999, 02/29/2000, 04/05/2000
  - Stevens Hospital: Rebecca Sutherland, D.O., 02/03/2000
  - Stevens Hospital: Anne Marie Arvidson, M.D., 02/04/2000, 02/29/2000
  - Stevens Hospital: Thomas O'Brien, M.D., 02/17/2000
- Review of Mr. Mai's Criminal History Report

**Clinical Interviews:**

- Mai, Duy on 03/05/2014, 03/10/2014, and 04/14/2014

**Psychological Testing:**

- Historical Clinical Risk Management- 20 (HCR-20)
- Violence Risk Assessment Guide (VRAG)
- Minnesota Multiphasic Personality Inventory- II (MMPI-2)
- Beck Depression Inventory (BDI)

**Relevant Background Information:****Presenting Situation And Problems.**

Mr. Mai reported that he suffered from depression as a teen and was involuntarily hospitalized three times between October 1999 and April 2000. As such, Mr. Mai lost his right to possess a firearm (RCW 9A.04.047). Mr. Mai stated that his motivation to petition to have his rights restored stems from a desire to gain closure with his past. Mr. Mai stated that he would like to put the past behind him and that he is very embarrassed about his prior hospitalizations. Mr. Mai described his desire to own a firearm as congruent with recreational activities such as fishing, bushcraft, and wilderness survival, but not a necessity. Mr. Mai stated that if his rights were restored he would likely wait several years to purchase a firearm as financial responsibility is important to him and he said that his current priorities are re-roofing his home and making sure that his children are provided for.

## Confidential Forensic Evaluation

Personal Medical History.

Mr. Mai reported an unremarkable medical history.

Psychiatric History.

Mr. Mai does not present with any current mental health symptoms. On 10/18/1999 Mr. Mai threatened himself and others and was detained for treatment. Mr. Mai was initially admitted at Stevens Hospital and was then transferred to Fairfax Hospital where he was hospitalized for 28 days. Mr. Mai was discharged from Fairfax on a 180 day less restrictive order that was revoked 12/06/1999 due to safety concerns. At this time, Mr. Mai was readmitted to Fairfax Hospital for seven. In February 2000 Mr. Mai's less restrictive order was again revoked and he was admitted to Stevens Hospital. Mr. Mai converted to voluntary status and was transferred to Fairfax Hospital for inpatient treatment for 36 days until his discharge on 04/05/2000. Mr. Mai is not currently taking medication and reported that he has been medication free for at least the last three years. Mr. Mai reported that while hospitalized and participating in treatment as a teen he was prescribed a number of medication such as: Prozac (dosage unknown), Paxil 40mg, Zyprexa 2.5mg, Celexa 20mg, Citalopram 20mg, Olanzapine 5mg, and Fluoxetine 20mg. The medications listed were prescribed over several years and were reportedly not taken concurrently. Mr. Mai's uncle reportedly has mental health difficulties related to psychosis and paranoia but is not on medication and is reportedly not receiving mental health services.

Substance Abuse History.

Mr. Mai denied a history of substance abuse.

Social History:Home Life As A Child.

Mr. Mai was born in a Thai refugee camp where he lived there until age 2 years when he and his family moved to Los Angeles, California. Mr. Mai relocated to Everett, Washington with his family at age 11 years. He stated that he and his family are close knit and supportive of one another. Mr. Mai reported that his sister and parents, whose marriage is intact, live close by and that they often get together for family dinners on the weekend.

Academic.

Mr. Mai described having difficulty mastering the English language in early education. As such, his school reportedly wanted Mr. Mai to be held back in first grade, however his parents refused. Mr. Mai stated that he is now fluent in both Vietnamese and English and can speak some conversational Spanish. Mr. Mai reported that, aside from his difficulties at the end of high school related to his depression, he was always quite a good student. Mr. Mai received his GED in December 2000 from Everett Community College, a Bachelor of Science in Microbiology from the University of Washington in 2006, and a Masters Degree in Microbiology from the University of Southern California in 2010.



## Confidential Forensic Evaluation

Marital.

Mr. Mai is not married but resides with his long-term girlfriend.

Military.

Mr. Mai denied any military history.

Vocational.

Mr. Mai currently works as a Lab Tech 2 at Benaroya Research. Mr. Mai conducts research on virology. Specifically, Mr. Mai stated that he conducts research on T-Cell cultures, Rhinovirus, Influenza, Yellow Fever, Type 1 Diabetes, and Allergies. Mr. Mai regularly engages in cross-lab collaboration, and most recently while working with the United States Army, he was able to attain top-level security clearance.

Legal.

Mr. Mai has no criminal history.

**Current Behavioral Observations And Mental Status:**

Mr. Mai arrived on time for the evaluation. He was groomed and dressed appropriately. There were no noted difficulties with ambulation on the day of this examination. No motor difficulties were noted, and no physical factors were observed that would have limited his ability to manipulate testing stimuli. Mr. Mai was alert and oriented. Rapport was easily established and Mr. Mai appeared to have no difficulty with attention and concentration during the testing process. Mr. Mai was polite and cooperative throughout the interview did not demonstrate any observable difficulties with impulsivity, attention and concentration, or completing tasks. Mood was euthymic. Affect was broad and appropriate to speech content. Speech was goal-oriented, fluent and meaningful. Speech was well articulated and coherent.

**Assessment Results:**

HCR-20. The HCR-20 is an actuarial rating scale of risk factors for violent behavior. It consists of 20 items organized around 10 historical variables, 5 clinical variables and 5 risk assessment variables. Each item is scored as a zero, one, or two for a maximum score of 40. This measure can be used in different settings and incorporates the impact of the environment or situational variables on an individual's behavior. This means that individuals with the same score can demonstrate very different risk factors. Mr. Mai's score of a 6 on this assessment is significantly below the base rate for individuals with a psychiatric history.

VRAG. The Violence Risk Assessment Guide is an actuarial risk assessment based mainly on static historical information unlikely to change over time. The VRAG is a 12-item assessment with consisting of items organized around historical and clinical variables. Each item is scored on scale ranging from -5 to +12, for a total score that can range from -24 to +32. Mr. Mai's score of -8 is significantly below the base rate for his normative group.

## Confidential Forensic Evaluation

**MMPI-2.** The Minnesota Multiphasic Personality Inventory-2 is a self-report measure used to assess the presence of psychopathology as well as interpersonal functioning and current levels of emotional and psychological distress. Mr. Mai's responses to the measure indicate that he responded in a generally open and honest manner. Mr. Mai did not endorse any behaviors or symptoms congruent with psychopathology and denied symptoms of excessive sadness, frequent worry, significant physiological concerns, paranoia, or psychosis. Mr. Mai endorsed a well adjusted, outgoing, friendly, and sociable personality profile.

**BDI.** The Beck Depression Inventory-2 is an evidence-based depression inventory. Results from the BDI indicate a self-reported level of depression in the minimal range.

**History & Risk Factors of Aggression:**

Mr. Mai has a minimal history of aggression or violence. The following static and dynamic factors are associated with higher risk for aggression. A plus (+) beside a factor indicates that it is present in Mr. Mai's life; a minus (-) indicates an absence. An asterisk (\*) indicates that the factor may respond to treatment/intervention.

<b>Risk Factor</b>	<b>Present/Absent</b>	<b>Interventions</b>
Male	+	
Below Average IQ	-	
Low SES	-	
Unemployed	-	
Divorced	-	
Fire setting, cruelty to animals	-	
History of Child abuse	-	
Delinquency, truancy, or School failure	++	Participated/completed treatment
Substance Abuse	-	
Prior arrests for Violence	-	
Military History/Dishonorable Discharge	-	
Attention Deficit Disorder	-	
Access to weapons	-	
Violence is ego-syntonic	-	
Angry/Lack of empathy for others	-	
Impulsivity	-	
Fails to accept responsibility	-	
Mental Illness	++	Participation in treatment was completed and reported to be successful

**Protective Factors:**

While there is not a large body of quantitative research on the relative impact of protective factors in mediating the risk of future violence and there exists no solid understanding of the interplay between risk and protective factors, there is general agreement that protective factors are an important consideration in formulating an opinion of the risk of future violence. In Mr. Mai's case, he presents with a substantial



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## Confidential Forensic Evaluation

number of protective factors. Mr. Mai reported that he has learned effective coping skills for negative mood, has strong support from family and friends, engages in healthy and appropriate extracurricular activities (i.e., wilderness activities, volunteer work), demonstrates good problem-solving skills and the ability to utilize appropriate resources, is intelligent, and is quite insightful, particularly in regard to his prior hospitalizations and mental health difficulties as a teen.

**Diagnostic Formulation DSM-IV:**

Axis I: History of 296.26 Major Depressive Disorder, In Full Remission

Axis II: V70.09 No Diagnosis

Axis III: Defer To Medical Provider

Axis IV: Current Petition To Reinstate Rights To Possess A Firearm

Axis V: Current GAF 80

**Summary**

Mr. Mai is a 31 year-old (DOB 06/12/1982) Vietnamese male referred by his attorney for an evaluation to assess Mr. Mai's potential risk to himself and others. Mr. Mai has a history of Major Depressive Disorder as a teen, which is now in full remission. Mr. Mai was involuntarily hospitalized due to his depression and verbalized threats to himself and others at the age of 17 years and as such lost his right to possess a firearm. Mr. Mai's scores on the two actuarial risk assessments used in the course of this evaluation (VRAG & HCR-20) were significantly below the base rate. In addition, Mr. Mai's responding on a measure of psychopathology (MMPI-2) appears to be open and honest and indicates that he is sociable and friendly individual. Mr. Mai's responding on a self-report inventory of depression (BDI-II) endorses only minimal feelings of sadness and depression. While Mr. Mai experienced a difficult time in his life from his late teens through his early twenties, he has demonstrated considerable resilience through his advanced education, job stability/achievement, and family and peer support. Mr. Mai also reported a significant number of protective factors in his life such as insight regarding his mental health difficulties as a youth, healthy coping skills, volunteer work, family oriented values, and vocational stability. Based on the review of the information provided in the clinical interview, it is the opinion of the undersigned that Mr. Mai is of low risk for future violence and nonviolent criminal behavior and does not present with any observable psychopathology.

Respectfully submitted,



Stacy Cecchet, Ph.D.

Licensed Psychologist #PY60073218

Snohomish Psychology Associates

5/12/2014

SUPERIOR COURT OF WASHINGTON  
ISLAND COUNTY

DUY TRAN MAI,

Petitioner,

and

STATE OF WASHINGTON,

Respondent.

No.

DECLARATION REGARDING FACSIMILE  
TRANSMISSION PURSUANT TO GR 17

The undersigned has examined the preceding DECLARATION OF STACY CECCHET and has determined that it consists of 8 pages, including this page, but not including exhibits, and that it is complete and legible.

This declaration is made pursuant to GR 17.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Coupeville, WA on July 29, 2014



Lisa Nage  
PO Box 727, Coupeville, WA 98239  
Fax: 360-678-0323, Phone: 360-678-6777