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June 9, 2017

By ECF

The Honorable Kiyoo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Richard Llanga Moran, 14-cr-349 (KAM)

Enclosed please find Dr. Sasha Bardey's letter of December 2, 2016, addressing the therapeutic value of polygraphy.

Respectfully Submitted,

/s/
Samuel Jacobson
Assistant Federal Defender
(718) 407-7429

cc: AUSA Drew G. Rolle (via ECF)

FIFTH AVENUE FORENSICS
FORENSIC AND CLINICAL PSYCHIATRY

Samuel Jacobson, Esq.
Federal Defenders of New York
One Pierrepont Plaza – 16th floor
Brooklyn, NY 11201

December 2, 2016

Re: [REDACTED]

Dear Mr. Jacobson,

At your request, I have prepared this letter to address certain points raised by the government's request to have polygraph testing added to [REDACTED] released supervision. I also reviewed a letter from Dr. Berrill, supporting the government's request.

In his intake evaluation dated May 10, 2016, Dr. Berrill opined that your client does not have an interest in child pornography or any demonstrated interest in minor children, as he noted in the results of the objective portion of the ABEL test. Dr. Berrill did not question the veracity of his findings. The use of polygraph was only suggested to monitor ongoing truthfulness, not to break through denial or any resistance to self-disclosure.

The treatment of sex offenders requires a delicate balance. On one hand a great deal of trust is required to get the client to open up about what is going on in their psyche, on the other, the need to protect the community at large against any recurrences of the underlying behaviors. In such a setting, a blunt tool like the polygraph, with all its associated anxiety, would add further resistance to treatment, encourage non-disclosure, and negatively impact on the therapeutic alliance essential for successful and meaningful treatment. As with any other test, polygraph have a rate of false positive, that is test results that indicate deception when none exists. At most, the polygraph has been deemed to be 80% to 90% accurate, meaning that up to 1 in 5 patients submitting to the test will be found, wrongly, to be lying.

As such, I do not see a therapeutic value to the polygraph, it is a tool used by monitoring agencies to test whether the individual has engaged in any behaviors over the course of supervision. It should not be used by therapists to "break through" any apparent resistance to treatment. Using it in that fashion will only break what little, fragile therapeutic alliance there is. Faced with a false finding of deception in a polygraph, imagine the therapist accusing his patient of lying, this is not therapy.



Polygraph testing may play a role in probation supervision to ensure that the individual does not engage in the offense conduct again, but this would be outside of treatment.

Respectfully,

A handwritten signature in cursive script, appearing to read "Alex Bardey" with a flourish at the end.

Alexander Sasha Bardey, M.D.

Diplomate in Psychiatry and Forensic Psychiatry, American Board of Psychiatry and Neurology
Clinical Faculty, Department of Psychiatry, New York University Medical Center
Adjunct Assistant Professor, Department of Psychiatry and Behavioral Sciences, New York Medical College