

DISTRICT ATTORNEY

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SAN BERNARDINO COUNTY PROBATION DEPARTMENT
PROBATION OFFICER'S REPORT

DEFENDANT'S NAME JOHNSON, CHUCK EDWARD TN: JOHNSON, CHUCK EDWARD II ALIAS(S) JOHNSON, CHUCK II				COURT WVRTC-RC DEPT. 4		JUDGE ROBERT E. LAW		COURT NUMBER FWV 02293 ACIS F0103245	
ADDRESS (PRESENT/RELEASE) PH. IN CUSTODY/ UNKNOWN				HEARING DATE 01-05-96		ATTORNEY GARY ABLARD		PROB NUMBER 0063642	
BIRTH DATE 09-25-69 AGE 26		POB RICHMOND, INDIANA		NATIONALITY AMERICAN		CONVICTED BY JURY		CONV DATE 11-14-95 COURT/CONV WVRTC-RC DEPT. 4	
HT 5'5"	WT 185	EYES BRN	HAIR BRN	ETHNIC CAUCASIAN	SEX MALE	ARRESTING AGENCY MONTCLAIR PD		BOOKING AGENCY WVDC	
SSN 572-15-9865		BI A09165099		FBI 889668KA1		CUSTODY STATUS [] BAIL [] OR [X] CUSTODY			
DRIVER'S LICENSE A9222459		STATE CA		STATUS EXPIRED		CONVICTED CHARGES COUNT I, PC 187, MURDER, FIRST DEGREE			
SCARS, TATTOOS, OTHER MARKS RT SHOULDER- DRAGON						PLEA AGREEMENT N/A			
BOOKING NO. 9310341602		ARREST DATE 10-11-93		RELEASE DATE 01-05-96		DAYS 816		CO-DEFENDANT(S)/DISPOSITION NONE	
TOTAL CUSTODY DAYS						816			
PERSONAL HISTORY (Not independently verified by Probation Department)									
EDUCATION GED		MILITARY NONE		SPECIAL TRAINING APPRENTICE ELECTRICIAN		HEALTH "PRETTY GOOD"		DRUGS/ALCOHOL/MEDICATIONS NO DRUGS/ YES ALCOHOL/ NO MEDS	
TREATMENT HISTORY NONE						EMPLOYER (Name, Address, Ph.) THRIFTY DRUG STORE 4TH & MOUNTAIN, ONTARIO, CA 91762			
TIME ON JOB 6 MONTHS		INCOME \$5.50 HOUR		TYPE OF WORK STOCK PERSONNEL		MARITAL STATUS MARRIED		SPOUSE ANGELA PAMPLIN JOHNSON	
CHILDREN 2		ASSETS, DEBTS, CHILD SUPPORT NONE				CONTACT PERSON WIFE/ ANGELA P. JOHNSON NO ADDRESS GIVEN			
FATHER (Name, Address, Ph.) CHUCK JOHNSON DECEASED						MOTHER (Name, Address, Ph.) CAROL JOHNSON RIALTO, CA / 873-0327			
ADDITIONAL INFORMATION									
FACE SHEET TAKEN BY ANTONIO R. MARIN EXTENSION 945-4009 DATE 12-05-95									

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Upland PD
* PRIOR RECORD:

According to the California Bureau of Identification, the Department of Motor Vehicles, and the Federal Bureau of Investigation, the defendant has the following prior record:

<u>DATE</u>	<u>AGENCY</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
07-11-89	FONTANA PD	PC 484/ 490.5, PETTY THEFT RETAIL MERCHANDISE	09-06-89: FONTANA MUNI CT #MVA 35313, CONV MISD, PC 488, 1 YR PROB, FINE

CIRCUMSTANCES OF THE OFFENSE:

Specifics of the criminal offense and arrest of the defendant are detailed in the Montclair Police Department arrest report. The offense of First Degree Murder occurred on October 10, 1993. The defendant was arrested on October 11, 1993, and charged by the district attorney's office with First Degree Murder, in violation of Section 187(a) of the Penal Code, a Felony, Count I.

Specifically, on October 10, 1993, officers of the Montclair Police Department responded to 9393 Exeter Street in reference to a missing juvenile at that location. While en route, officers received information that another officer had already arrived at that location; and was attempting to search the residence for the missing juvenile, later described as the victim, Brittany Lynn Rethorn-Riggs, age three.

Subsequent investigation revealed that the victim was found deceased in a closet in a room of the home in which her parents resided. The room had been rented to the defendant. When found, the victim was lying in the closet with a plastic bag across her face. The victim was taken to Doctor's Hospital of Montclair; arriving in the emergency room at 9:35 a.m. on October 10, 1993. Resuscitative measures were to no avail and the victim was pronounced dead at 10:04 a.m.

The defendant was later arrested in connection with the homicide of the victim. The defendant initially denied knowledge of the body being in his room, but later changed his story and admitted trying to hide the body from the police. The autopsy showed the victim's death was caused by suffocation.

Add more.
Investigation also revealed that during the time the parents reported the victim missing, the defendant was in his

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rented room trying to conceal the body and would not open his bedroom door for approximately fifteen minutes. The parents heard the defendant "rustling" around in the room in an apparent panic.

Prior to his arrest, the defendant voluntarily offered the following information to the investigating officers. He said that he had lived at the Exeter address for approximately seven weeks. He said during that time he had not had any problems with Brittany, the victim, other than she was a normal kid with normal kids' problems. He related that his biggest complaint was the fact that Brittany would come into his bedroom after knocking and not pausing, and would disturb him. For this reason, he put a door lock on his bedroom door in an attempt to keep her from entering. He said he was able to get very little sleep that Saturday night and Sunday morning and awakened at approximately 7:30 a.m. by the sound of Brittany's father telling her to not go into their room without knocking. Defendant Johnson then said he got up from his bed and walked out of his room and went into the kitchen to get some water.

As he did so, he was followed by Brittany who wanted a glass of juice. Defendant Johnson said he got Brittany the juice and told her to be quiet because he did not want her to wake up her parents again. He said that Brittany started to get loud so he took her out in the front yard with him while he worked on his car. He went out there for a few minutes and wiped the exterior clean while Brittany watched him. He then turned the car around in the driveway and sent Brittany back into the house. He then turned on cartoons in the living room and told Brittany to stay there and be quiet and not to wake up her parents. At approximately 8:00 a.m., defendant Johnson stated that he then went back out to the front yard where he smoked his cigarette and picked up the newspaper. He stood on the porch for a few minutes and then returned back to the residence. He walked past the living room and into his bedroom where he laid down on his bed and fell asleep. Prior to laying down, defendant Johnson said he had closed and locked the door to his bedroom. He slept for a short time. When the telephone in his bedroom rang he picked it up and it was Darin, Brittany's father, on the other end. The father asked defendant Johnson if he had seen Brittany or if she was in his bedroom. Defendant Johnson replied that she was not, and decided that it was time for him to get up and help look for her. As he exited his bedroom, he found that Jenny and Darin (victim's parents) were very distraught and in a

Story changed

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panic. He then went out to the front door and up and down the street looking for Brittany, but could not locate her. Defendant Johnson then said he returned back to the residence where he dialed 9-1-1 in order to contact police. Before speaking, the telephone was snatched out of his hands by the victim's mother and she was the one who actually spoke to the police dispatcher. Defendant Johnson said he then went back to his bedroom and waited there until the Montclair Police arrived. no

One of the officers then advised the second officer that he had observed the defendant to be "hanging around the closet in his bedroom during the search of the residence." The defendant was then asked why he had been standing around the closet while the interior check of the residence was being done and the defendant replied that he did not know. The defendant was then told that one of the officers had seen him directing his attentions towards the closet and the defendant then stated that he in fact had seen the child laying there in a lifeless condition. Defendant Johnson then became very emotionally upset and said that he wanted to tell the truth. He said that he had noticed the body approximately five minutes prior to the police arriving at the residence. The body was in his closet and appeared to be lifeless and blue. He stated that it did not appear to be normal, and he knew that something was wrong. Rather than admit that the body was in his bedroom, he decided to cover it up in an attempt to conceal it from the police. The defendant was then asked if he had attempted to give CPR or administer any medical aid for the victim when he had noticed. He stated that he had not because he did not want to draw attention to it, and the fact that it was in his bedroom. He was then asked if he had been involved in her death at all and he replied that he would never hurt a child and he was not involved.

The officers noted that during the defendant's original statement given to other officers, the defendant had said that he had gone back to his bedroom and locked the door. He then changed his story and said that he had not locked the door while sleeping. He was then asked if he was absolutely positive that Brittany had been on the couch when he had returned back to the residence prior to laying down. He stated that he was not positive, but believed that she had been in fact on the couch in the living room watching cartoons when he had gone back to sleep.

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It was the officer's opinion that during the interview with the defendant, he had appeared to be very nervous and seemed untruthful. Additionally, he was very inconsistent with his statements, and maintained his innocence regarding the offense.

DEFENDANT'S STATEMENT:

The defendant was interviewed on December 6, 1995, at the West Valley Detention Center. The defendant denied committing the offense. The defendant further declined to make any statements regarding the offense.

VICTIM'S STATEMENT:

The victim's mother, Ms. Jennifer Rethorn, contacted the probation officer on December 8, 1995. She stated that she and the victim's father, Darin Rigs, would reserve their comments for the sentencing hearing. She stated that she had a lot to say and was hoping that the court would allow her more than five minutes.

COLLATERAL REPORTS:

According to an autopsy report prepared by Frank Sheridan, M.D., the cause of death was listed as "homicidal smothering." There was also "pressure on the neck with some degree of impairment of circulation to the head, i.e. evidence of strangulation."

The court is respectfully advised that the defendant's wife, Angela M. Johnson, filed a Restraining Order prohibiting domestic violence to the San Bernardino Superior Court in the summer of 1993. She submitted the following statement to the court regarding the defendant:

Throughout our relationship he has been abusive, both verbally and physically. On November 16, 1992, two days prior to giving birth to our son, he lost his temper and hit me, knocking me down. I received a black eye and a split lip. On December 2, 1992, he again lost his temper, threw things around the apartment and I was afraid for my son, as he wouldn't let me have him. I called my mom asking her to come and get the baby and I so I could be safe at their house. He wouldn't hand him over to either of us and my mom told him if he didn't stop acting in this threatening manner, she would call the police department. He then pulled down the phone receiver out of the phone base and swung it around several times, hitting my mom in the head and splitting her head open. A report was filed in Upland and he was charged with A/W/D/W. He got out after five days served. We tried to work problems out, but on January 16, 1993, I was hit again and received a black eye and a swollen face. At that time I moved out of our apartment and back to my parents'. I was told on February 13, 1993, by my bank that I was overdrawn on our savings account. That there had been a deposit envelope put into out

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account in the ATM, but with no money and then funds had been withdrawn. So they held my deposit up. I went to the apartment to ask him about it when he lost his temper and choked me. I filed with the Upland P.D. and a citation was given him as a Citizen's Arrest. On a promise from him, I dropped the charges a day before his court date, with the D.A. That same afternoon, on my way to work he got mad at me because I wouldn't let him keep my car, he got mad and reached over to throw it into park. I blocked him with my arm, as this was while I was driving on Euclid Avenue and he bit me on the arm. He again tried to throw it into park and this time did it, and I spun over onto the soft shoulder of the road. I tried to call the P.D. from a pay phone and while there he said he wanted his things out of the car. He then got his tool box out and hit me in the stomach with it and hit me with the car door. I called my mom, came home and filed a report with the Ontario P.D., but at first was told it was Chino's jurisdiction, so I went down to file, took pictures, and then later was contacted by Detective Jim Harris from Ontario. The case number 93-5-375, charges are being pressed at this time. I still had tried to work problems out and get him to admit there is a serious problem and go get the help he needs but on May 16, 1993, he had been drinking at a bar and when he finally came home to my parents' home, he was very abusive verbally to myself and my mom. Behind my dad's back, he head butted me with his head and then hit me in the face with a small duffle bag he threw at me, which was packed with shoes, cologne and small tools, etc. At that time he was ordered off their property. He then left and is now staying with friends in Rubidoux. On the night of May 31, 1993, he threatened me that he was going to come and kidnap my son and I couldn't stop him. He also stated that he would contact a friend of his and he would have my mom and myself done in. At this time, I am approximately six months pregnant and I not only fear for the safety of my unborn child, but for my tiny son as well. My mom is my child care provider and at this time, as he has threatened to take him so many times, I am very afraid. He loses control very easily and although up to this point, I have been the only, other than my mom, victim of his violence. I plead with the court to help me stop this cycle now before my son is the next.

SENTENCING CONSIDERATIONS:

Probation Eligibility (Rule 413): *

Statutory provisions limiting or prohibiting a grant of probation in this matter do exist. Specifically, PC 1203.075 which states persons are ineligible for probation who are convicted of Murder.

Criteria Affecting Probation (Rule 414):

- (a) Facts relating to the crime include:
 - (1) The nature and circumstances of the crime are serious, as compared with other instances of the same crime.

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- (3) The victim was vulnerable.
 - (4) The defendant inflicted physical or emotional injury resulting in death.
 - (6) The defendant was an active participant in the crime.
 - (8) The manner in which the crime was carried out demonstrated criminal sophistication and/or professionalism on the part of the defendant.
 - (9) The defendant took advantage of a position of trust and/or confidence to commit the crime.
- (b) Facts relating to the defendant include:
- (1) The defendant does have a prior record of criminal conduct. That prior record does indicate a pattern of regular or increasingly serious criminal conduct.
 - (2) The defendant's prior performance on probation was unsatisfactory. The defendant was on a grant of probation at the time he committed the present offense.
 - (7) The defendant has not shown remorse.
 - (8) There is a likelihood that if not imprisoned, the defendant will be a danger to others.

Circumstances in Aggravation (Rule 421):

- (a) Facts relating to the crime include:
- (1) The crime involved great violence and great bodily harm resulting in death, and other acts disclosing a high degree of cruelty, viciousness, and callousness.
 - (3) The victim was particularly vulnerable.
 - (8) The manner in which the crime was carried out indicates planning, sophistication or professionalism.
 - (11) The defendant took advantage of a position of trust or confidence to commit the offense.
- (b) Facts relating to the defendant include:
- (1) The defendant has engaged in violent conduct which indicates a serious danger to society.
 - (2) The defendant's prior convictions as an adult are of increasing seriousness.
 - (4) The defendant was on probation when the crime was committed.
 - (5) The defendant's prior performance on probation was unsatisfactory.

Circumstances in Mitigation (Rule 423):

Rule 423 has been reviewed and no appropriate applications were found.

Enhancements:

There are no Special Allegations or Enhancements pled or proven in the present matter.

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ANALYSIS:

This twenty-six-year-old defendant appears for sentencing, having been convicted by jury of Murder in the First Degree.

There is no question, but that the circumstances of this offense are indeed egregious. The defendant denied any involvement despite evidence to the contrary. It is this officer's considered opinion that this defendant displayed a homicidal temper which resulted in the death of an innocent three-year-old, an offense, which the community will not tolerate. As previously indicated, he is viewed as an exceedingly dangerous individual.

He is not eligible for probation and must be committed to state prison as prescribed by law. His commitment will ensure that the people of this community will not have to deal with this extremely dangerous individual for a substantial period of time.

As such, the following recommendation is made by the probation department.

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CVC 13350 RECOMMENDATION:

It is respectfully recommended the court find a motor vehicle was not used in the commission of this offense.

REIMBURSEMENT OF APPOINTED COUNSEL:

It is respectfully recommended the court find that the defendant does not have the present ability to pay appointed counsel fees.

REIMBURSEMENT OF INVESTIGATION COSTS:

It is respectfully recommended the court find the defendant does not have the present ability to pay the cost of conducting the presentence investigation and preparing of the court report pursuant to Section 1203.1b of the Penal Code.

REIMBURSEMENT OF ARRESTING AGENCY:

It is respectfully recommended that the court order the defendant to reimburse the City of Montclair, 5111 Benito Street, Montclair, CA 91763 Attn: Finance Division pursuant to Government Code 29550.1, in the amount of \$152.00 and show proof of payment to court within ninety (90) days from release from custody.

RESTITUTION FINES:

It is respectfully recommended that the defendant, Chuck Edward Johnson III, be ordered to pay a restitution fine, pursuant to PC 1202.4 in the amount of \$ 10,000.00 to be collected by the Department of Corrections.

It is further recommended that the defendant, Chuck Edward Johnson III, be ordered to pay a restitution fine, pursuant to PC 1202.45, in the amount of \$ 10,000.00. It is further recommended that said order be suspended pending successful completion of parole at which time the fine will be permanently stayed. This fine is to be immediately imposed upon any revocation of parole.

PROBATION OFFICER'S RECOMMENDATION:

It is therefore respectfully recommended that probation be denied and the defendant, Chuck Edward Johnson III, be sentenced to the California State Prison as follows:

COUNT I: Murder, First Degree,
In violation of Section 187 PC

25 years to Life

The commitment to state prison is for a total of twenty-five (25) years to life, with credit for time served, a matter of eight hundred sixteen (816) actual days, plus one hundred twenty-two (122) days for conduct, pursuant to 2933.1 PC, for a total of nine hundred thirty-eight (938) days, and may be followed by parole for a period of five (5) to seven (7) years.

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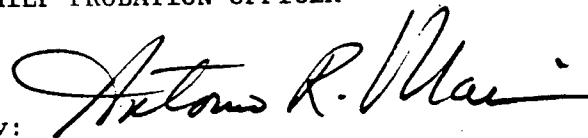
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Respectfully submitted,

RAYMOND B. WINGERD
CHIEF PROBATION OFFICER

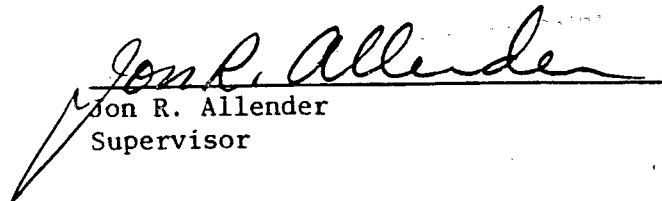
By:



Antonio R. Marin
Probation Officer III

ARM:nw

APPROVED:


Jon R. Allender
Supervisor

I hereby certify that the Probation Officer's Report and Recommendation in this
matter has been read and considered by me on this _____
day of _____, 1996.

Judge of the West Valley Regional Trial Court,
In and for the County of San Bernardino,
State of California