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Dunn Co. Circuit Court

Dunn County, WI

DUNN COUNTY  
2018CF000125

STATE OF WISCONSIN

CIRCUIT COURT

STATE OF WISCONSIN,

*Plaintiff,*

v.

Case No. 18 CF 125

EZRA J. McCANDLESS,

*Defendant.*

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**DEFENDANT'S CHARACTER EVIDENCE AND *McMORRIS* MOTION**

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EZRA J. McCANDLESS ("McCandless"), appearing by her attorneys, AARON A. NELSON and NELSON DEFENSE GROUP, LLC, moves this Court for an Order, pursuant to Wis. Stat. §§ 904.04(1)(b), 904.04(2)(b), 904.05, *State v. Sullivan*, 216 Wis. 2d 768, 576 N.W.2d 30 (1998), *State v. Daniels*, 160 Wis. 2d 85, 465 N.W.2d 633 (1990), *State v. Boykins*, 119 Wis. 2d 272, 350 N.W.2d 710 (Ct. App. 1984), and *McMorris v. State*, 58 Wis. 2d 144, 205 N.W.2d 559 (1973), allowing her counsel to present evidence of Alexander L. Woodworth's ("Woodworth") character, reputation, behavior, statements, and specific acts. Specifically, McCandless intends to introduce evidence of Woodworth's character, reputation, and specific examples of his past behavior, statements, and conduct. In addition to McCandless's trial testimony, the Defense intends to introduce the following:

- (1) Woodworth's leather covered journal entitled *Extra-Skriver*;
- (2) Woodworth's leather covered ledger book entitled *I met a man walking through a briar patch. He was looking for the rose promised by the thorns.*;
- (2) Woodworth's orange 3-ring binder entitled *Personal Notes, Research Ideas and the Quest to Understand*;
- (4) Woodworth's journal entitled *Dream Tree Simple and Elegant*;
- (5) Woodworth's personal copy of *Corpus* by Jean-Luc Nancy;
- (6) Woodworth's personal copy of *Fear and Trembling* by Søren Kierkegaard<sup>1</sup>; and
- (7) Jason Mengel trial testimony.

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<sup>1</sup> Attached as Ex. A are the front covers of these 6 items that the Defense intends to introduce as evidence.

**I. EVIDENCE OF WOODOWRTH'S CHARACTER IS ADMISSIBLE PURSUANT TO WIS. STAT. §§ 904.04(1)(b) AND (2)(a).**

Evidence of Woodworth's character is admissible pursuant to Wis. Stat. §§ 904.04(1)(b) and (2)(a). While evidence of a person's character or a trait of the person's character is typically not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, Wis. Stat. § 904.04 provides exceptions to the rule of inadmissibility. Wis. Stat. § 904.04(1)(b) firmly establishes that "*evidence of a pertinent trait of character of the victim of the crime offered by an accused*" is admissible. (emphasis added). As explained below in sections II and III, Woodworth's beliefs in hedonism, nihilism, cannibalism, ritualistic sacrifice, and violent and aggressive erotics are evidence of a pertinent character trait. Accordingly, such evidence is admissible pursuant to Wis. Stat. §§ 904.04(1)(b).

Wis. Stat. § 904.04(2)(a) contains an exception to the rule of inadmissibility for evidence offered to prove, among other things, motive, intent, plan, or absence of mistake or accident. In *Dressler v. McCaughtery*, 238 F.3d 908 (7th Cir. 2001), Dressler, who had been found guilty of first-degree intentional homicide, challenged the trial court's admission of videos and pictures found in his home depicting intentional violence and homosexual acts in a murder case. The trial court admitted the videotapes and pictures of intentional violence and homosexual acts pursuant to Wis. Stat. § 904.04(2), which authorizes the introduction of "[e]vidence of other crimes, wrongs, or acts ... when offered ... as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." *Id.* at 913. On appeal, Dressler argued that the videotapes and pictures not only constituted irrelevant evidence, but were also inadmissible character and propensity evidence. *Id.* at 913–14. The Court of Appeals for the Seventh Circuit rejected Dressler's relevance and propensity arguments, stating, "The fact that Dressler maintained a collection of videos and pictures depicting intentional violence is probative of the State's claim

that [Dressler] had an obsession with that subject. *A person obsessed with violence is more likely to commit murder, and therefore the videos and photographs are relevant.* See Wis. Stat. § 904.01 (“‘Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”) *Id.* at 914 (emphasis added). Additionally, the Court of Appeals for the Seventh Circuit asserted that “[a]lthough the videotapes and pictures may also prove bad character or propensity, they were *offered* for permissible purposes.” *Id.* (emphasis in original).

Here, the Defense seeks to offer evidence similar to that offered by the State in *Dressler*. And rather than just a collection of others’ works, here we are offering Woodworth’s own writings of his personal thoughts, feelings and philosophies to prove his own character. The Defense offers such evidence for purposes explicitly deemed permissible by the *Dressler* court. Specifically, the Defense seeks to offer Woodworth’s aforementioned writings, journals, notes, and annotated philosophical works to prove his fascination with hedonism, nihilism, cannibalism, violence, death, and mutilation. Woodworth’s fascination constitutes a pertinent character trait, in addition to a trait that is “undeniably probative of motive, intent, or plan to commit a vicious murder.” *Id.* Accordingly, such evidence of Woodworth’s character is admissible pursuant to Wis. Stat. §§ 904.04(1)(b) and (2)(a).

## **II. WOODWORTH’S CONDUCT AND STATEMENTS WHICH McCANDLESS KNEW OF OR WAS AWARE OF IS ADMISSIBLE.**

In addition to the reasons stated above in Section I, evidence of Woodworth’s conduct and statements which McCandless knew of and/or was aware of is also admissible for the following reasons. Pursuant to Wis. Stat. § 939.48, a person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. When deadly force is

used, she must reasonably believe she was in danger of great bodily harm or death and may only use such force as she reasonably believes is necessary to prevent or terminate the danger. Wis. Stat. § 939.48. The standard jury instruction for self-defense makes it clear that the focus is on the reasonableness of McCandless's belief.

McCandless's belief that there was an unlawful interference being done to her and that she needed to use the force she did was based in part on Woodworth's character, as well as his past behavior and statements (both verbal and in writing), which McCandless was aware of and or knew. Wisconsin courts have firmly established that verbal statements may be admissible as other-acts evidence even when not acted upon. *See State v. Jeske*, 197 Wis. 2d 905, 913–14, 541 N.W.2d 225 (Ct. App. 1995).

#### **OFFER OF PROOF.**

It is the theory of the Defense that McCandless was acting in self-defense on March 22, 2018. In addition to the statements McCandless made to the police on March 23 and March 24, 2018, McCandless provides the following offer of proof in support of her motion to introduce Wis. Stat. § 904.04(1)(b) & 904.04(2)(a) character evidence of Woodworth and/or *McMorris* evidence regarding Woodworth. Finally, the following offer of proof is provided in support of the Defense's motions and should not be considered exhaustive or complete; rather, it is only an outline of McCandless's expected trial testimony.

The Defense expects there to be evidence of the following at the trial:

**A. Woodworth's past behavior and statements McCandless knew of or was aware of.**

Woodworth informed McCandless that he subscribed to the philosophy of hedonism. As a hedonist, Woodworth explained to McCandless that he followed the hedonistic doctrine which holds that pleasure is the sole or chief good in life. Expanding upon his hedonistic philosophy,

Woodworth stated to McCandless that he believed that a person derives happiness from debauchery, rather than, say, spending quality time with family or forming meaningful relationships. As such, Woodworth frequently stated to McCandless his self-proclaimed *modus operandi* “Love, and do what you will.”<sup>2</sup> He informed McCandless that this was the personal philosophy he subscribed to, explaining to her that he would do what he wanted, when he wanted, no matter what the cost.

Woodworth elucidated his affinity for the hedonistic doctrine emanated from his principal philosophical belief of nihilism. He persistently championed the works and teachings of Søren Kierkegaard,<sup>3</sup> Friedrich Nietzsche,<sup>4</sup> Jacques Derrida,<sup>5</sup> Martin Heidegger<sup>6</sup>, Edmund Husserl,<sup>7</sup> Maurice Merleau-Ponty, John D. Caputo, and Jean-Luc Marion, among others.<sup>8</sup> Woodworth would read excerpts from written works by these philosophers to McCandless, particularly when he was engaging in sexual acts with her.

Woodworth repeatedly told McCandless about his infatuation with cannibalism and human

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<sup>2</sup> This personal motto that Woodworth regularly informed McCandless that he chose to conduct his life by is a restatement of the famous line delivered by the early Christian theologian and philosopher Saint Augustine of Hippo in his Seventh Homily on the First Epistle of John, that being “Dilige, et quod vis fac,” which translates to “Love, and do what thou wilt.” Saint Augustine, *Ten Homilies on the First Epistle of John*, in Nicene and Post-Nicene Fathers 1:7 at 862 (Philip Schaff ed. 2009), available at <http://www.ccel.org/s/schaff/npnf107/cache/npnf107.pdf>.

<sup>3</sup> Woodworth discusses Søren Kierkegaard’s works and ideas in journal entries entitled “Extra-Skriver” dated October 23, 2017 at pages 3–4; “Love through the Stages of Existence” dated October 29, 2017 at page 15; “Philosophical Erotics” dated December 5, 2017 at page 85; “The Nocturnal” dated December 18, 2017 at page 109; “Fragment: Three Loves” dated February 20, 2018 at page 10. Woodworth also annotated numerous works by Kierkegaard, particularly in *Fear and Trembling*.

<sup>4</sup> Woodworth discusses Friedrich Nietzsche’s works and ideas in journal entries entitled “Words” dated November 2016; “The Innocent Choice to Consume” dated August 25, 2017; “The “i”s “I” Speak For” dated October 29, 2017 on pages “The Nocturnal” dated December 18, 2017 at page 109; “Giving Space” dated January 10, 2018 at page 148; “Forces and Conatus” dated January 23, 2018 at page 167–169; and “Eating/Eaten” dated January 25, 2018 at page 177.

<sup>5</sup> Woodworth discusses Jacques Derrida’s works and ideas in journal entries entitled “Merleau-Ponty & Levinas” dated June 23, 2017; “Introspective Deconstruction” dated November 12, 2017 on pages 35–51; “Fragment: Three Loves” dated February 20, 2018 at page 10; “Pardon de ne pas vouloir die...” dated March 17, 2018 on page 18. Woodworth transcribed a quote from page 126 of Derrida’s *Literature in Secret* on page 20 of his journal.

<sup>6</sup> Woodworth discusses Martin Heidegger’s works and ideas in journal entries entitled “Thoughts” dated October 17, 2016; “The Cow that Wants to be Eaten” dated December 22, 2017 at page 128.

<sup>7</sup> Woodworth discusses Edmund Husserl’s works and ideas in journal entries entitled “Merleau-Ponty & Levinas” dated June 23, 2017.

flesh. He marveled over acts perpetrated by the serial killer Albert Fish and the artist Rick Gibson, which he stated captured his fervor for human flesh. He provided her with further historical examples that he proclaimed fueled his desire to engage in cannibalism, such as the starving crew of the Essex resorting to cannibalism, the murders and cannibalizing of the Protestant missionaries James Chalmers and Oiliver Fellows Tomkins, as well as the ritualistic consumption of Antonio de Silveira by members of the Kandunda Cult during the course of the Bailundo Revolt.

Woodworth frequently addressed his attraction to ritualistic cannibalism with McCandless. In particular, he confided his penchant for the Romantic representation of cannibalism, especially in regards to the Eucharist, and told her that he was particularly drawn to the interplay between theology and ritualistic cannibalism. Specifically, Woodworth detailed to McCandless that he saw eating human flesh in the form of a ritual as beautiful. For him, human blood enjoyed great significance. Woodworth told McCandless that he viewed human blood as romantic, exotic, ceremonial, potent, and powerful. He equated it to sugar. He justified to her that his lust for blood rationally arose from humanity's primitive, animalistic needs and innate desire for flesh. Throughout their relationship, Woodworth ardently declared to McCandless, "Here is my body, take it and eat, even in my absence, especially in my absence, in remembrance of me" – a line from Gary Shapiro's chapter in *Thinking Bodies*<sup>9</sup> entitled "Jean-Luc Nancy and the Corpus of Philosophy." Many of the nicknames Woodworth had for McCandless reflect his sentiments regarding cannibalism, rituals, and theology. He called McCandless his "Lamb" or "Lamb of God." McCandless was regularly told by Woodworth that he wanted to ritualize her.

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<sup>9</sup> Gary Shapiro, *Jean-Luc Nancy and the Corpus of Philosophy*, in *Thinking Bodies* at 52 (Juliet Flower MacCannell & Laura Zakarin eds. 1994). See <https://books.google.com/books?id=sW9VMWvm6S0C&pg=PA52&dq=Here+is+my+body,+take+it+and+eat,+even+in+my+absence&hl=en&sa=X&ved=0ahUKEwip642S65jgAhVFq4MKHVv2CvoQ6AEILjAB#v=onepage&q=Here%20is%20my%20body%2C%20take%20it%20and%20eat%2C%20even%20in%20my%20absence&f=false>.

Woodworth's predilection for violent and aggressive erotics was experienced firsthand by McCandless. He exhibited an oral-aggressive personality towards her sexually, characterized by aggressiveness, exploitativeness, ambition, and envy. McCandless was routinely subjected to Woodworth's sexual sadism. Woodworth would do whatever he wanted to McCandless sexually. He would ignore her pleas for him to stop certain sexual acts when she told him that he was hurting her, sometimes directing her to "bite the pillow" or to adjust herself.<sup>10</sup> In most instances, he would simply order her to hold still. Woodworth confessed to McCandless that she made him feel more confident and dominant. He would painfully bite McCandless in the bedroom during his sexual acts with her.<sup>11</sup> When Woodworth desired sexual gratification, he would inform McCandless that he was "hungry." McCandless observed that Woodworth became less sexually aroused when engaging in normal, typical sexual acts. However, he would become exceptionally more aroused and more able to perform sexually when the sexual acts became darker, more depraved, more violent, and more domineering in nature.

When McCandless decided to get back together with Jason Mengel, Woodworth's sex with her got darker and scarier. Woodworth refused to take "no" for an answer when engaging in his sexually violent exploits of McCandless. He would demand that she tough it out. The physical choking that Woodworth often employed during his sexual acts with McCandless got noticeably more extreme and harsher. During this time in their relationship, Woodworth said to McCandless that he had gotten his confidence back. With this rush of confidence, Woodworth begun to engage in more severe biting of McCandless's inner thighs, hips, and shoulders. Such intensified biting pierced McCandless's skin and resulted in bruising. In addition to the choking and biting,

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<sup>10</sup> McCandless's Statements to Prock 3/24/2018 (DOJ L @ approximately 18:35 mark) and 3/23/2018 (DOJ M @ approximately 19:37 mark).

<sup>11</sup> McCandless's Statements to Prock 3/24/2018 (DOJ L @ approximately 19:51 mark).

Woodworth also cut up and/or cut off McCandless's clothes.

Throughout their relationship, Woodworth showed McCandless pornographic material that personally aroused him or depicted sexual acts that he sought to perform on her. Sometimes he would actively exhibit such graphic material to her in public places, such as at Racy D'Lenes Coffee Lounge or The Joynt. Such pornographic material shown by Woodworth to McCandless depicted individuals engaging in sadomasochistic activity, such as BDSM practices, and females in prone positions, lying face down, exposed, and appearing unconscious. He confessed to McCandless that he especially enjoyed bondage, deepthroating, trans-men, and shemales. Woodworth told McCandless he preferred her when she identified as male, and frequently called her "boy."<sup>12</sup>

Woodworth relished in his physical dominance over McCandless. During their evening walks by the edge of the river, he would physically shove McCandless only to grab her before she fell into the water. Woodworth found his intimidation of her humorous, confessing to McCandless that he thoroughly enjoyed bullying her and found immense pleasure in scaring her since her ability to see was greatly diminished in the dark. When McCandless voiced her objection, Woodworth repeatedly told her that he did not care because he would do as he wanted. Further, Woodworth told McCandless that he liked to bully numerous other individuals. Specifically, he informed McCandless that his favorite act of bullying was tripping individuals as they walked. Woodworth often made comments to McCandless about his strong desire to bash so-and-so's head in. Additionally, he expressed to her his want for people to physically harm him in public. Woodworth explained to her that this want was strategically based on his desire to publicly shame individuals. He also emphasized to her that he would experience immense gratification from the physical pain

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<sup>12</sup> McCandless's Statements to Prock 3/24/2018 (DOJ L @ approximately 25:59 mark).



if he were able to induce someone into punching him in public, particularly if the punch was thrown by Jason Mengel. While unbeknownst to most everyone else, Woodworth greatly enjoyed his secretive extreme behavior that he laid bare to McCandless. He would personally boast to her about this feat of hiding his truly dark and depraved violent thoughts from those around him. He bragged of wearing “masks” and of not being the person others thought him to be.

Also terrifying to McCandless was Woodworth’s exuberance for his own self-harm. He professed to her that he thoroughly enjoyed watching himself bleed, as the sight generated an intense euphoria in him. Woodworth claimed to McCandless that he did not feel much physically, however, he felt a lot emotionally. On one particular occasion, McCandless bore witness to the injury Woodworth caused himself when he used a knife to cut his wrist. This terrifying act of self-mutilation required the medical attention of Jason Mengel.

**B. March 22, 2018.**

On the morning of March 22, 2018, McCandless traveled to Eau Claire, Wisconsin. She went to Racy D’Lenes Coffee Lounge and spoke with Max Martinson, a friend.<sup>13</sup> McCandless and Martinson traveled to his house (1004 Main Street) where they exchanged paintings with one another.<sup>14</sup> McCandless then returned to Racy D’Lenes Coffee Lounge where she dropped off Martinson.<sup>15</sup> McCandless then drove to Woodworth’s residence (511 Cameron Street) to give him back his property.<sup>16</sup>

McCandless parked in the driveway, left her car running, and knocked on the door.<sup>17</sup> Dave Steuding answered the door, spoke with McCandless, then his roommate Woodworth came down

<sup>13</sup> McCandless’s Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>14</sup> McCandless’s Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>15</sup> McCandless’s Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>16</sup> McCandless’s Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>17</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

to speak with McCandless.<sup>18</sup> McCandless gave Woodworth his stuff and then they went up to his bedroom where they talked.<sup>19</sup> While McCandless was speaking with Woodworth, Jason Mengel arrived.<sup>20</sup>

A janitor at a nearby school, Paul Zachau, observed Mengel outside of Woodworth's apartment. Zachau called the Eau Claire Police Department and made a report of a suspicious person. Shortly thereafter, at approximately 12:30 p.m., two officers arrived at 511 Cameron Street. The officers contacted McCandless, Woodworth, and Mengel. McCandless and Woodworth told Mengel and the police they planned to go to a public place to speak. McCandless and Woodworth both got in McCandless's car, with McCandless driving.<sup>21</sup>

While McCandless was driving, Woodworth "started getting pretty upset."<sup>22</sup> Woodworth "mostly seemed upset about Jason."<sup>23</sup> Woodworth reached out to hold McCandless's hand, touched her hand and then touched her thigh. Woodworth told McCandless, "I know you still like me." Woodworth told McCandless it was unfair she ended the relationship. Woodworth kept calling her boy and using male pronouns when referring to McCandless.<sup>24</sup> Woodworth told her she was "handsome," and that he missed her body. Woodworth told McCandless: "I miss the warmth of your sun."

McCandless was "uneasy about things that have happened in the past between me and Alex."<sup>25</sup> McCandless started to "feeling really, really anxious."<sup>26</sup> She felt the onset of a panic

<sup>18</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>19</sup> McCandless's Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>20</sup> McCandless's Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>21</sup> McCandless's Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>22</sup> McCandless's Statement to Prock 3/23/2018 (DOJ L @ approximately 8:50 mark).

<sup>23</sup> McCandless's Statement to Prock 3/23/2018 (DOJ L @ approximately 8:50 mark).

<sup>24</sup> McCandless's Statement to Prock 3/23/2018 (DOJ L).

<sup>25</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L @ approximately 18:00 mark).

<sup>26</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L @ approximately 21:35 mark).

attack, and it “started getting worse and worse and worse.”<sup>27</sup> McCandless stopped the car, got out and asked Woodworth to drive.<sup>28</sup> Woodworth then drove out of Eau Claire, taking them into Dunn County. While driving, Woodworth told McCandless “he was upset.”<sup>29</sup> He told her it was unfair how she ended the relationship. Woodworth told her that she must love him because she came to talk to him. McCandless explained to him that she did not want to be with him but instead wanted to work on her relationship with Mengel. Woodworth told her if she “proceeded to talk to Jason he would be very upset.”<sup>30</sup> Woodworth told her he was angry that she was considering getting back together with Mengel. Woodworth told McCandless he felt betrayed and abandoned. Woodworth told her that he hoped they could continue getting together as they had in the past. McCandless told him that she only wanted to be friends, that she did not want to continue their relationship as sexual partners. McCandless “didn’t want to have sex at all.”<sup>31</sup> Woodworth persisted that she had abandoned him, that it was unfair, and he was justified in being angry and upset. Woodworth repeatedly demanded she commit herself to him, and him alone.

As McCandless explained to the police, “I didn’t, like, like him fully the way he liked me, and that made him upset enough to hurt himself.”<sup>32</sup> Woodworth had shown McCandless what he was capable of doing if she didn’t fully commit to him: In January, 2018, Woodworth used a knife to cut his wrist in what he told her was an attempt to kill himself because she would not commit to being with him.<sup>33</sup>

Woodworth drove her out to a secluded rural area on an unfamiliar county road.

<sup>27</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 22:23 mark).

<sup>28</sup> McCandless’s Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

<sup>29</sup> McCandless’s Statement to Prock 3/23/2018 (DOJ L @ approximately 8:50 mark).

<sup>30</sup> McCandless’s Statement to Prock 3/23/2018 (DOJ L @ approximately 8:50 mark).

<sup>31</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:19:30 mark).

<sup>32</sup> McCandless’s Statement to Prock 3/23/2018 (DOJ M @ approximately 17:00 mark).

<sup>33</sup> McCandless’s Statements to Prock 3/23/2018 (DOJ M) and 3/24/2018 (DOJ L).

Woodworth drove her car off the main road onto a long dirt driveway up the hill a little bit.<sup>34</sup> The car got stuck.<sup>35</sup> McCandless wanted to get the car back onto the road and unstuck.<sup>36</sup> She got into the driver's seat and drove the car further up the driveway to turn around and leave, but the car ended up stuck deeper in the mud, to the point that the car wouldn't move.<sup>37</sup>

With the car completely stuck both McCandless and Woodworth began looking for "anything to put underneath the tire to get traction."<sup>38</sup> Eventually, McCandless got in the backseat of the car. Alex came up from behind and "he just started grabbing me."<sup>39</sup> Woodworth was on top of her, positioning himself above and over her while she lay on her back with her head on the passenger side.<sup>40</sup> Woodworth began describing McCandless, saying: "Ezra is beautiful," "Ezra is handsome," and "Ezra is my sun."

Woodworth pressed himself down on her, kissing her on the lips. McCandless told him "don't!" Woodworth did not stop. Instead, Woodworth began to use a knife, grabbing her sweater and cutting it.<sup>41</sup> While cutting her clothes, he told her, "I want you one last time. I deserve one last time." McCandless froze. Woodworth cut open her sweater.<sup>42</sup> He then began cutting her long-sleeved shirt.<sup>43</sup> Woodworth blamed McCandless for what was happening, telling her it was her fault that he loved her and her fault he was doing this because she had abandoned him. Woodworth told her "You deserve this." Woodworth cut her on her stomach.<sup>44</sup>

Woodworth continued to use the weight of his body to hold her down. He told her she was

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<sup>34</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>35</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>36</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>37</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>38</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L @ approximately 52:35 mark).

<sup>39</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L @ approximately 53:35 mark).

<sup>40</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>41</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L).

<sup>42</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L); see photo (Ex. B).

<sup>43</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L); see photos (Ex. C).

<sup>44</sup> McCandless's Statement to Prock 3/24/2018 (DOJ L); see photo from DOJ VV.

“his prince,” she was “his boy” while he kept cutting her clothes. Woodworth cut her pants and leggings.<sup>45</sup> Woodworth cut McCandless across her inner thigh and her pubic mound.<sup>46</sup> McCandless felt stuck and frozen in position. She tried to survive by remaining still. Woodworth’s words and actions, combined with what McCandless knew of Woodworth, his beliefs regarding cannibalism, hedonism, and nihilism, and specifically his belief that there are no moral consequences for his actions, scared her. As McCandless told the police, “he was on top of me and started cutting things and it was really scary.”<sup>47</sup> She feared for her life. She wanted to make him stop. McCandless rolled onto her left hip to prevent him from cutting her in this sensitive area. She pulled up her right leg to cover and protect her vaginal area.<sup>48</sup> Woodworth repeatedly told her “I deserve you” and “you owe me this.”

After she rolled to her left, he stabbed her in her upper right thigh.<sup>49</sup> He then started cutting her pants and leggings on her right thigh.<sup>50</sup> Woodworth cut her right leg on her upper thigh.<sup>51</sup> He stabbed her again. McCandless was “in a lot of pain.”<sup>52</sup> She feared for her life. She wanted to make him stop. “He was on top of me and I just needed to get him away and off of me because he was hurting me.”<sup>53</sup>

McCandless believed she had to get out of the car and away from Woodworth. McCandless said she “went to go make him stop ... [h]e kept grabbing me ... [h]e kept trying to grab me in the back of the car.”<sup>54</sup> As McCandless told the police: “He cut my leg right here. And after that I

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<sup>45</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see photos of leggings (Ex. D); see photos of pants from DOJ HHH (Ex. E).

<sup>46</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see DOJ 1127–1128, 1134–1141.

<sup>47</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 54:00 mark).

<sup>48</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>49</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see photos from DOJ VV.

<sup>50</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see Ex. D and Ex. E.

<sup>51</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see photos from DOJ VV.

<sup>52</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 48:00 mark).

<sup>53</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>54</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 50:00 mark).

started trying to wrestle him and fight him off me and kick and do whatever.”<sup>55</sup>

She grabbed for the knife to try to get it away.<sup>56</sup> Woodworth cut her across her palm.<sup>57</sup> McCandless kneed him in the groin. McCandless got the knife.<sup>58</sup> Woodworth did not stop: “he just kept grabbing me and grabbing me.”<sup>59</sup> McCandless’s resistance created space between them so she could slide out from under him and sit up with her back up against the middle console and drivers’ seat. Woodworth continued grabbing and pressing his body, arms and hands against her. McCandless moved toward to open door to get out of the car, but Alex grabbed her and prevented her from getting out of car. McCandless believed he was going to continue to hurt her, to assault her, and then kill her. She stabbed him. Woodworth pushed her neck up against the driver’s side headrest making it difficult for her to breath. He grabbed her by her throat.<sup>60</sup> She told the police, “I just started to defend myself as fast as I could ... he just kept trying to attack me, and attack me, and I didn’t know what to do.”<sup>61</sup> Woodworth slid his hand to the back of her neck, ripping out her hair.<sup>62</sup> McCandless screamed at him, “let go!” McCandless “fought really hard”<sup>63</sup> as her struggle for her life continued. She told the police, “He just kept grabbing me and grabbing me, so I stabbed him.”<sup>64</sup> She stabbed him “anywhere and everywhere” to get him to stop.<sup>65</sup>

Woodworth eventually stopped fighting and got out of the car. He was then staggering around outside the car. McCandless sat on the edge of the rear seat watching him. Woodworth asked her to help him. McCandless stood up and approached Woodworth. When she got near him,

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<sup>55</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 54:23 mark).

<sup>56</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>57</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see DOJ 1130–1131.

<sup>58</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>59</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>60</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see DOJ 1138 and 1141.

<sup>61</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 50:00 mark).

<sup>62</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L); see photos from DOJ CCC (Ex. F); see DOJ 1825–1835.

<sup>63</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:02:10 mark).

<sup>64</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:10:00 mark).

<sup>65</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 55:45 mark).

Woodworth grabbed her and tried to pull her down: “outside the car he came after me again.”<sup>66</sup> McCandless stabbed him again.<sup>67</sup> Woodworth laid down on the ground.<sup>68</sup> McCandless retreated and sat on the edge of the rear seat. She felt like she was going to pass-out: “I was confused and scared and I was coming in and out of it- like it would be dark for a little bit, and then I would come out of it, and I would panic and hyperventilate, and then it would get dark again.”<sup>69</sup> All she could think was she must “remember what happened.”<sup>70</sup> She used the knife to scratch the word “boy” in her arm and then “just started running.”<sup>71</sup>

McCandless believed Woodworth was going to kill her. She told the police, “I remember being really scared and being in pain.”<sup>72</sup> She told the police she was scared of Woodworth “harming [her] and making [her] want to do something he wanted.”<sup>73</sup> She told the police “I just wanted him to go away. I wanted him to go away. He wouldn’t go away.”<sup>74</sup> She told the police, “He was on top of me and I just needed to get him away and off of me. Because he was hurting me.”<sup>75</sup>

McCandless knew that Woodworth believed there are no consequences for one’s actions. In the past, Woodworth had repeatedly told McCandless that he could do anything he wanted – “Love and do anything you want.” As McCandless told the police, Woodworth “likes to talk about philosophy a lot ... they’re very negative philosophies. It’s kind of like take-as-much-as-you-want kind of philosophies.”<sup>76</sup> Woodworth had also told McCandless that to love another was to consume

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<sup>66</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 56:00 mark).

<sup>67</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>68</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L).

<sup>69</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 51:39 mark).

<sup>70</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:18:23 mark).

<sup>71</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:04:00 mark).

<sup>72</sup> McCandless’s Statement to Prock 3/23/2018 (DOJ M @ approximately 19:00 mark).

<sup>73</sup> McCandless’s Statement to Prock 3/23/2018 (DOJ M @ approximately 19:20 mark).

<sup>74</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:12:00 mark).

<sup>75</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 1:03:00 mark).

<sup>76</sup> McCandless’s Statement to Prock 3/24/2018 (DOJ L @ approximately 18:00 mark).

them, to eat them. McCandless believed Woodworth was going to act out his radically depraved and perverted philosophical beliefs by killing her. She believed she needed to use the amount of force she did to prevent imminent death or great bodily harm to her person.

### III. EVIDENCE CORROBORATING McCANDLESS'S KNOWLEDGE, BELIEFS, AND THE REASONABLENESS OF HER BELIEFS

In addition to the above, an issue the jurors will need to decide will be whether McCandless's beliefs were reasonable, McCandless is permitted to show how and why she came to believe that she was preventing or terminating an unlawful interference with her person. McCandless, who asserts self-defense, is not limited to her own testimony; rather, she may demonstrate that her belief was reasonable through evidence of individual instances of Woodworth's character, reputation, past behavior, and statements. In *McMorris v. State*, 58 Wis. 2d 144, 205 N.W.2d 559 (1973), the Supreme Court of Wisconsin states, "When the issue of self-defense is raised in a prosecution for assault or homicide and there is a factual basis to support such a defense, the [individual] may, in support of the defense, establish what [she] believed to be the turbulent and violent character of the [decedent]." *Id.* at 152. As such, the *McMorris* court held: "The past conduct of a person markedly affects what others may reasonably expect from him in the future. When the individual maintains self-defense, [she] should be permitted to show [she] knew of specific prior instances of violence on the part of the victim." *Id.* at 150–51.

In addition to evidence about what happened on March 22, 2018, the Defense intends to introduce evidence to support the reasonable of McCandless beliefs. Case law had been further developed that permits the Defense to introduce evidence which can corroborate McCandless's knowledge of Woodworth's character, reputation, past behavior, and statements. "A[n] [individual] should not be limited merely to [her] own assertion that [she] had knowledge of particular violent acts, but should be allowed to produce supporting evidence to prove the reality



of the particular acts of which [she] claims knowledge, thereby proving reasonableness of [her] knowledge and apprehension of the credibility of [her] assertion.” *State v. Daniels*, 160 Wis. 2d 85, 95–96, 465 N.W.2d 633 (1990) (citing *State v. McAllister*, 74 Wis. 2d, 246, 250–51 (1991)). The *Daniels* court further noted, “Evidence corroborating the [individual]’s self-serving testimony on the only issue in the case, the [individual]’s state of mind would be highly persuasive to the fact finder. The mere fact that the state does not contest the [individual]’s testimony about the victim does not obviate the [individual]’s need to bolster [her] own testimony with testimony of other witnesses, especially that of the victim himself.” *Id.* at 104.

#### A. Woodworth’s writings and journals.

Throughout his writings, Woodworth frequently references his self-proclaimed *modus operandi* “Love, and do what you will.”<sup>77</sup> Woodworth writes of his obsession with this motto: “This is old advice, passed down by Saint Augustine. Rare have I obsessed over a phrase as I am now. It haunts me.”<sup>78</sup> “What a [sic] anarchic and erotic principle,” Woodworth expresses, proclaiming that “[i]f there is love, we will know because we can do as we will, whatever that is.”<sup>79</sup> The disturbing radicalization of Woodworth’s *modus operandi* is detailed in his writings,<sup>80</sup> with him eventually declaring, “Love, and do anything you want . . . It should come as no surprise that I still obsess over this phrase.”<sup>81</sup> In deconstructing himself, Woodworth questions whether he can truly love or if “it is just a self-delusional hedonism” that he feels.<sup>82</sup>

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<sup>77</sup> Woodworth explicitly expresses his love for the slogan “Dilige, et quod vis fac” – which he translates as “Love, and do what you want/as you will” – throughout his journals. See “Sorge” dated August 26, 2017; “Introspective Deconstruction” dated November 12, 2017 at page 45; “Dilige, Et Quod Vis Fac” dated November 9, 2017 at pages 23, 36; “More Dilige, Et Quod Vis Fac” dated November 20, 2017 at pages 58–59; “Between Love and Obligation” dated December 3, 2017 at page 87; “Letting it Be” dated December 4, 2017 at page 84; “Desire and Will” dated December 20, 2017 at pages 119–23; “The Cow that Wants to be Eaten” dated December 22, 2017 at page 128; “Authors and Others” dated February 3, 2018 at page 191; “The Truth of Me” dated February 18, 2018 at page 7.

<sup>78</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 23.

<sup>79</sup> “More Dilige, Et Quod Vis Fac” dated November 20, 2017 at page 58.

<sup>80</sup> “Desire and Will” dated December 20, 2017.

<sup>81</sup> “Desire and Will” dated December 20, 2017 at page 119.

<sup>82</sup> Woodworth’s journal entry entitled “Introspective Deconstruction” dated November 12, 2017 at page 45.

Woodworth's writings make extensive use of the works and teachings of numerous philosophers, including Søren Kierkegaard,<sup>83</sup> Friedrich Nietzsche,<sup>84</sup> Jacques Derrida,<sup>85</sup> Martin Heidegger<sup>86</sup>, Edmund Husserl,<sup>87</sup> Maurice Merleau-Ponty,<sup>88</sup> John D. Caputo,<sup>89</sup> and Jean-Luc Marion,<sup>90</sup> among others. Throughout his writings, Woodworth explores the nihilistic underpinnings of these particular philosophers' works and teachings.

During the course of many of his writings, Woodworth expresses his frustration with his inability to let himself be free, or to let himself be himself.<sup>91</sup> "I am many, let me be all that I am, each and every one of me," Woodworth beseeches.<sup>92</sup> He is quick to acknowledge his insistent rejection and hatred of himself.<sup>93</sup> Woodworth attests to how miserable and guilty he felt about who and what he truly was.<sup>94</sup> Woodworth expresses his own self-hatred.<sup>95</sup> "I hated myself, and so I

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<sup>83</sup> Woodworth discusses Søren Kierkegaard's works and ideas in "Extra-Skriver" dated October 23, 2017 at pages 3–4; "Love through the Stages of Existence" dated October 29, 2017 at page 15; "Philosophical Erotics" dated December 5, 2017 at page 85; "The Nocturnal" dated December 18, 2017 at page 109; "Fragment: Three Loves" dated February 20, 2018 at page 10. Woodworth also annotated numerous works by Kierkegaard, particularly in *Fear and Trembling*.

<sup>84</sup> Woodworth discusses Friedrich Nietzsche's works and ideas in "Words" dated November 2016; "The Innocent Choice to Consume" dated August 25, 2017; "The 'i's 'I' Speak For" dated October 29, 2017 at pages 8; "The Nocturnal" dated December 18, 2017 at page 109; "Giving Space" dated January 10, 2018 at page 148; "Forces and Conatus" dated January 23, 2018 at page 167–169; and "Eating/Eaten" dated January 25, 2018 at page 177.

<sup>85</sup> Woodworth discusses Jacques Derrida's works and ideas in "Merleau-Ponty & Levinas" dated June 23, 2017; "Introspective Deconstruction" dated November 12, 2017 on pages 35–51; "Fragment: Three Loves" dated February 20, 2018 at page 10; "Pardon de ne pas vouloir die..." dated March 17, 2018 on page 18. Woodworth transcribed a quote from page 126 of Derrida's *Literature in Secret* on page 20 of his journal.

<sup>86</sup> Woodworth discusses Martin Heidegger's works and ideas in "Thoughts" dated October 17, 2016; "The Cow that Wants to be Eaten" dated December 22, 2017 at page 128.

<sup>87</sup> Woodworth discusses Edmund Husserl's works and ideas in "Merleau-Ponty & Levinas" dated June 23, 2017.

<sup>88</sup> Woodworth discusses Maurice Merleau-Ponty's works and ideas in the journal entry entitled "Merleau-Ponty & Levinas" dated June 23, 2017.

<sup>89</sup> Woodworth discusses John D. Caputo's works and ideas in October 19–November 20, 2017 at pages 1–18, 25–33; "Forces and Conatus" dated January 23, 2018 at pages 168, 171; "Come as You are, flaws and all" dated October 29, 2017 at pages 13.

<sup>90</sup> Woodworth discusses Jean-Luc Marion's works and ideas in "Forces and Conatus" dated January 23, 2018; "Sorge" dated August 26, 2017.

<sup>91</sup> See "Letting Myself End" dated November 9, 2017 at page 27; March 1, 2018; "Authors and Others" dated February 3, 2018 at page 192.

<sup>92</sup> "Letting Myself End" dated November 9, 2017 at page 27.

<sup>93</sup> March 1, 2018 at page 13.

<sup>94</sup> March 1, 2018 at page 13.

<sup>95</sup> "Dilige, Et Quod Vis Fac" dated November 9, 2017 at page 24; March 1, 2018; "From the Past: A Look Expectant" dated August 12, 2017 at page 34.

could seek death with abandon . . . Living was pain, so a good death seemed more beautiful than any pleasure,” he reasons.<sup>96</sup> He states that he is a monster,<sup>97</sup> and believes that he “contaminated”<sup>98</sup> and “lacked a heart.”<sup>99</sup> Woodworth proclaims, “I am . . . [l]iving flesh contaminated by the ghosts of my past.”<sup>100</sup> “I am not good – I am aberrant,” he states.<sup>101</sup> Woodworth alludes to the person he truly was, stating, “. . . I was born a monstrosity, unholy revenant . . . I have met monsters, humans possessed like me – albeit in their own way.”<sup>102</sup> “I had to escape the monster I became . . .,” he declares.<sup>103</sup> Woodworth describes himself as “cruelly vicious”<sup>104</sup> and expresses, “I am disgusted by what I did, by being who I was.”<sup>105</sup> Woodworth expresses fear of the person he was, confessing, “I am still afraid of myself. Afraid I will I will come out again and hurt someone. Afraid I will use someone for redemption and self-mutilation.”<sup>106</sup> He even explores how to navigate his violence,<sup>107</sup> believing that some kind of self-exorcism should be performed in order to successfully eliminate the parts of himself that he deemed to be evil,<sup>108</sup> specifically the evil part of him “who hurt to hurt.”<sup>109</sup>

Such self-loathing drove him to contemplate killing himself.<sup>110</sup> Throughout his journal writings, Woodworth adamantly expresses his desire to kill himself. “So I wanted to die. What I

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<sup>96</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 24.

<sup>97</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 24–25; August 11, 2017; “From the Past: A Look Expectant” dated August 12, 2017 at page 33.

<sup>98</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 25; “Introspective Deconstruction” dated November 12, 2017 at page 44, 49; “The Cow that Wants to be Eaten” dated December 22, 2017 at page 128.

<sup>99</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 25.

<sup>100</sup> “Introspective Deconstruction” dated November 12, 2017 at page 44.

<sup>101</sup> “From the Past: Memories” dated July 24, 2017 at page 28.

<sup>102</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 24.

<sup>103</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 25.

<sup>104</sup> “Introspective Deconstruction” dated November 12, 2017 at page 47.

<sup>105</sup> “Introspective Deconstruction” dated November 12, 2017 at page 47.

<sup>106</sup> “Dilige, Et Quod Vis Fac” dated November 9, 2017 at page 26.

<sup>107</sup> “Introspective Deconstruction” dated November 12, 2017 at page 39.

<sup>108</sup> “Introspective Deconstruction” dated November 12, 2017 at page 41.

<sup>109</sup> “Introspective Deconstruction” dated November 12, 2017 at page 42.

<sup>110</sup> See March 1, 2018 at page 13.

began to embrace was a suicidal erotics and self-sacrificial ethics,” he pens.<sup>111</sup> He explains that “[t]he hope of fleshy faith is only achievable through self-sacrifice, suicide.”<sup>112</sup> Woodworth discusses his urge to kill himself, stating:

My own rejection of myself begins the explication of the task at hand. I have repeatedly expressed my desire to let myself go, that is, to cease being what I am so that I can become otherwise. This is an urge to kill myself, a Will to Death which presented itself as the possibility of the development of a Will to Life. In truth I hated myself, I was so miserable and guilty that I then wanted to die – if I could even have qualified as alive then.<sup>113</sup>

He proclaims that “[t]he one who hurt to hurt has to cease. Self-‘forgiveness’ is intimately tied to death, self-‘death’ . . . The one who did evil can be let go, let die, but only as a living flesh.”<sup>114</sup> For Woodworth, this meant that the one who hurt to hurt had “to be reduced to a ghost, a repurposed daemon, a voice without being, in short an undead monster.”<sup>115</sup> He explained, “Undead because it is a non-flesh that hasn’t quit just yet. A monster in the etymological sense of the word – mutilated flesh meant as a warning, a de-monstration of what ought not be.”<sup>116</sup> Woodworth even provides graphic details of his own self-harm, writing:

Should I confess that I have a large gash on my left wrist, a self-inflicted wound that severed nerves and (nearly) cut through tendons? For me one hand can only feel and move in a limp numb way. What does this mean for the phenomenological importance of one hand feeling another and its supposed reversibility? One of my hands has quit its status (almost) as Leib, as corpse proper – it is no longer proper, it is shameful and an advertising of my own lack of wellbeing. The reversibility of hands is gone, for me, one hand cannot feel, it is in-active, but it cannot be felt either, it is un-passive.<sup>117</sup>

Woodworth acknowledges the violence contained within his erotics, describing his erotics

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<sup>111</sup> March 1, 2018 at page 13.

<sup>112</sup> “Faith and Flesh” dated February 2, 2018 at page 186.

<sup>113</sup> March 1, 2018 at page 13.

<sup>114</sup> “Introspective Deconstruction” dated November 12, 2017 at page 43.

<sup>115</sup> “Introspective Deconstruction” dated November 12, 2017 at page 43.

<sup>116</sup> “Introspective Deconstruction” dated November 12, 2017 at page 43.

<sup>117</sup> “Between Two Hands” dated January 20, 2018 at page 163.

as “tyrannical, abusive even.”<sup>118</sup> “Yet erotics always contains violence, that cannot be avoided,” he declares.<sup>119</sup> Woodworth confesses, “I know my touch would kill you, yet I reach out. That is my sin. The violence of my flesh that I lack a soul to correct.”<sup>120</sup>

Woodworth embraced what he referred to as “suicidal erotics” and “self-sacrificial ethics.”<sup>121</sup> In order to forget himself, Woodworth confesses that he pursued physical, especially sexual and pain-inducing, pleasure. He writes, “I forgot myself in the immediacy of loving sensuality – my misery in a caress and my guilt in compassion.” Woodworth declares, “Merely doing as one will, sexually, makes consent irrelevant. . . .”<sup>122</sup> The radical evolution of Woodworth’s interpretation of Saint Augustine’s dictum coincides with the radical evolution of Woodworth’s views on love, sex, and eroticism that can be traced throughout his writings.<sup>123</sup> Specifically, Woodworth expresses his sexual aggression,<sup>124</sup> sadomasochism,<sup>125</sup> domineering desire,<sup>126</sup> and calls for self-sacrifice.<sup>127</sup> Woodworth connects love with idealization.<sup>128</sup> He believes such love “often leads to dependency, manipulation, and abuse.”<sup>129</sup> “[Love that idealizes] is felt episodically, it consumes and possesses, and it tends to both abuse and be abused.”<sup>130</sup>

Woodworth’s infatuation with cannibalism and the flesh is abundantly evident from his recurrent writings on the matters.<sup>131</sup> He details how his infatuation manipulated his understanding

<sup>118</sup> “Come as You are, flaws and all” dated October 29, 2017 at page 13.

<sup>119</sup> “Come as You are, flaws and all” dated October 29, 2017 at page 13.

<sup>120</sup> “Dilige, Et Quoad Vis Fac” dated November 9, 2017 at page 23.

<sup>121</sup> March 1, 2018 at page 14.

<sup>122</sup> “Between Love and Obligation” dated December 3, 2017 at page 82.

<sup>123</sup> “Desire and Will” dated December 20, 2017.

<sup>124</sup> “Between Love and Obligation” dated December 3, 2017 at page 82.

<sup>125</sup> “Ideas Pertaining to Love” dated December 13, 2017 at page 103.

<sup>126</sup> “Desire and Will” dated December 20, 2017 at page 120.

<sup>127</sup> “Desire and Will” dated December 20, 2017 at page 122.

<sup>128</sup> “Ideas Pertaining to Love” dated December 13, 2017.

<sup>129</sup> “Ideas Pertaining to Love” dated December 13, 2017 at 103.

<sup>130</sup> “Ideas Pertaining to Love” dated December 13, 2017 at page 104.

<sup>131</sup> See “From the Past: Memories” dated July 24, 2017, pages 28–29; “A Look Expectant” dated August 12, 2017 at page 33; “Who Am I?” dated July 24, 2017 at page 31; “Dead to Me” dated August 6, 2017; “Violation” dated August 9, 2017.

of common social cues, stating, “I mistook the innocent play, your desire, for my hunger – I saw cannibalism where you asked to be seen erotically.”<sup>132</sup> Even basic sexual contact “threaten[ed] to consume” Woodworth and brought upon a desire “to give over [his] flesh over to it.”<sup>133</sup> In “The Cow that Wants to be Eaten,” Woodworth goes into immense detail regarding his obsession with flesh and cannibalism, stating:

I think that I have forgotten the flesh in my obsessive thinking lately. It is due for consideration in light and shadowed by the other notions that have haunted me since I last considered it. Now I feel called to rethink consumption, contamination [sic], and the cannibalism of relating flesh. The trick is, as always, finding where to begin.

Consume me. This is an odd request, a demonic and self-sacrificial plea. Yet, it fits nicely in my erotic invitations. Come just as you are. Love, and do as you will. It comes, not from “on high,” but from the masochistic, factual, carnal world we lovely find ourselves in. While “come” and “do as you will” can be prayed for in a disinterested way, “consume me” is to risk myself – and in this risk I must be interested. The other phrases invite You, but the plea of loving flesh offers me.

Consume me, take me from myself, bite into me and nourish yourself, I am yours. Is it necessary to connect this phrase to the sacrament, to communion? It was only by becoming flesh, and then butchering himself in symbolism and passion, that God could assuage his own wrath and fully love again. It is not enough to merely let the other come, nor to let them be. One must pull themselves to Earth, become flesh, and then offer oneself as bread, wine, and salvational blood. I must give myself, without holding back, in order to love.

I had forgotten this in my lamentation. My loneliness [?] I can sacrifice for You. By offering myself, by giving my self over as nourishment and comfort, I can even abandon my own abandonment. My self is yours, now by submission to Your desire. I let go of who I am for You – to you. What could my happiness mean before Your suffering, or my suffering before Your happiness? Wouldn't I Give up my unhappiness without hesitation to make You smile? Wouldn't I abandon joy at a moment's notice to share whatever burden You carry? Wouldn't Your laugh and touch exorcize when sadness presumes [sic] to dwell in my heart?

Understand that this is not altruism – I am not killing myself nor letting You kill me. Rather, I exceed myself. I contain more than I can contain. There is no inner capacity that lets me hold myself as I become, I have no place within me to live. As I create and produce my flesh ruptures if denied your salve – the growth is burdensome and the dehiscence is painful. I fester unless you devour me and I heal

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<sup>132</sup> “From the Past: Memories” dated July 24, 2017 at page 29.

<sup>133</sup> “From the Past: Memories” dated July 24, 2017 at page 28.

and incorporate new matter. “Consume me,” [?] I have to give. Otherwise I will begin to eat at myself. I overflow with creation and I fear that my own being will consume me if it draws enough energy from me. Desire to possess does not overwhelm me, but desire to give does.<sup>134</sup>

Woodworth’s preoccupation with cannibalism is further detailed in his August 8, 2017 entry:

I am oddly preoccupied with the concept of cannibalism. . . .

Cannibalism deals primarily with our own awareness of our being flesh. That another human could literally eat me raises odd anxieties over what I actually am to another. I can be rendered mere meat, reduced to a body in the most vicious way.

Beyond anxiety, the phenomenon reaches an odder truth, an uncanny awareness that cannibalism is not merely eating a corpse deprived of its humanness, but is precisely consumption of a human by a human. Cannibalism reaches a root as old as birth – my flesh is my humanity, for both are what is at stake in it. What made me a being is precisely what lets me lose myself so viceraly [sic].

Moving further into figuration, cannibalism reduces me into my being another’s “meal.” Literally in vivid imagery, but essentially this describes any time another takes my flesh – from my flesh – to sustain themselves.

The concepts of cannibalism and parasitism intertwine here, but it was always unclear how lethal cannibalism was – as it is usually performed post-mortem [sic]. The phrases “blood-sucker” or “leech” grasp at similar figurations as cannibalism. The vampire is, perhaps, less invasive though they still feed on their fellow human – to whatever extent a vampire is a person in a given fiction.

Woodworth praises his ability to conceal his true self from those around him.<sup>135</sup>

Woodworth achieved such concealment by hiding behind “faces” and “masks” that he wore.<sup>136</sup>

“Sometimes I try to be different than I am – I try to change and I try to put up fronts.”<sup>137</sup> While detailing the tension he felt between the façade persona he publicly exhibited and the

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<sup>134</sup> “The Cow that Wants to be Eaten” dated December 22, 2017 at pages 128–129.

<sup>135</sup> See “Letting Myself End” dated November 9, 2017 at page 27.

<sup>136</sup> See “Letting Myself End” dated November 9, 2017 at page 27; see also “From the Past: Memories” dated July 24, 2017 at page 28.

<sup>137</sup> “Introspective Deconstruction” dated November 12, 2017 at page 48.

monstrosities<sup>138</sup> he hid behind his masks and faces, Woodworth celebrates the success of his concealment, declaring, “For, now, they all love you.”<sup>139</sup>

In contemplating what he believes his journal writings amount to, Woodworth makes the following confession: “In a way, all that I’ve put into these pages amounts to a suicide note. Something designed to offer a final confession before the end, but also meant to speak long after death.”<sup>140</sup> He reaffirms this belief again on one of the final pages of his *Extra-Skriver* journal, writing, “Know that, whatever becomes of me, for this inconclusive post-script is my suicide note. It will only be found post-mortem. I am finalizing my death, and I can only hope to cease being who I am, so that a better person appears tomorrow.”<sup>141</sup>

Each of the above-referenced incidents of Woodworth’s past statements and behavior are instances that McCandless knew about prior to Woodworth’s death on March 22, 2018.

#### **B. Janson Mengel’s expected testimony.**

In addition to McCandless’s own statements/testimony, the Defense intends to illicit testimony from Jason Mengel (“Mengel”) which will corroborate much of McCandless’s testimony about her knowledge of Woodworth’s character, reputation, past behavior, and statements. The Defense expects Mengel to testify to the following at trial:

McCandless used to date Woodworth and Woodworth made recent threats to kill himself if McCandless didn’t leave Jason and come back to him.<sup>142</sup> Woodworth said if McCandless didn’t leave Mengel, Woodworth was going to kill himself.<sup>143</sup> Mengel had been with Woodworth when Woodworth had slit his wrist.<sup>144</sup> Woodworth had said to McCandless, “if you don’t leave Mengel, I’m going to kill myself.”<sup>145</sup> Woodworth showed Mengel his wrist and said, “This is the day when

<sup>138</sup> “A Look Expectant” dated August 12, 2017 at page 33.

<sup>139</sup> “Letting Myself End” dated November 8, 2017.

<sup>140</sup> “A Written Confession” dated December 19, 2017 at page 115.

<sup>141</sup> “Authors and Others” dated February 3, 2018 at page 192.

<sup>142</sup> DOJ 610.

<sup>143</sup> DOJ 169.

<sup>144</sup> DOJ 172.

<sup>145</sup> Mengel’s Statement to Inv. Rod Dicus and Sgt. Travis Mayer on 3/27/2018 (DOJ W @ approximately 15:40 mark).



I realized how much you could love somebody.”<sup>146</sup> Mengel cleaned up Woodworth’s wound and bandaged him all up.<sup>147</sup>

Woodworth was a young, tormented philosopher, going through a lot of difficult issues.<sup>148</sup> Mengel read a lot of the things Woodworth had written. The documents were brutal. There was a lot of pain in Woodworth’s writings.<sup>149</sup> Mengel thought [Woodworth] was a young tormented philosopher.<sup>150</sup> Woodworth told Mengel he was “into guys, am I into girls, am I into this, am I into life.” Mengel knew Woodworth to be very nihilistic and that he would Woodworth would write a lot of weird things. Mengel proofread his stuff at the bar. Woodworth would write philosophy papers all the time and Mengel thought they were “pretty brutal.” Mengel described Woodworth’s writing that “life is just a rape,” and his writings were about entropy, disorder and pain.<sup>151</sup>

Mengel thought Woodworth emotionally manipulated McCandless.<sup>152</sup> Mengel thought Woodworth preyed on McCandless.<sup>153</sup>

Woodworth told McCandless she was his little boy and called her boy.<sup>154</sup> McCandless told Mengel one of the things Woodworth liked to do was put her in the prone position, lying face down in the bed, and choke her and call her “little boy.” She was not receptive to that and Woodworth would say it was unfair for her to start something and then quit.<sup>155</sup> Woodworth would push McCandless down onto the bed face-down and, like, choke her with his arm and call her, like, a little boy, and a little this, and Woodworth wanted her to be a little boy, or something, and McCandless wasn’t comfortable with that. McCandless said that that happened multiple times and Woodworth wasn’t very receptive of it, because he would get mad.<sup>156</sup>

## CONCLUSION

The aforementioned evidence is offered for an acceptable purpose under Wis. Stat. §§ 904.04(1)(b) and (2)(a), here, self-defense. The evidence is also relevant, again offering self-defense as a justification for McCandless’s actions given her knowledge of Woodworth’s

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<sup>146</sup> Mengel’s Statement to Inv. Rod Dicus and Sgt. Travis Mayer on 3/27/2018 (DOJ W @ approximately 19:18 mark).

<sup>147</sup> Mengel’s Statement to Inv. Rod Dicus and Sgt. Travis Mayer on 3/27/2018 (DOJ W @ approximately 15:40 mark).

<sup>148</sup> Mengel’s Statement to Inv. Rod Dicus and Sgt. Travis Mayer on 3/27/2018 (DOJ W @ approximately 1:17:19 mark).

<sup>149</sup> DOJ 169.

<sup>150</sup> DOJ 172.

<sup>151</sup> Mengel’s Statement to Inv. Rod Dicus and Sgt. Travis Mayer on 3/27/2018 (DOJ W @ approximately 09:09 mark).

<sup>152</sup> DOJ 169.

<sup>153</sup> DOJ 171.

<sup>154</sup> DOJ 769–70.

<sup>155</sup> DOJ 172.

<sup>156</sup> Mengel’s Statement to Inv. Rod Dicus and Sgt. Travis Mayer on 3/27/2018 (DOJ W @ approximately 1:15:25 mark).

character, reputation, past behavior, and statements, as well as Woodworth's history of violence directed at McCandless. Finally, the proffered evidence is not substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury, or by considerations of undue delay, waste of time or needless presentation of evidence. *See State v. Sullivan*, 216 Wis. 2d 768, 576 N.W.2d 30 (1998).

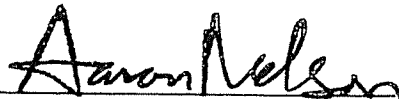
Failure to admit such evidence would violate McCandless's constitutional right to compulsory process and to present a defense under the United States and Wisconsin State Constitutions. *See Chambers v. Mississippi*, 410 U.S. 284, 300-02 (1973); *State v. St. George*, 2002 WI 50, 252 Wis. 2d 499, 643 N.W.2d 777.

Dated this 25th day of February, 2019.

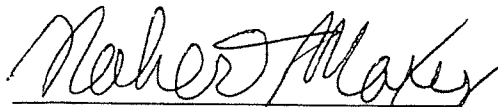
Respectfully submitted,

EZRA J. McCANDLESS, Defendant

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