

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Oct 05 2022
SC Court of Appeals

Appeal from Spartanburg County

Honorable Grace Gilchrist Knie, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF JEFFREY SCOTT OWENS,

APPELLANT.

APPELLATE CASE NO. 2021-000812

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-3797

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JULY 19 – 20, 2021	1
July 19, 2021	
OPENING STATEMENT BY MR. RUNYAN	6
OPENING STATEMENT BY MR. THOMPSON	14
TESTIMONY	
MARIE E. GEHLE	
Direct Examination by Mr. Runyan.....	18
July 20, 2021	
Direct Examination by Mr. Runyan.....	69
Cross-Examination by Mr. Thompson.....	108
Re-direct Examination by Mr. Runyan.....	151
STATE RESTS	156
MOTION FOR A DIRECTED VERDICT	158
COURT’S RULING	159
TESTIMONY (CONTINUED)	
JEFFERY OWENS	
Direct Examination by Mr. Thompson	161
Cross-Examination by Mr. Runyan	172
Re-direct Examination by Mr. Thompson	200
RENEWED MOTION FOR A DIRECTED VERDICT	202
COURT’S RULING	202
DEFENSE RESTS	209
CLOSING ARGUMENT BY MR. RUNYAN.....	210
CLOSING ARGUMENT BY MR. THOMPSON.....	221

CLOSING ARGUMENT IN REPLY BY MR. RUNYAN.....	232
JURY CHARGE	238
VERDICT	256
MOTION FOR A NEW TRIAL	257
COURT’S RULING	258
STATE’S EXHIBIT NO. 1 (INDICTMENT NO. 2002-GS-42-3379)	260
STATE’S EXHIBIT NO. 2 (INDICTMENT NO. 2005-GS-42-4618)	263
STATE’S EXHIBIT NO. 3 (ORDER FOR PROBATION VIOLATION DATED JUNE 27, 2006)	266
ORDER OF COMMITMENT FILED JULY 21, 2021	267
CERTIFICATE OF COUNSEL	268

1 STATE OF SOUTH CAROLINA)
2) COURT OF COMMON PLEAS
3 COUNTY OF SPARTANBURG)

4 IN THE MATTER OF THE CARE AND)
5 TREATMENT OF:) TRANSCRIPT
6) OF
7 JEFFERY SCOTT OWENS,) RECORD
8) 2020-CP-42-419
9 RESPONDENT.)

10 July 19th - 20th, 2021
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE GRACE GILCHRIST KNIE, JUDGE; and a jury.

15 A P P E A R A N C E S:

16 CHRISTOPHER S. RUNYAN
17 ASSISTANT ATTORNEY GENERAL
18 Attorney for the State

19 DON THOMPSON
20 ESQ.
21 Attorney for the Respondent

22 PAMELA E. GREEN
23 Circuit Court Reporter
24
25

2

1

I N D E X O F W I T N E S S E S

2

WITNESSESPAGE

3

4

Jury selection

6

5

Motions

37

6

Opening by the Court

53

7

Opening by Mr. Runyan

60

8

Opening by Mr. Thompson

68

9

10

DOCTOR MARIE E. GEHLE

11

Direct examination by Mr. Runyan

72

12

Cross-examination by Mr. Thompson

162

13

Redirect examination by Mr. Runyan

205

14

15

Motions

212

16

17

JEFFERY OWENS

18

Direct examination by Mr. Thompson

215

19

Cross-examination by Mr. Runyan

226

20

Redirect examination by Mr. Thompson

254

21

22

23

24

25

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	Motions	256
4	Closing by Mr. Mr. Runyan	264
5	Closing by Mr. Thompson	275
6	Closing by Mr. Runyan	286
7	Charge by the Court	291
8	Question from the Jury	305
9	Verdict	310
10	Motions	311
11	Certificate	315
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>State's Exhibits</u>		
S-1	Indictment 2002-GS-42-3379	36	103
S-2	Indictment 2005-GS-42-4618	36	110
S-3	Indictment 2002-GS-42-3379	122	125

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Court's Exhibits</u>		
3				
4	C-1	Note from the Jury	52	
5	C-2	Note from the Jury	308	
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

6

1 on purpose. I am telling them that they need to stand back.

2 All right. And so with that, yes, sir.

3 MR. RUNYAN: Thank you, Your Honor.

4 Good afternoon, ladies and gentlemen. My name is Chris
5 Runyan and I'm an Assistant Attorney General and I work in
6 the South Carolina Attorney General's Office.

7 I know you've been thanked a lot today but I do want to
8 take a minute to thank you again because your job is so
9 important. As the Judge told you, you're the fact finder
10 here today and you allow us to answer disputed questions and
11 solve problems peacefully. And it's gonna be the 12 of you,
12 through your experience and your education and your lifelong
13 learning, that, together, you're going to come together and
14 speak with one voice and, and answer a question and that,
15 that helps your fellow citizens, and it's a very important
16 duty. So, we thank you.

17 Now, I kind of want to plant a seed. When, when you're
18 doing these cases, they always tell you in Law School to
19 come up with a theme, something that, you know, resonates
20 throughout the entire case. And as I was preparing for this
21 case, this case, and I kept reading the documents, I kept
22 coming up with change, amending, you know, altering your
23 behavior because of consequences, and that kept coming up
24 over and over and over, and kind of -- all of a sudden it
25 hit me. I had this memory from when I was a child.

1 I use to love to cook with my mother and I would get up
2 really close to the stove and we had one of these really old
3 stoves that had the, the coils, and they would light up, and
4 they could glow, you know, orange or red and -- when they
5 were really hot. And I can remember one time I was really
6 wanting to see what she'd done. And I got really close and
7 I touched that burner with, with my fingertips. And I, I
8 can't believe I still have fingerprints because I was
9 swollen up with blisters and everything else.

10 But I tell you what. I never touched another burner
11 again because I learned from my consequence -- the
12 consequences of my actions. And I want you to think about
13 that as we go through this trial today.

14 So, like I said, I work for the Attorney General's
15 office, and you're probably wondering why is the Attorney
16 General's Office in Spartanburg this afternoon.

17 well, it's a pretty simple answer to that question.
18 It's because, in 1998, about 23 years ago, the Legislature,
19 the people in Columbia who make the laws, they passed a law
20 called the Sexually Violent Predator Act and in that they
21 wrote into the law that the Attorney General's Office is the
22 agency that will work the cases on behalf of the State.

23 So, myself and a partner have been assigned the duties
24 by the Attorney General, Alan Wilson, to go around the State
25 and perform these duties and that's why I'm here.

8

1 Now, we are seeking the civil commitment of Mr. Jeffery
2 Scott Owens and you've heard a lot. You heard, if you
3 remember during jury selection and again, here this
4 afternoon, and I, I -- I've said Sexually Violent Predator
5 Act already. You might be wondering, it's a good question,
6 what is the Sexually Violent Predator Act.

7 When the Legislature passed this law, they had --
8 really had two things they found. They had two things in
9 mind and that first thing is there are individuals in this
10 State who suffer from a mental abnormality or personality
11 disorder that makes them likely to engage in acts of sexual
12 violence, and the second thing they found, and they had in
13 mind when they passed this law, was that these individuals
14 need treatment.

15 They can't get treatment just anywhere, that this
16 treatment needs to come in a secure facility because of the
17 extreme dangerousness posed by these individuals to the
18 community. That's, in essence, what the sexually violent
19 predator law is, and the State contends that Jeff Owens is
20 one of these people.

21 Now, I want to stop a minute and I want to apologize to
22 you. I want to apologize to you because, when you came in
23 this morning and you had your -- you got your jury summons
24 probably what, two or three weeks ago, to Civil Court, I
25 don't think you imagined that it would be a sexually violent

1 predator case. I think you probably had a conversation with
2 your loved ones that went something like I got civil jury
3 trial. Oh, it's a car wreck, somebody ran a red light, and
4 they're arguing about whose fault it is or maybe somebody
5 was at the grocery store and they slipped in the produce
6 aisle and they hurt themselves and they were seeking
7 compensation for their injuries.

8 That's the type of thing that we think of when we think
9 of civil cases, and that -- that's common to all of us. We
10 know those types of things.

11 But you don't -- probably didn't know about the
12 Sexually Violent Predator Law. And as you would go through
13 this testimony and the evidence, the facts are disturbing
14 and you're gonna hear facts that you didn't think you were
15 gonna have to hear when you came in. They're sexual in
16 nature. It's violence against women and you're gonna have
17 to listen to those things. And some of those things might
18 make you angry. Some of those things might not make you
19 like Mr. Owens very much.

20 But I want you to listen to this. It's important that
21 you listen to them because these are the facts from which
22 you'll be the fact finder, from which you will make your
23 decision. So, they're important for you to listen to.

24 They're important for -- it's also important to
25 remember that Mr. Owens has -- he's had a criminal

10

1 proceeding. He's been sentenced. He's gone to prison.

2 okay. We're not seeking to punish Mr. Owens for
3 anything. We're seeking treatment for his disease.

4 So, what is a sexually violent predator?

5 what do we have to prove to you and, and how do we have
6 to do that?

7 well, the State Legislature, they defined what a
8 sexually violent predator is and it's really two things.
9 And the first thing is that the person has to be convicted
10 of at least one sexually violent offense. And I submit to
11 you that we'll submit documents and you'll hear testimony
12 that Mr. Owens has been convicted of not one sexually
13 violent offense, but two sexually violent offenses. And
14 they are criminal sexual conduct in the third degree and
15 criminal sexual conduct in the second degree. I don't think
16 that this element or thing that we have to prove is gonna be
17 contested.

18 The second thing we have to prove to you is that Mr.
19 Owens suffers from a mental abnormality or personality
20 disorder that makes him likely to commit acts of sexual
21 violence if not confined for long term control, care, and
22 treatment. Now, on this point we have to rely on the mental
23 health professionals.

24 So, you know, prior to this trial it was ordered that
25 Mr. Owens undergo an evaluation, the Court appointed doctor,

1 Marie Gehle, to do the evaluation, and she works with the
2 South Carolina Department of Mental Health, and I believe
3 that she will be qualified as an expert in forensic
4 psychology and forensic sex offender evaluations.

5 And what's she's going to do is she's gonna testify to
6 you about the comprehensive evaluation that she did, how she
7 looked at all the records she looked at, that the interviews
8 she did with -- of Mr. Owens where she talks with him,
9 speaks with him, asked him about his offenses, asked him
10 about his life. She tries to understand his point of view.
11 She gets his side of the story. And then she's gonna tell
12 you how she assesses that and how she comes up with a
13 diagnosis and also how she does her risk assessment to see
14 if he has a risk to reoffend. And she's gonna testify to
15 you that he suffers from what's called other specified
16 paraphilic disorder, biastophilia.

17 Now that -- she will explain that to you. But I'm
18 gonna tell you right now that I think she's going to testify
19 that that simply means that he's sexually aroused by sex
20 with non-consenting partners, rape, and then she's gonna go
21 into how she came up to that conclusion. She's gonna tell
22 all the things that she looked at and why she thinks he
23 suffers from that mental abnormality.

24 And then she's gonna talk about the risk assessment and
25 she's gonna tell you about the clinical tests that she

12

1 scored, tests that she's qualified and trained to, to do,
2 and she's gonna tell you that, of those assessments, the two
3 that she gave him, he scored in the well and above average
4 category for sexual re-offense.

5 So, you'll hear from her, and, at the end of that,
6 you'll hear from any evidence that Mr. Owens might provide,
7 and you'll be left with that question of whether Mr. Owens
8 is a sexually violent predator or not. And that's gonna be
9 up to you.

10 You're gonna base that on the evaluation that Doctor
11 Gehle did, on whatever evidence Mr. Owens produces, and,
12 again, you're gonna weigh the facts and you're gonna answer
13 that question.

14 The last piece of this puzzle is, is basically what
15 level of proof do we have to show you, how, how do we have
16 to prove this to you, and, in most civil cases, that's
17 called preponderance of the evidence, and that simply means
18 the greater weight, and I'll tell you the way it was
19 described to me in Law School is imagine you have a set of
20 scales, the old scales, and you have one giant rock on one
21 side and a hundred little rocks on the other side, and they
22 weigh exactly the same. And then imagine a bird flies over
23 it and its little feather falls off and it weighs about half
24 an ounce and it lands on either side.

25 That little tip, that's who wins the case. He, he

1 would say 50 percent plus a feather but I think, and the
2 Judge is gonna tell you, she already has, that this is a
3 civil case. But I think you guys have picked up already
4 that this is not a normal civil case.

5 This is different and we have a different burden and
6 the burden's on the State. We have to prove this to you and
7 it's a higher burden. It's beyond a reasonable doubt.

8 You know, you probably heard that one from, you know,
9 TV and maybe the news or, you know, in courtroom, books that
10 you read or anything like that, beyond a reasonable doubt.
11 Now, the Judge will explain to you what, excuse me, what
12 beyond a reasonable doubt means, and when she does that,
13 listen to what she has to say because she's the -- as she
14 told you, she's (sic) tells you what the law is and she'll
15 tell you what beyond a reasonable doubt means.

16 But I'm gonna suggest that she's gonna tell that it
17 means, after you've listened to all the evidence, if you're
18 firmly convinced that Mr. Owens is a sexually violent
19 predator, then the State has met its burden, and I want you
20 to understand that it is a higher burden to protect
21 everyone, and the State welcomes that burden because Mr.
22 Owens's liberty is at -- his liberty's at interest here.

23 So, what would I -- what do I want you -- they always
24 say ask want you what for, what do you want, and I'll
25 reiterate again that these facts are disturbing. But really

14

1 what I want you to do is I want you to listen to them. I
2 want you to listen to all the evidence the State has to
3 offer, and I want you to listen to all the evidence
4 carefully that Mr. Owens has to offer. And I think, as you
5 listen to this evidence, it's gonna become clear the verdict
6 that you should render, and that -- this case is yes,
7 Jeffery Scott Owens is a sexually violent predator.

8 I thank you for your time.

9 THE COURT: Mr. Thompson.

10 MR. THOMPSON: May it please the Court, Your Honor,
11 Mr. Runyan.

12 Good afternoon, ladies and gentlemen of the jury.

13 I too want to thank you for being here and taking the
14 time because this is an important day today, and probably
15 tomorrow morning, in Mr. Owens life.

16 First off, I'm gonna tell you I'm an old attorney and
17 I've got ways of doing things, and COVID had just totally
18 knocked me out of the frame. I'm a pacer. I usually walk
19 up and down, down in front of the jury box. I'm standing
20 here at a podium. I'm not even sure I can talk. Young
21 attorneys like Mr. Runyan, they're, they're more adaptable.

22 In, in 1998, the State of South Carolina passed the
23 Sexually Violent Predator Act and that Act is to determine
24 whether or not somebody that has been convicted of a
25 sexually violent crime, and let's just deal with the

1 elephant in the room to start with, Mr. Owens has two
2 convictions just as Mr. Runyan told you, CSC third and the
3 CSC second.

4 The Act requires that, before that person be released
5 from his confinement, that there be a hearing, a hearing to
6 determine whether or not he suffers from a mental or --
7 abnormality or a personality disorder that is likely to
8 cause him to offend in the future -- to reoffend and that's
9 the whole purpose of this hearing today. We're looking at
10 two things.

11 You can forget about whether or not there's an issue of
12 has he been convicted. He has. The two issues we're
13 looking at are does he have a mental abnormality or a
14 personality disorder, that's one, and the second is, if he
15 does, would that cause him to be likely to reoffend.

16 Now, there's one thing that Mr. Runyan said that, that
17 kind of struck me. He started out talking about change.
18 You're going to hear, from testimony, that, back in
19 2004/2005, Mr. Owens was a certain way. He, he committed
20 the crimes and he was an alcoholic.

21 You're going to hear that, since 2005, he has not been
22 any problem. There has been a change and, and you need to
23 take that in consideration in your deliberations when the
24 time comes.

25 Again, you -- Mr. Runyan says you've got to be firmly

16

1 convinced, reasonable doubt. You got to be firmly convinced
2 that he has -- suffers from a mental illness or a
3 personality disorder that would cause him to be likely to
4 reoffend and I said mental illness. It's mental
5 abnormality. I'm not sure what the difference between the
6 two are but maybe Doctor Gehle will explain it to us.

7 what I want you to look, and I want you to keep, and I
8 know you will, keep your ears open and your minds open and
9 listen to the testimony. A lot of the testimony you're
10 gonna hear comes from what occurred in 2004 and 2005. Not
11 what's going on today.

12 There's really no way to get in somebody's mind and
13 tell what they're gonna do in the future. If we could, man,
14 it'd be real easy. We, we don't even have to wait for
15 somebody to commit a crime. We can just get in their mind
16 and see if they're gonna commit a crime, and, if they are,
17 go lock them up.

18 I -- the thing that, that, that really I think we're
19 looking at in this trial is whether or not Mr. Owens has
20 changed from 2005, and whether or not all the hit -- you're
21 gonna hear about that they believe -- and, and Doctor Gehle
22 can't tell you that he's gonna commit another crime. She's
23 just gonna say that she believes he has a mental abnormality
24 that might cause him to.

25 But what you're gonna hear, everything pretty much is

1 gonna support that is from what happened in the past, not
2 from where we're at in the, in the current day.

3 With that I'm gonna sit down and let them call Doctor
4 Gehle to testify. But I do ask you keep an open mind, you
5 listen to everything, and you don't make a decision until
6 you've heard all the evidence in the case.

7 Thank you.

8 THE COURT: Okay. Counsel, are you ready to call your
9 first witness?

10 MR. RUNYAN: Yes, Your Honor.

11 The State would call Doctor Marie Gehle to the stand.

12 THE COURT: Okay. Please come forward and be sworn,
13 and, again, the witness stand has already been wiped down.
14 Okay?

15 THE WITNESS: Yes, ma'am.

16 DOCTOR MARIE GEHLE, being first duly
17 sworn, testified as follows:

18 THE CLERK: Thank you. You may be seated.

19 THE COURT: Ma'am, if you'll make yourself comfortable,
20 and then I will get you to state your full name for the
21 record spelling your last.

22 THE WITNESS: Can I remove my mask?
23 Is that okay?

24 THE COURT: Yes, ma'am.

25 THE WITNESS: Okay. My name is Marie Gehle. It's

18

Marie Gehle - Direct examination
By Mr. Runyan

1 spelled G-E-H-L-E.

2 THE COURT: Counsel.

3 MR. RUNYAN: May it please the Court.

4 DIRECT EXAMINATION

5 BY MR. RUNYAN:

6 Q Good afternoon, Doctor Gehle.

7 A Good afternoon.

8 Q I'm gonna stand back here so that -- it may sound like
9 I'm yelling at you but I, I want to make sure, if---

10 A Okay.

11 Q ---if I can hear your answer, that the jurors back here
12 can hear your answer.

13 So, could you tell the jurors by whom and -- whom you
14 are employed and in what capacity?

15 A I work at the South Carolina Department of Mental
16 Health as the chief psychologist.

17 Q In order to be employed in this capacity, are you
18 required to have a certain education, background, and
19 experience?

20 A Yes, it requires a doctorate in clinical psychology.

21 Q Okay. Well, stepping back, where did you do your
22 undergrad at and what degree did you obtain?

23 A I have a Bachelor's in Psychology from Ohio Northern
24 University.

25 Q Now, did you do graduate work?

Marie Gehle - Direct examination
By Mr. Runyan

19

1 A I did.

2 Q Where did you do your graduate work?

3 A Xavier University in Cincinnati, Ohio.

4 Q Did you ever per -- did you pursue any further
5 specialized training?

6 A Yes, I did a post-doctoral fellowship in forensic
7 psychology.

8 Q And where did you obtain your doctoral degree?

9 A Xavier University.

10 Q Okay. Have you done any additional specialized
11 training or clinical experience beyond your doctorate?

12 A I routinely attend seminars and ongoing education as
13 part of my job and just to make sure that I am keeping up
14 with current practices.

15 Q What, if any, lectures, training, seminars, or other
16 presentations have you given in your profession?

17 A I am a -- I am an assistant professor at the University
18 of South Carolina's Medical School in their psychiatry
19 department, and through that fellowship or through their
20 fellowship training with psychiatrists, I give
21 assessments -- I'm sorry. I give seminars on risk
22 assessments, sexually violent predator evaluations, and sex
23 offender risk assessments.

24 Q Are you a member of any professional organizations?

25 A Yes.

20

Marie Gehle - Direct examination
By Mr. Runyan

1 Q what are they?

2 A I'm a member of the Sex Offender Civil Commitment
3 Program Network and that's it.

4 Q Okay. Are you required to have a license to practice
5 psychology as a part of your employment?

6 A Yes.

7 Q And do you have a license?

8 A Yes.

9 Q In what states?

10 A In South Carolina and in Georgia.

11 Q Doctor, could you tell us just briefly what your job
12 duties are at the Department of Mental Health?

13 A My job duties are primarily to complete evaluations
14 under the Sexually Violent Predator Act.

15 Q And what is the -- psychology?

16 A It's the study of the behavior and the mind. We look
17 at abnormalities, treatment for problems that people
18 experience, diagnosis and treatment of mental illness.

19 Q And what is forensic psychology?

20 A It's applying the principles of psychology to the law.
21 So, we answer questions for the Court system.

22 Q And does your work as a forensic psychologist allow you
23 to conduct forensic psychological evaluations of
24 individuals?

25 A Yes.

Marie Gehle - Direct examination
By Mr. Runyan

21

1 Q Approximately how many evaluations have you
2 committed -- completed.

3 Sorry.

4 A I've completed probably 400, 450 evaluations of
5 different types.

6 Q And what type evaluations were those?

7 A They include sexually violent predator evaluations,
8 just general psychology -- psychological evaluations,
9 competency to stand trial, not guilty by reason of insanity,
10 violence risk assessments.

11 Q And how long have you worked directly with sex
12 offenders?

13 A I began working with sex offenders in 2001 when I
14 completed my Bachelor's Degree. I worked in a community
15 mental health center and I've worked for sex offenders in
16 various capacities since that time.

17 Q You said 2000?

18 A 2000.

19 Q As a part of this -- the Sexually Violent Predator Law,
20 how many SVP precommitment evaluations have you performed in
21 your role?

22 A I've completed 209 precommitment evaluations and I'm
23 working on I believe another six.

24 Q Have you been qualified as an expert in the field of
25 forensic psychology and forensic sex offender evaluations in

22

Marie Gehle - Direct examination
By Mr. Runyan

1 South Carolina Circuit Courts in SVP proceedings?

2 A Yes.

3 Q About how many times?

4 A It's been more than a hundred times.

5 MR. RUNYAN: Your Honor, at this time I would move to
6 have the Court recognize Doctor Gehle as an expert in
7 forensic psychology and forensic sex offender evaluations.

8 MR. THOMPSON: I have no questions, Judge.

9 THE COURT: Okay. And before we move on with the
10 testimony, what I'd like to do is let everybody stand up for
11 just a minute and stretch and, and see if we can wake up
12 just a little.

13 All right. I know it's been a long day already.

14 (WHEREUPON, the jurors comply.)

15 THE COURT: Okay. Okay. Okay. Everybody ready?

16 (WHEREUPON, the jurors respond in the affirmative.)

17 THE COURT: All right. And, so, Mr. Runyan, now
18 specifically what area are you wishing to have Doctor Gehle
19 qualified as an expert in for the purposes of her testimony
20 today, sir?

21 MR. RUNYAN: The purposes of her testimony today, Your
22 Honor, we would request that she be recognized in
23 forensic -- the areas of forensic psychology and forensic
24 sex offender evaluations.

25 THE COURT: Bear with me just one moment.

Marie Gehle - Direct examination
By Mr. Runyan

23

1 (Pause.)

2 THE COURT: Okay. Ladies and gentlemen of the jury,
3 normally a person can not give opinion testimony. Normally,
4 when a person testifies, they must testify as to what they
5 either saw, heard, or sensed by smell or something of that
6 nature. However, there is an exception when someone is
7 qualified because of education or experience. They are
8 permitted to give their opinion and certain areas if the
9 Court qualifies them in that way.

10 In this matter, Doctor Gehle will be qualified in the
11 area of forensic sex offender evaluations and---

12 MR. RUNYAN: Forensic psychology.

13 THE COURT: ---forensic psychology to give opinion
14 testimony in those areas.

15 This does not mean that you must accept the opinion but
16 it is evidence for you to use in any way that you see fit.

17 Okay. And so now we will continue with the testimony
18 of Doctor Gehle.

19 Thank you.

20 MR. RUNYAN: Thank you, Your Honor.

21 Q Doctor Gehle, what type of evaluation did you conduct
22 in this case?

23 A I conducted a Court ordered evaluation to determine if
24 Mr. Owens is a sexually violent predator. We commonly refer
25 to those as a precommitment evaluation.

24

Marie Gehle - Direct examination
By Mr. Runyan

1 Q So, how were you approached to conduct this evaluation?

2 A The South Carolina Department of Mental Health received
3 an Order by the Court to perform the evaluation and then it
4 was assigned to me.

5 Q Were you paid a fee to conduct the evaluation in this
6 case?

7 A No.

8 Q And you were not hired by the Attorney General's
9 office?

10 A No, I'm an employee of the Department of Mental Health.

11 Q How many times have you, have you conducted SVP
12 precommitment evaluations as a part of -- as a Court, a
13 Court appointed expert?

14 A I have completed 209 precommitment evaluations.

15 Q When you were ordered to do this evaluation -- and what
16 did the Court ask you to do?

17 A So, I was ordered to give my opinion as to whether Mr.
18 Owens has a mental abnormality or a personality disorder
19 that makes him likely to engage in acts of sexual violence.
20 So, I was asked if a mental health problem caused him to
21 commit sex offenses, and if he was likely to commit sexually
22 violent offenses if he was released from jail or prison.

23 Q What happens if the Attorney General's Office disagrees
24 with your opinion?

25 A They can get a second opinion.

Marie Gehle - Direct examination
By Mr. Runyan

25

1 Q So, do you exclusively testify, exclusively testify for
2 the State?

3 A No, as a Court appointed expert I testify on behalf of
4 whoever benefits from my opinion. So, I routinely will
5 testify for the State. I routinely testify for the
6 Respondent's side.

7 Q Doctor, can you describe for the jury what your
8 protocol is, what the steps are you take in conducting these
9 evaluations?

10 A So, when I get assigned a case, I first review all the
11 records that are received which includes a lot of different
12 things. Then I request any additional records that are
13 missing from the file. I interview the person. I ask them
14 all kinds of questions about their background, get a history
15 from them, review that against the records, look for
16 anything that I can in terms of other additional records
17 from the interview, and then I score two risk assessment
18 measures, and then I report my opinions and findings in a
19 report that's submitted to the Attorney General's Office and
20 to the Respondent's attorney.

21 Q And is that report -- may I approach the witness, Your
22 Honor?

23 THE COURT: Yes, sir.

24 Q Just so -- I just want to make sure, when we talk about
25 this, we're talking about the same one.

26

Marie Gehle - Direct examination
By Mr. Runyan

1 This is August 31 --

2 A Yes.

3 Q -- is your report?

4 A Yes.

5 Q Okay. So, the beginning of your evaluation of Mr.
6 Owens, was he informed about what you were doing?

7 A Yes, I explained to him the nature, and the purpose,
8 and the limits to the confidentiality meaning I was going to
9 be able to come to Court and to share the information in an
10 open courtroom and that the information would be sent to the
11 attorneys.

12 Q Did he consent to participate?

13 A Yes, he did.

14 Q As a part of the evaluation, did you meet with and
15 interview Mr. Owens?

16 A I interviewed him over a Telehealth platform because it
17 was in the middle of the pandemic.

18 Q Is the man that you had the Telehealth conference with,
19 is he here today in the courtroom?

20 A Yes.

21 Q Could you point him out to us?

22 A He's sitting over there.

23 MR. RUNYAN: Your Honor, if we could let the record
24 reflect that Doctor Gehle identified Mr. Owens as the person
25 she interviewed?

Marie Gehle - Direct examination
By Mr. Runyan

27

1 THE COURT: So reflected.

2 MR. RUNYAN: Thank you.

3 So if -- you just met with him on the one occasion?

4 A Yes.

5 Q And how long was that?

6 A I interviewed him for about five and a half hours.

7 Q How did Mr. Owens present on the day of the interview?

8 I think you call that affect.

9 If you could explain what affect is and, and tell us
10 what -- how Mr. Owens presented to you.

11 A Well, affect is just one, one aspect of what I looked
12 at. Affect is the way that you express your emotions
13 outwardly.

14 But when I met with him, his presentation overall, he
15 said he was in a great mood. His affect was pretty normal
16 meaning it matched what his reported mood was. He was
17 pleasant, cooperative. I observed no problems in his
18 general thing in the way that he understood and answered
19 questions or in his memory, and there was no signs of a mood
20 disorder or a psychotic thinking or anything like that. He
21 was pretty normal overall.

22 Q Now, Doctor Gehle, in addition to meeting with and
23 interviewing Mr. Owens, what information did you receive to
24 aid you in conducting your evaluation?

25 A I received documents related to the commitment

28

Marie Gehle - Direct examination
By Mr. Runyan

1 proceedings such as the petition, a criminal history report,
2 records from the South Carolina Department of Corrections,
3 records from the South Carolina Department of Juvenile
4 Justice, investigative records related to the sexual
5 offenses he committed, arrest warrants, other court related
6 documents for the charges and convictions for sexual
7 offending in most cases.

8 I had a psychological evaluation from an -- from a
9 Doctor Seagars in 1993, a presentence report from the
10 Department of Probation, Pardon, Parole Services from an
11 agent with them from 1993, and I also had a competency and
12 criminal responsibility evaluation from 1999.

13 Q How did you obtain, obtain that information?

14 A I received that information in the petition from the
15 Attorney General's Office or directly from the agency or
16 from the person who had the records.

17 Q Do you consider or rely on the records you just listed
18 for the jury a few moments ago and upon your interview with
19 Mr. Owens and his assessments you performed in rendering an,
20 an opinion in this matter?

21 A Yes.

22 Q Is this the type of information that's reasonably
23 relied on by professionals in your field when rendering
24 these types of evaluations -- opinions in these types of
25 evaluations?

Marie Gehle - Direct examination
By Mr. Runyan

29

1 A Yes.

2 Q Doctor, could you explain to the jury how an
3 individual's past sexual offending relates to his future
4 behavior?

5 A So, it's a longstanding principle in psychology that if
6 you want to know what someone's gonna do, what they're
7 likely to do, just look at what they have done. So, you
8 look at their past behavior.

9 People tend to be repetitive in their behavior, and
10 theirs interests, sexual interests, are also deeply
11 ingrained. So those tend to be repetitive and sex gets
12 people in trouble.

13 So, when you see somebody get in trouble for sex and
14 they have been consequences like being sent to prison, and
15 they do it again, they're likely to have problems
16 controlling their behavior, and they'll continue to get in
17 trouble for sex.

18 Q Do you look at -- as a part of your review, do you look
19 at prior evaluations?

20 A Yes.

21 Q Are prior evaluations something that experts in your
22 field typically and reasonably rely on?

23 A Yes.

24 Q Why is it important to look at prior evaluations?

25 A Prior evaluations can be a great source of information.

30

Marie Gehle - Direct examination
By Mr. Runyan

1 They may have access to records back then that I don't have
2 access to records now. Sometimes things get destroyed by
3 the agencies and that have retention policies. So, they
4 typically keep things for 10 years and they'll destroy them.
5 So, prior evaluations can have better information than I
6 have today at times.

7 It's also objective report of behavior closer to the
8 time of offending. It can give information about how honest
9 they are with me, how honest they were then. I compare
10 those accounts from then to now and see if they're honest.
11 So, it can -- it can be helpful in a variety of different
12 ways.

13 Q And what -- you, you mentioned some evaluations.

14 what evaluations do you look at, prior evaluations,
15 that you look at in this case?

16 A Well, I had three evaluations. I had a 1993
17 psychological evaluation by Doctor Seagars. I had a 1993
18 presentence report from the Department of Probation, Pardon,
19 and Parole Services, and I had a competency to stand trial
20 and criminal responsibility evaluation from 1999.

21 Q What did you find significant about these reports that
22 helped you in rendering your opinion?

23 A Well, he sound -- Mr. Owens sounded pretty consistent
24 with what I saw in those interviews. So, there was no
25 evidence of mood disorders. There was no psychosis. He was

Marie Gehle - Direct examination
By Mr. Runyan

31

1 generally pretty cooperative and pleasant in the interviews.
2 Doctor Segars report noticed that he had problems handling
3 his emotions, his stress, anger, and any conflicts he had
4 with other people.

5 when he was restless, bored, or he felt like he, he had
6 a lot of conflicts happening, he would be inclined to attack
7 rather than plan and move towards peaceful solutions. And
8 when he was under stress, he was likely to handle his
9 frustrations impulsive -- impulsively, which is how I looked
10 at his entire criminal history and that seemed very
11 consistent with what I saw overall.

12 Q So, what did you find -- I mean how did -- was there
13 anything different about what you found about his
14 impulsivity now, today, compared to 1993?

15 A I, I didn't see much of a change.

16 Q Now, doctor, is it also important to look at prior
17 criminal history?

18 A Yes.

19 Q why is that?

20 A well, it's essentially to look at the criminal history
21 cause that gives me the information that can be informative
22 as to whether the person has a mental health reason for the,
23 for the sexual offending. It also is very important to have
24 that information and essential, in fact, to determine risks
25 to commit future sexually violent offenses.

32

Marie Gehle - Direct examination
By Mr. Runyan

1 When I look at that information, I'm looking at who he
2 offended, under what circumstances he offended, what types
3 of behaviors were involved in the offenses, what kind of
4 sentences he received, what kind of consequences he
5 received, and how long of a period of time it went before
6 the next offense occurred if at all.

7 Q Is it important to look at even our, our criminal
8 history even if it's not sexual in nature?

9 A Yes.

10 Q For the same reasons?

11 A Yes, to some degree. It's important to determine that
12 history in regards to the risk assessment. It can also be
13 a -- very informative for mental health, especially
14 personality disorders, can be more -- can be more likely if
15 there's a wide variety of criminal behaviors.

16 Q Do you look at charged -- uncharged crimes, charged
17 crimes, and convicted crimes?

18 A I look at the whole history. So, yes.

19 Q Why do you do that again?

20 A Well, it shows me what types of things he's been
21 accused of, what he's been charged with, what he's been
22 convicted of. I always want to look at everything to start
23 off with, and then I will consider things in a variety of
24 different ways. But, first off, it's just important that I
25 know everything so that I can ask questions of him in the

Marie Gehle - Direct examination
By Mr. Runyan

33

1 interview and get his take on things. That's where I start.

2 Q And criminal history, past criminal history in charged
3 and uncharged conduct, is that the type of information
4 that's reasonably relied on in your profession when
5 rendering opinions of this nature?

6 A Yes.

7 Q In your review of Mr. Owens criminal history, what did
8 you find significant?

9 A He had a, a long history of sexual offending. He was
10 first convicted of a criminal offense when he was a
11 juvenile, barely 16 years old. Most significantly for the
12 purposes of this evaluation, between 1992 and 2005, he was
13 charged with 12 sexual offenses in eight separate incidents
14 and these charges resulting in eight criminal convictions.

15 Almost all of his criminal offenses were sexual in
16 nature. His offenses were repetitive. He made the
17 mistake -- same mistakes over and over again despite being
18 arrested, getting consequences. He sexually assaulted
19 women, women using considerable physical violence. He
20 sexually offended female strangers, people he didn't know,
21 or who, who I think in one case the victim said that she had
22 known him like many, many years before, but they were
23 essentially strangers again, and he repeatedly violated
24 probation that he received for sexual offenses.

25 Q why is it necessary to examine the underlying details

34

Marie Gehle - Direct examination
By Mr. Runyan

1 behind the charges and convictions?

2 THE COURT: Counsel, if -- we haven't had an afternoon
3 break yet. And so why don't we take a break now for about
4 10 minutes and we'll come back.

5 I will tell the witness, ma'am, you are free to step
6 down but you can't talk with anybody during any break,
7 whether it be counsel or any member of, of the -- your team
8 or opposing side.

9 okay. Thank you.

10 And so, I will ask our bailiffs -- ma'am, you stay
11 where you are for this moment, and I'll ask the bailiffs to
12 lead the jury out.

13 okay. If everyone will please rise.

14 Y'all are going to -- they're going to the jury
15 assembly room, correct?

16 Mr. Plexico?

17 THE BAILIFF: Yes, ma'am.

18 THE COURT: Okay. All right. I can't see around the
19 corner. Thank you.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: Okay. Thank you.

23 we'll be at ease.

24 All right. If y'all need water, there's more water up
25 here.

Marie Gehle - Direct examination
By Mr. Runyan

35

1 Okay?

2 (Whereupon, a short recess was taken at this time.)

3 THE COURT: Okay. Before the jury comes back in, I
4 want to put on the record that I did notice that at least
5 one member of the jury seemed to be getting a little drowsy
6 or a little sleepy with heavy eyelids. And so I thought it
7 would be a good idea to take an afternoon break, and we have
8 talked with her, and she's ready to go forward this
9 afternoon.

10 Anything from -- and I did talk with the lawyers about
11 this and they actually spoke with her in my office as well.

12 Anything else on that from the State?

13 MR. RUNYAN: No, Your Honor.

14 THE COURT: From the Defendant --

15 MR. THOMPSON: No, ma'am.

16 THE COURT: -- or Petitioner/Respondent?

17 MR. THOMPSON: No, ma'am.

18 THE COURT: All right. Thank you. So we'll have the
19 jury come back in.

20 Maribel, can I give you something to print?

21 THE CLERK: Yes, ma'am.

22 THE COURT: Counsel, I'm going to give you-all the
23 outline of the charge that I have and that will help
24 y'all -- I have to have an outline to make sure that I get
25 it all down and y'all have reviewed the verdict form?

36

Marie Gehle - Direct examination
By Mr. Runyan

1 MR. RUNYAN: It's the same, it's the same one. I sent
2 it to you.

3 MR. THOMPSON: Same one?

4 MR. RUNYAN: Yeah.

5 THE COURT: Okay. You're good with that one?

6 MR. THOMPSON: Yeah, I'm fine with it.

7 MR. RUNYAN: I have copies if you need it.

8 THE COURT: Yeah, just -- if you'll -- I've got the one
9 that you submitted via email, and if you'll just give that
10 to opposing counsel. I think it's the same one. It --.

11 MR. THOMPSON: I've got the one that was submitted by
12 email.

13 MR. RUNYAN: Yeah, that's it.

14 THE COURT: That's it.

15 MR. RUNYAN: This is just printed out.

16 Do you need a copy, Your Honor?

17 THE COURT: Let me just make sure we're all talking
18 about the same one.

19 Okay. Thank you. And so that y'all don't rush and
20 look at those in the morning. You can at least look at them
21 over this afternoon.

22 Okay. And if you can just print it three times so we
23 can give one to the lawyers.

24 THE BAILIFF: All rise please.

25 (WHEREUPON, the following takes place within the

Marie Gehle - Direct examination
By Mr. Runyan

37

1 presence of the jury.)

2 THE BAILIFF: Thank you. Be seated please.

3 THE COURT: Okay. Madam Forelady, and members of the
4 jury, are we ready to go?

5 THE FOREMAN: Yes, ma'am.

6 THE COURT: All right. Thank you.

7 And I also will remind y'all if you need to stand up
8 and stretch, if you get a little bit uncomfortable, just do
9 so. You can do so quietly. Try not to block the person
10 behind you if you're on the front.

11 All right. Okay. And so, with that, Mrs. -- Doctor
12 Marie Gehle, Gehle is still under oath and we are still on
13 direct examination.

14 Thank you.

15 MR. RUNYAN: May it please the Court?

16 CONTINUED DIRECT EXAMINATION

17 BY MR. RUNYAN:

18 Q And, Doctor Gehle, before we broke, you had -- were
19 explaining to us why -- what was significant about Mr. Owens
20 criminal history.

21 A Uh-huh. (Affirmative).

22 Q But rather than, than going over that again, can you
23 tell us why it's necessary to examine the underlying details
24 behind charges and convictions?

25 A Well, I need to know the details about the types of

38

Marie Gehle - Direct examination
By Mr. Runyan

1 victims that the person offended, the types of behaviors
2 that were involved, how the offenses occurred, under the
3 circumstances how -- like the circumstances under, under
4 which they occurred. I need to know this to see whether
5 mental health problems or a personality disorder drove their
6 offending, and I want to see how these things, in fact,
7 impact their risk to commit another sex offense, and I want
8 to ask about them during the interview.

9 Q So, based on your interview with Mr. Owens and your
10 review of his file, at the time of your interview with him,
11 had he been convicted of any sexually violent offenses?

12 A Yes, he was convicted of two sexually violent offenses.

13 Q And what were they?

14 A Criminal sexual conduct in the second degree and
15 criminal sexual conduct in the third degree.

16 Q And in your interview or review of the records, was he
17 convicted -- did you find he was convicted of any other
18 crimes that were sexual in nature or assaults against women?

19 A Yes, there were several of them.

20 Q What were they?

21 A In 1992 he was charged with assault with intent to
22 commit criminal sexual conduct and he pled that down to an
23 assault and battery of a high and aggravated nature or an
24 ABHAN we call that. In 1993 he was convicted of two counts
25 of harassing phone calls in North Carolina. Those were

Marie Gehle - Direct examination
By Mr. Runyan

39

1 sexual in nature. In 1993 he was also convicted of two
2 counts of unlawful use of telephone in South Carolina for
3 talking to females who he didn't know, calling them up and
4 talking to them in a sexual manner. And then, in 1999, he
5 was charged with a criminal sexual conduct in the second
6 degree and an assault and battery of a high and aggravated
7 nature and he pled guilty to assault and battery of a high
8 and aggravated nature.

9 Q In your review of the records and your interview, did
10 you find he was charged with any sexually violent offense or
11 crimes that were sexual in nature that he wasn't convicted
12 of?

13 A Yes, he was charged with one count of criminal sexual
14 conduct in the third degree in 2003, and that was dismissed
15 when he pleaded to -- guilty to another offense from my
16 understanding.

17 Q So, in your, in your interview with him, did you talk
18 to Mr. Owens about each of these offenses to kind of get his
19 story?

20 A Yes.

21 Q Did you review the legal records concerning these
22 offenses?

23 A Yes, when they were available.

24 Q Are the records that you reviewed part of the
25 information that you listed for the jury earlier this

40

Marie Gehle - Direct examination
By Mr. Runyan

1 afternoon?

2 A Yes.

3 Q Are these the types of records that other experts in
4 your field reasonably rely on in rendering opinions in cases
5 of this nature?

6 A Yes, they are.

7 Q Did you consider each of the offenses and they're
8 underlying details as a basis of any part of making your
9 opinion?

10 A Yes.

11 Q So, let's look at each offense. So, you just testified
12 that you considered a 1992 attempted CSC, assault and
13 battery of a high and aggravated nature.

14 Can you tell us about that offense?

15 What was he convicted of?

16 A Well, he was convicted of assault and battery of a high
17 and aggravated nature.

18 Q Is that what he was charged with?

19 A He was charged with attempted -- attempt to commit a
20 criminal sexual conduct and assault and battery of a high
21 and aggravated nature, and he pled to the assault and
22 battery of a high and aggravated nature.

23 Q What was the sentence of the Court?

24 A He was sentenced to five years in prison but the
25 sentence was suspended to one year of confinement or payment

Marie Gehle - Direct examination
By Mr. Runyan

41

1 of a fine and three years of probation. And there was also
2 some special conditions for probation including six months
3 of home detention, then six months of a curfew at 8:30PM,
4 and he was required to continue with psychiatric and mental
5 health treatment.

6 Q Now, tell -- can you tell us what are the underlying
7 details of this offense?

8 A Yes, the, the legal records said that he knocked down a
9 female stranger, laid down beside her, and put his hand over
10 her mouth. He said that he was -- had an argument with his
11 mother-in-law, and that he was really upset, and then he had
12 an argument with his wife on the phone. And so he fled from
13 his mother-in-law's house. He was really angry. He took
14 his child, child with him. His mother-in-law was watching
15 his child. So, he took the child.

16 He drove to a local high school to the track behind the
17 high school. He left his child in the car. He said he
18 wasn't thinking clearly and he went to the track and he saw
19 a woman running around the track and he said he knocked the
20 hell out of her. She fell down and then she sprayed him
21 with Mace. That was essentially the end of it. It was a --
22 it was a -- believed that this was kind of an interrupted
23 sexual offense.

24 Q What about Mr. Owens criminal offense behavior for this
25 conviction is significant, significant to you in regard to

42

Marie Gehle - Direct examination
By Mr. Runyan

1 your opinion?

2 A Well, we have a female stranger. It is a very, very
3 impulsive act. It's pretty irrational. His daughter was in
4 the car. He could easily get caught here. It was a female
5 stranger. That's also significant in terms of risk. So,
6 there was a variety of things that were important in that
7 offense.

8 Q Okay. You've testified you -- did you consider the
9 1993 harassing phone calls in North Carolina?

10 A Yes.

11 Q Okay. What was the -- what was he charged and
12 convicted with?

13 A He was charged with two counts of harassing phone
14 calls. Charged -- and I believe that's what he was
15 convicted with.

16 Q And what was the sentence of the Court there?

17 A He was sentenced to prison for up to two years on each
18 count.

19 Q And what are the underlying details that you know of
20 about these -- this conviction?

21 A It's my understanding that he called up women and said
22 sexual things to them. So, strangers. He called up a
23 stranger and then he talked to them in a sexual manner.

24 Q Did Mr. Owens tell you that?

25 A Yes, that's also what he told me.

Marie Gehle - Direct examination
By Mr. Runyan

43

1 Q well, what about Mr. Owens criminal offense behavior in
2 that conviction is significant to you in, in rendering your
3 opinion?

4 A well, with this offense this is actually -- can be
5 indicative of a paraphilic disorder which is a sexual
6 disorder. It's called telephone scatologia. It's when
7 somebody calls up strangers randomly and talks sexual to
8 them. It's a deviant sexual interest.

9 So, that's one of the most important things about this,
10 this offense. Having a paraphilia, paraphilia like that can
11 increase your risk to commit future sexually violent
12 offenses. I also talked to him about the offense and he
13 indicated that, you know, that he called up these just
14 random people and that he did it as a joke. He saw it on TV
15 and he just did it as a joke, that it was kind of a funny
16 thing and not sexual for him.

17 Q Now, he -- that was in North Carolina, correct?

18 A Correct.

19 Q And he -- as, as your understanding, he went to prison
20 for that?

21 A Yes, I think he served about a year in prison for that.
22 That's, that's per his account.

23 Q And then you also considered a South Carolina unlawful
24 use of phone you testified --

25 A That---

44

Marie Gehle - Direct examination
By Mr. Runyan

1 Q -- to?

2 A That's correct.

3 Q What was he charged and convicted with in that offense?

4 A He was charged with unlawful use of telephone. It
5 appears like he was charged with that about on two separate
6 dates, and he pleaded guilty to two counts of unlawful use
7 of telephone.

8 Q What was the sentence of the Court?

9 A He was sentenced under -- I believe under the Youthful
10 Offender's Act for a period not to exceed six years. So
11 basically he could be in prison for six years but he could
12 be eligible to be released much earlier if he had good
13 behavior.

14 Q You also testified that you considered -- well, let me
15 back up. Let's talk about the -- let's talk about his
16 probation violations.

17 On Page 14 of your report, was -- what can you tell me
18 about the unlawful use of the telephone in relation to his
19 ABHAN conviction?

20 A Well, he was on probation and so he, he was sentenced
21 to probation for that ABHAN just a couple months before he
22 was -- he got in trouble for the telephone calls, and it, it
23 was difficult to determine a really solid timeline of those
24 offenses in South Carolina and North Carolina cause some of
25 the records were unavailable. But he indicated that the

Marie Gehle - Direct examination
By Mr. Runyan

45

1 things in North Carolina happened and then the things in
2 South Carolina happened. But he was on probation at the
3 time and getting charged with another offense can be a
4 probation violation. So, he was charged with probation
5 violations and he was, I think, convicted of one of those.

6 Q Okay. All right. Now, now tell us -- you were -- we
7 were talking about the South Carolina unlawful use of a
8 phone.

9 Can you tell us what, what was significant about his
10 criminal behavior and those offenses in regard to your
11 opinion?

12 A Well, I had a little bit more information about those
13 offenses, and, per the records that I had, he called up two
14 women multiple times and said very demeaning, derogatory,
15 mean spirited, sexual kinds of things. His phone calls were
16 very threatening. He indicated that he couldn't wait to
17 basically sexually assault them.

18 He made comments about how they looked. He said he
19 couldn't wait to see them. He said that both of these
20 victims were strangers, and when the women first got the
21 phone calls, they contacted law enforcement and asked that
22 tracers be put on their phones so they could track down who
23 was making these phone calls. And when Mr. Owens was the
24 person that was identified as the person making these phone
25 calls, he was living on the same street as one of the

46

Marie Gehle - Direct examination
By Mr. Runyan

1 victims although she never met him before. She didn't know
2 him even when his name was identified.

3 And, the other victim, she had gone to church with him
4 for about seven years but she hadn't seen him in a couple
5 years prior to the offenses. But that was just another
6 layer of that.

7 But, again, these offenses were important because now I
8 have another incident of that telephone scatologia, that
9 paraphilic disorder potentially.

10 Q So, moving on, you said -- you, you testified you
11 considered a 1999 CSC charge and an ABHAN conviction,
12 correct?

13 A Correct.

14 Q Okay. Now, what -- can you tell us what he was
15 convicted of and what the sentence of the Court was?

16 A Well, he was convicted of assault and battery of a high
17 and aggravated nature, and he was, let's see, sentenced to
18 30 days in jail time served.

19 Q Time served, what does that mean?

20 A That means that they count the time that he was already
21 served and that satisfied the sentence.

22 Q Okay. So what about -- what are the underlying details
23 about this, this offense?

24 A So in this offense he, and this is per the incident
25 report, there was a woman at a gas station. She was using

Marie Gehle - Direct examination
By Mr. Runyan

47

1 the phone. She was at a phone booth so that -- this was
2 1099. So it's been a while. But a man approached her,
3 asked her if -- asked her if she had any change. She came
4 to his vehicle and he pulled her by the hair into the
5 vehicle.

6 On the drive he told her that his name was Jeff, that
7 he was a painter, and he told her that he had been partying
8 all night, that he had been doing cocaine and smoking
9 marijuana. He drove her to a field and began punching her
10 in the face, threatened to kill her, dragged her out of the
11 car by her hair, and tore her clothes off, and forced her to
12 repeatedly engage in oral sex, anal sex, and vaginal sex.

13 She said that he threatened to kill her if she didn't
14 comply, didn't do what he wanted her to do, and she noticed
15 that, at one point, his pants were down around his ankles
16 and so she took that opportunity to flee and she ran naked.
17 She was fully undressed. She ran naked to the highway,
18 flagged down a car, and they took her to the hospital, and
19 it was then reported to law enforcement.

20 Q And what was he convicted of -- for again?

21 A Assault and battery of a high and aggravated nature.

22 Q And what -- was that a, a trial or did he plead guilty
23 to that?

24 A I believe he pleaded guilty.

25 Q So that was in 1999 and -- may I approach the witness,

48

Marie Gehle - Direct examination
By Mr. Runyan

1 Your Honor?

2 THE COURT: Yes, sir.

3 Q Doctor Gehle, do you recognize the documents that I've
4 given you?

5 A Yes.

6 Q Are these something that you reviewed for this case?

7 A Yes.

8 Q Is there anything to indicate the document's
9 authenticity?

10 A Yes, they're stamped by the Clerk of Court.

11 Q And what are those documents?

12 A So, this is a sentence sheet for criminal sexual,
13 sexual conduct in the third degree for an offense that
14 occurred in 2001, and it's the indictment for criminal
15 sexual conduct in the second degree.

16 Q And you used these documents in rendering your opinion?

17 A Yes.

18 Q Are these type of documents that are reasonably relied,
19 relied upon by experts in your field in rendering---

20 A Yes, they are.

21 MR. RUNYAN: Your Honor, I ask at this time that what
22 is marked as State's Exhibit 1 be entered into evidence.

23 MR. THOMPSON: No objection.

24 THE COURT: Okay. And so State's Exhibit No. 1 will be
25 entered into evidence without objection, and I will explain,

Marie Gehle - Direct examination
By Mr. Runyan

49

1 for the benefit of the jury, that when you-all begin your
2 deliberations, when you are -- after the closing arguments,
3 after I charge you on the law, you'll hear the closings, any
4 evidence will go back into the jury room with you rather
5 than that being passed around right now.

6 Okay. So, you will get to see these but it will be
7 during your deliberations.

8 All right. Thank you.

9 And has that already been marked?

10 MR. RUNYAN: Yes.

11 THE COURT: Okay. Thank you.

12 (WHEREUPON, State's Exhibit No. 1 was received into
13 evidence at this time.)

14 Q So, doctor, did you consider this offense?

15 A Yes.

16 Q And what is it for?

17 A Criminal sexual conduct in the third degree.

18 Q And what was the original charge?

19 A He was originally charged with criminal sexual conduct
20 in the second degree.

21 Q And how was he convicted?

22 Was it a trial or a plea?

23 A He pled.

24 Q And what was the sentence of the Court?

25 A He was sentenced to six years of incarceration provided

50

Marie Gehle - Direct examination
By Mr. Runyan

1 upon the service of 12 months of incarceration, and
2 probation for five years. The rest of the sentence would be
3 suspended during that time.

4 Q So this is -- how many years is this after the last
5 conviction were?

6 A Well, that last conviction for the offense that
7 happened in 1999, he was convicted of that offense in 2000.
8 So, this was about a year later.

9 Q Could you tell us what the underlying details of that
10 offense?

11 A Yes. So this, this incident happened around March 2nd,
12 2001. It was in the middle of the day and he basically, on
13 his lunch break, picked up a woman who was walking. She
14 asked for a ride and instead he drove her to a wooded area.
15 He told her he wanted to talk. She asked him for \$10.00 for
16 food and cigarettes. He gave her the money. Then he --
17 then demanded that she perform oral sex on him. She
18 refused. He made her get out of the vehicle and pulled her
19 hair and then he sexually assaulted her and made her fall to
20 the ground.

21 It -- the records indicated that the sexual assault was
22 sexual intercourse. So, penile/vaginal intercourse.

23 She said that the man called himself Scott. She said
24 she had met him before but hadn't seen him for four years
25 prior, and that she -- that his name was also embroidered on

Marie Gehle - Direct examination
By Mr. Runyan

51

1 his shirt of Scott.

2 When he was questioned by investigators, he said that
3 he left lunch, ran some errands, bought some food, and
4 returned to work. He denied anything in that incident.

5 But when I spoke to him about it, he said that this
6 victim was a prostitute who he picked up, negotiated to pay
7 for sex, and that he just didn't pay her. And so, in
8 retaliation, she, she filed the charges against him.

9 So, he said that -- he actually said that he had, on
10 his lunch break, gone to the courthouse to pay a fine and
11 that, afterwards, he felt like picking up a prostitute even
12 though he had to go back to work. And so he did that. He
13 didn't have any money. He knew he didn't have any money.
14 But he wanted to pick up a prostitute anyways. He just said
15 he wanted to. He couldn't really explain it further than
16 that and that, you know, it was really just her retaliating
17 against him for not paying her for sex.

18 Q And he -- and you said in the records he denied it to,
19 to investigators at the time?

20 A Yeah, he denied any -- anything at all had happened.

21 Q All right. Well, what about Mr. Owens criminal offense
22 behavior in this criminal sexual conduct in the third degree
23 offense is significant to you regarding your opinion?

24 A Well, so, this is a sexually violent offense. So
25 that's important to me. This is also another woman who's

52

Marie Gehle - Direct examination
By Mr. Runyan

1 essentially a, you know, a stranger, somebody he didn't know
2 very well at all. He's not taking responsibility for his
3 behavior. He's blaming the victim. He's saying he really,
4 you know, just did this minor thing and it's a pretty big
5 deal for, for a person to report a sexual assault because
6 that often like the follow-up with that is a very invasive
7 exam.

8 It can be a very, you know, cumbersome process. It can
9 be very, very difficult to go through that process, and he's
10 just essentially saying that she would do all that because
11 he didn't pay her the \$10.00 that he owed her.

12 Q Now, you had testified that there was a 2003 criminal
13 sexual conduct third degree charge that you said was
14 dismissed.

15 what was that in relation to this conviction?

16 A Well, I -- my records show that he was charged with
17 that around November the 5th, 2003. So that was a little
18 less than two years later.

19 Q Did you consider any of the documents for the dismissed
20 charge?

21 A There were minimal records about this. But when I
22 asked Mr. Owens about it, he said that this was his
23 mother-in-law. She accused him of sexually assaulting her,
24 and he said that she accused him just to get revenge on him
25 because she would not or he would not allow her to live with

Marie Gehle - Direct examination
By Mr. Runyan

53

1 him and his wife. And so she accused him of sexual assault
2 at a party.

3 Q And what's significant about the date that that charge
4 was dismissed?

5 A The charge was dismissed the day after he was convicted
6 of the 2001 sexual assault.

7 MR. RUNYAN: Approach, Your Honor?

8 THE COURT: Yes, sir.

9 Q And, Doctor Gehle, do you recognize the documents that
10 I'm giving you?

11 A Yes.

12 Q Are they something that you reviewed for this case?

13 A Yes.

14 Q Are these the type of documents that are reasonably
15 relied on by professionals in your field when rendering
16 opinions in these types of cases?

17 A Yes.

18 Q Is there anything to identify the authenticity of those
19 document?

20 A Yes, they're stamped by the Clerk of Court.

21 Q Could you tell the jury what those documents are
22 please?

23 A So this is a sentence sheet for criminal sexual conduct
24 in the second degree dated June 27th, 2006, and it's an
25 indictment for criminal sexual conduct in the first degree

54

Marie Gehle - Direct examination
By Mr. Runyan

1 for an offense that happened on May 13th, 2005.

2 Q So, what was he convicted of?

3 A He was convicted of criminal sexual conduct in the
4 second degree.

5 Q And was that a plea?

6 A He pled to that, yes.

7 Q And what was the sentence of the Court?

8 A He was sentenced to 15 years of incarceration.

9 Q And what are the underlying details about this offense?

10 A Okay. This was an adult female. They were strangers.
11 So, another stranger female. Per the incident report, the
12 victim was walking when Mr. Owens drove by, offered her a
13 ride, she accepted. He told her that his name was Kevin.

14 During the drive he punched her in the face and knocked
15 her unconscious. When she regained consciousness, his hand
16 was on the back of her head and they were parked on a dirt
17 road. He told her to perform oral sex on him and some other
18 explicit details in relation to that. He then put his penis
19 in her mouth. She was bleeding from that punch. She had a
20 laceration on her lip. And, and so the oral sex lasted just
21 a short time cause she was bleeding, and then he pushed her
22 out of the vehicle, told her to undress, forced her to bend
23 over, and he had vaginal intercourse with her from -- in a
24 male behind position.

25 She noticed that, when he ejaculated, he was looking

Marie Gehle - Direct examination
By Mr. Runyan

55

1 all over the place. And so she thought she had the
2 opportunity to run and so she ran. She looked back and saw
3 that he was driving away. So she stopped to memorize his
4 license plates number -- license plate number. Then she ran
5 back and retrieved her shorts and her pocketbook which he
6 had thrown from the vehicle when he drove away.

7 She ran until a woman stopped to help her and they
8 called law enforcement, and it was noted -- it was noted
9 that she had a large split in her upper lip and it was still
10 bleeding when officers came to the scene. They ran that
11 license plate and they connected that vehicle back to Mr.
12 Owens mother. And she advised that he was the one who drove
13 the vehicle, and then the victim also identified him in, in
14 a photo lineup.

15 MR. RUNYAN: And, Your Honor, I, I apologize.

16 If -- I would ask and request that what's been
17 premarked State's 2 be admitted into evidence.

18 MR. THOMPSON: No objection.

19 THE COURT: Okay. So State's Exhibit No. 2, sentencing
20 sheet of 6/27/0---

21 MR. THOMPSON: '06.

22 MR. RUNYAN: Yeah, '06.

23 THE COURT: ---is entered into evidence without
24 objection.

25 Thank you.

56

Marie Gehle - Direct examination
By Mr. Runyan

1 (WHEREUPON, State's Exhibit No. 2 was received into
2 evidence at this time.)

3 Q Doctor Gehle, can you tell us -- just give us the -- I
4 guess the underlying details of the criminal sexual conduct
5 in the second degree offense.

6 Could you tell us what about that offense was important
7 to you in the form of your opinion?

8 A So, it's another female stranger. It's -- there was
9 physical violence. It's, it's important that he performed
10 or had her perform oral sex on him while she was bleeding.

11 what we expect from people in general is that if their
12 partner is not consenting, if they're not really into what's
13 going on sexually, that you lose arousal. And so if
14 somebody can perform oral sex or have somebody perform oral
15 sex on them while they're bleeding, that means that they
16 don't really care about that consent or that lack of consent
17 is not making them lose arousal. So that was important.

18 It was also important what he told me in the interview,
19 which was he said that he was the victim. He said that he
20 was just driving around after work, a woman flagged him
21 down, asked him for a ride. She got in his truck. She said
22 that she needed some money. Her car had broke down. So,
23 she was looking to earn some money.

24 So he said that she would perform oral sex on him and
25 have intercourse with him for \$20.00 and he agreed, and

Marie Gehle - Direct examination
By Mr. Runyan

57

1 that, when he finished, when he ejaculated, she pulled out
2 two knives and demanded his money. He punched her in the
3 face and then he drove off and threw her stuff out the --
4 out of the window.

5 So, he's again blaming the victim. He -- he's
6 essentially saying that he's the victim because she pulled
7 out a gun and he just, you know, had to defend himself.

8 So, it's, it's -- again, he's giving the same kinds of
9 explanations that he's the victim. He's not taking
10 responsibility, and he, you know, is indicating that he's
11 picking up random women and, you know, soliciting them for
12 prostitution.

13 Q So tell me what's significant about -- well, you, you
14 testified he, he got probation for his 2001 CSC third
15 conviction.

16 What's significant about that in relation to the date
17 of this conviction?

18 A Well, he was on probation at the time.

19 Q So he's on probation for a criminal sexual conduct in
20 the third degree when he committed the offense for criminal
21 sexual conduct in the second degree?

22 A Yes.

23 Q And what happened to him as a result of that?

24 A He was, I believe, charged with a probation violation.

25 Q And was he sentenced to any time for that?

58

Marie Gehle - Direct examination
By Mr. Runyan

1 A Yes. Just a second here.

2 (Pause.)

3 A Yes, he was actually convicted of two probation
4 violations from my understanding, and he was sentenced to
5 consecutive terms, meaning back to back, of six years of --
6 on each. So, he was, he was sentenced to a total of 12
7 years for the probation violations from my understanding.

8 Q So those are the -- that's the criminal -- sexual
9 criminal history that you considered when you were doing
10 your opinion?

11 A Yes.

12 Q Let's turn now to the other stuff that you might look
13 at in your evaluation.

14 Do you look at---

15 THE COURT: Counsel, let's just---

16 MR. RUNYAN: I'm sorry.

17 THE COURT: why don't we have everybody stand up for
18 just a minute and, and try to stretch and I'm gonna do the
19 same thing?

20 (Pause.)

21 THE COURT: Okay. Everybody ready?

22 (WHEREUPON, the jurors nod affirmatively.)

23 THE COURT: All right. Thank you.

24 Please continue.

25 Q Okay. So, we're -- let's talk about other things that

Marie Gehle - Direct examination
By Mr. Runyan

59

1 you look at.

2 Do you -- as a part of your evaluation, do you look at
3 institutional misconduct?

4 A Yes.

5 Q And why do you do that?

6 A Well, I look at it just to give a, a thorough
7 investigation of their background. But it's important to
8 see if -- how they act in a secure confinement that's really
9 structured and regulated.

10 Q Did you review any South Carolina Department of
11 Corrections records in this case?

12 A Yes.

13 Q And what, if anything, regarding Mr. Owens behavior,
14 while incarcerated, is significant to you in rendering your
15 opinion?

16 A Well, he was not convicted of any disciplinary
17 infractions. So, there was really not much evidence of
18 anything going on in the prison environment.

19 Q And why is it important in the prison environment?

20 what, what is that important for in diagnosing someone?

21 A Well, it can be indicative of -- certain sexual
22 behaviors can happen in prison. So, it could be indicative
23 of paraphilic disorder. You could also see a, a violence
24 towards women. You could see violence with other people.
25 In his case, it was really important.

60

Marie Gehle - Direct examination
By Mr. Runyan

1 Q Was it important because you didn't find anything
2 sexual -- anything sexual in nature?

3 A We didn't have any infractions at all.

4 Q Okay. Do you also look at treatment?

5 A I looked to see if they have been in treatment, yes.

6 Q And did he have any sex offender treatment while in
7 prison?

8 A No.

9 Q In your interview with him, what is his opinion of his
10 need for it -- sexual offender treatment?

11 A He said he doesn't need treatment.

12 Q Has he ever been or what, if anything, has he ever been
13 ordered to do by the Court?

14 A He's been ordered to complete sex offender treatment in
15 the past but he only, he only went to two or three sessions,
16 and that was the basis of one of the probation violations,
17 that he didn't participate in sex offender treatment.

18 Q So, the sex offender treatment was part of his
19 probation?

20 A Yes.

21 Q And he didn't do it?

22 So, he got violated -- he -- they violated probation?

23 A (WHEREUPON, the witness nods affirmatively.)

24 Q Okay.

25 A That's correct.

Marie Gehle - Direct examination
By Mr. Runyan

61

1 Q Do these factors figure in your conclusion?

2 A Yes, it -- it's, it's important if somebody has started
3 treatment, has been ordered to treatment, and they don't do
4 it because not completing treatment actually increases your
5 risk to commit, to commit another sex offense even more so
6 if he had just never started treatment. He's at more risk
7 if he started and dropped out.

8 Q Do you review substance abuse history?

9 A I do.

10 Q And what, if anything, did you find significant about
11 Mr. Owens substance abuse history?

12 A He reported a long history of alcohol use, cocaine use,
13 some use of acid.

14 Q Did you diagnose him with anything relevant to
15 substance abuse?

16 A Yes, I did.

17 Q And what was it?

18 A I diagnosed him with severe alcohol use disorder in a
19 controlled environment, and severe cocaine use disorder in
20 sustained remission.

21 Q Alcohol abuse in a controlled environment, what is
22 in, in a controlled environment?

23 A It means that he's in environment -- in an environment
24 currently where he has limited access to alcohol. You know,
25 where it's regulated. He could probably get alcohol in the

62

Marie Gehle - Direct examination
By Mr. Runyan

1 prison or in a jail. But it's just not readily available.

2 He can't go, you know, to the canteen and buy alcohol.

3 Q And you said cocaine disorder in -- I'm sorry?

4 A Severe cocaine use disorder in sustained remission.

5 Q And what is sustained remission?

6 A That means that, in the community, he stopped using
7 substances for a period of at least 12 months or longer and
8 this goes back to his self-report.

9 Q And how does a substance abuse factor into paraphilic
10 disorders or personality disorders?

11 A Well, substance use can just create chaos in your life.
12 It can create a lot of problems. It can increase
13 impulsivity. It can increase inner personal problems,
14 relationship problems. It can cause problems with finances,
15 with your home life, all those things, and that type of
16 life-style is ripe for sexual offending. If a sex offender
17 is in that type of environment, having that type of
18 life-style, it increases their risk to commit another sex
19 offense.

20 Q If someone were to get drunk or high, do they become
21 someone who suffers from a paraphilia?

22 A No.

23 Q And then when they sober up and become, once they sober
24 up, that doesn't mean they're not -- still don't suffer from
25 a paraphilia, correct?

Marie Gehle - Direct examination
By Mr. Runyan

63

1 A That's correct. Substance use disorders don't cause
2 sexual offending but they can amplify what's under the
3 surface. So, you can lose some self-control, make more poor
4 choices. You act on things that you might not act on,
5 desires, things that you want to do, arousal that you may
6 not act on if you were sober and thinking more clearly.

7 MR. RUNYAN: Your Honor, could we approach?

8 THE COURT: Yes.

9 (WHEREUPON, a bench conference was held out of the
10 hearing of the jury at this time.)

11 THE COURT: All right. First let me instruct the
12 witness.

13 Ma'am, if you'll just stay seated for me.

14 All right?

15 THE WITNESS: Sure.

16 THE COURT: Okay. Madam Forelady, and members of the
17 jury, counsel is very much aware and is a -- that I'm
18 concerned about being efficient with your time, and they
19 also are very good at what they do. Both of these
20 gentleman, both attorneys, and are very professional, and
21 they have informed me that this might be a good stopping
22 point for the day.

23 Okay. And so where we are in the trial is the
24 Petitioner has put up a witness. That witness is still on
25 direct examination. And so she won't be allowed to talk to

64

1 anyone about this testimony including the lawyer that has
2 called her tonight.

3 Okay. She will be in an island all alone unable to
4 talk about this testimony, okay, with either side. But
5 tomorrow morning we will resume with Doctor Gehle's
6 testimony and, after direct is completed, then there will be
7 cross, okay, and any reply testimony, and then we'll move
8 forward with the case.

9 The good news is, for y'all, just so y'all understand,
10 usually in cases like this we would of drawn you-all as a
11 jury this morning, and I really wouldn't of had you come
12 back until tomorrow morning. But we're trying to move
13 forward with as many jury trials as we can right now. And,
14 and so I appreciate your patience with me and we picked
15 another jury to start a little later in the week as well
16 this morning.

17 So, what I want to tell you is I'm the broken record.
18 You're gonna hear this from me several times. Don't discuss
19 this matter with anyone. I'm gonna go home tonight and have
20 dinner with my husband and say I had a wonderful day, and
21 met some wonderful new jurors, but I can't really talk to
22 you about what I'm doing right now.

23 Please respect these folks enough not to do any
24 independent research. Don't Google anything. Don't talk to
25 anybody about it. You can tell your employer I've got to go

1 back for jury duty again tomorrow. I'm having a wonderful
2 time and the Judge is very nice.

3 Okay. All right. But other than that, don't get into
4 anything about the specific case.

5 All right. And so, at this time I'm going to instruct
6 our bailiffs to take you all to the jury room. I'm going to
7 see you-all at 9:30 in the morning. Again, I'm sure you
8 will be prompt. We won't get started without you.

9 Okay. And y'all are coming to the Spartanburg County
10 Courthouse to the parking garage on Library Street and will
11 come in through the Library Street entrance. These folks
12 are pros and they're gonna tell you-all that again. I do
13 know they want your name tag.

14 Okay. All right. Thank you-all. Have a nice evening.
15 Y'all all rise please.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Okay. Thank you.

19 And, ma'am, if you will just hand any of those exhibits
20 to our court reporter right there. Thank you.

21 Counsel, is there anything that we need to take up
22 right now?

23 We do have a few minutes. If you-all want to spend
24 some time with me.

25 MR. RUNYAN: Do you want us here earlier or you want us

66

1 here at 9:30?

2 THE COURT: I would probably prefer y'all just to be
3 here -- get, get your things. This courtroom will be
4 locked. So, you don't have to take your things with you
5 unless you want to. But I was wondering if y'all would want
6 to go over the verdict form with me really fast and the
7 charge that -- I, I don't think it will take longer than
8 maybe 20 minutes for us to do that right now.

9 would that be okay?

10 MR. RUNYAN: That'd be fine.

11 MR. THOMPSON: Yes, ma'am.

12 THE COURT: Okay. All right. Thank you.

13 Mr. Thompson, I assume you might want to talk to your
14 client for a minute or -- okay. And so why don't y'all --
15 why don't we just -- do y'all want to come into my chambers
16 in about five minutes?

17 MR. THOMPSON: That'd be fine.

18 THE COURT: Okay. All right. Thank you.

19 Everyone else be at ease. I'll see you-all at 9:30 in
20 the morning.

21 okay?

22

23 (WHEREUPON, Court was in recess for the evening.)

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tuesday, July 20th, 2021

THE COURT: Okay. Good morning, everyone.

If everybody is ready, I, I have been informed that all of the jury members are here.

And so, Mr. Runyan, is there anything before we get started from the Petitioner?

MR. RUNYAN: No, ma'am, not at this time.

THE COURT: Okay. From the Respondent---

MR. THOMPSON: No, ma'am.

THE COURT: ---Mr. Thompson?

Okay. Thank you.

After the jury is seated I will ask Doctor Gehle to resume the witness stand.

Okay. All right. And so, with that, let's have the jury.

You've got the exhibits, right?

THE COURT REPORTER: Yes, ma'am.

THE COURT: Can I see those?

THE COURT REPORTER: Yes ma'am.

MR. RUNYAN: Your Honor?

THE COURT: Yes.

MR. RUNYAN: We'll have another today too if you want to look at it at this time.

THE COURT: Okay. Any objection, Mr. Thompson?

68

1 Show Mr. Thompson what that is.

2 MR. THOMPSON: I've seen it, Judge. It's---

3 MR. RUNYAN: I showed it to him.

4 MR. THOMPSON: It's a probation violation. I have no
5 objection.

6 THE COURT: Okay. And, remember, when the jury comes
7 in, everybody stand up.

8 okay?

9 (WHEREUPON, the probation order was marked as State's
10 Exhibit No. 3 for identification purposes only at this
11 time.)

12 THE BAILIFF: All rise please.

13 (WHEREUPON, the following takes place within the
14 presence of the jury panel.)

15 THE BAILIFF: Thank you. Be seated.

16 THE COURT: Good morning. Welcome back.

17 Again, I'm Judge Knie and I want to thank you-all for
18 being prompt. I received updates all morning as to how many
19 of you were here at 9:00, and then 9:15, and 9:30. So,
20 thank you-all very much.

21 Madam Forelady, are we ready to go?

22 THE FORELADY: Yes, we are.

23 THE COURT: Okay. Now, we will resume the trial in
24 regard to the Matter of the Care and Treatment of Jeffery
25 Scott Owens. Action 2419.

1 And, at this time, I will call our witness, the witness
2 that was on the stand yesterday, Doctor Gehle, to return to
3 the stand.

4 Ma'am, you are still under oath, and again, the witness
5 stand has been sanitized again this morning.

6 (WHEREUPON, the witness returns to the stand.)

7 THE COURT: Okay. Mr. Runyan, you are going to
8 continue with your direct examination, sir?

9 MR. RUNYAN: Yes, ma'am. Thank you.

10 THE COURT: Okay.

11 MR. RUNYAN: May it please the Court?

12 THE COURT: Yes, sir.

13 DOCTOR MARIE GEHLE, having been
14 previously sworn, testified as follows:

15 CONTINUED DIRECT EXAMINATION

16 BY MR. RUNYAN:

17 Q Morning, Doctor Gehle.

18 A Good morning.

19 Q So when we left off yesterday we had talked about Mr.
20 Owens criminal history, and the offenses that you had
21 considered, and we also talked some, somewhat about
22 institutional conduct and things of that nature. There's a
23 few loose ends I just wanted to tie up with that before we
24 move on to your diagnosis.

25 Approach the witness, Your Honor?

70

Marie Gehle - Direct examination
By Mr. Runyan

1 THE COURT: Yes, sir.

2 MR. RUNYAN: Thank you.

3 Doctor Gehle, do you recognize this document?

4 A Yes.

5 Q Is this something you use in forming your opinion in
6 this case?

7 A Yes.

8 Q Is this the type of information that's typically and
9 reasonably relied on by experts in your field in forming
10 your opinion?

11 A Yes, it is.

12 Q Is there anything on that document to identify
13 authenticity?

14 A stamp?

15 A Oh, no, it was blending in. So, yeah, it was light.
16 But yes, there's a stamp by the Clerk of Court.

17 Q Could you tell the jury what this document is?

18 A This is an Order for Probation Violation in the
19 Spartanburg Court and it is dated June 27th, 2006.

20 MR. RUNYAN: Your Honor, at this time I'd request that
21 what's been premarked as State's Exhibit 3 or as State's
22 Exhibit 3 and be entered into evidence.

23 MR. THOMPSON: No objection.

24 THE COURT: Okay. And so State's Exhibit No. 3 is
25 entered into evidence without objection.

Marie Gehle - Direct examination
By Mr. Runyan

71

1 (WHEREUPON, State's Exhibit No. 3 was received into
2 evidence at this time.)

3 THE COURT: What is the date on that document please?

4 THE WITNESS: June 27th, 2006.

5 THE COURT: Okay. Thank you.

6 Q Now, Doctor Gehle, on this document, you, you said this
7 was a probation violation.

8 what was the original offense that he violated?

9 A It was criminal sexual conduct in the third degree.

10 Q And there in the middle there, what was his -- what
11 sentence was he given for this violation?

12 A So, it says that the -- that suspended sentence be
13 revoked and that the above named defendant be required to
14 serve six years, the remainder of the original sentence.

15 Q And now there's additional conditions by the Court.
16 what does that say?

17 A It says that it will be consecutive to 2005-GS-42-4618,
18 which is another indictment number.

19 MR. RUNYAN: May I approach the witness, Your Honor?

20 THE COURT: Yes, sir.

21 Q Doctor Gehle, I've given you what's marked as State's
22 Exhibit 2, correct?

23 A Yes.

24 Q What is the indictment number on that exhibit?

25 A 2005-GS-42-4618.

72

Marie Gehle - Direct examination
By Mr. Runyan

1 Q So is this the indictment they're talking about in
2 consecutive to that indictment or that, that conviction?

3 A Yes.

4 Q Okay. On the State's Exhibit 2 the -- and that's for
5 the CSC second, criminal sexual conduct?

6 A Yes, it is. Yes.

7 Q And what was the sentence for that conviction?

8 A Fifteen years.

9 Q And so the probation violation, which is Exhibit 3,
10 that's consecutive to that indictment -- I mean that, that
11 conviction, correct?

12 A That's correct.

13 Q So what would his total aggregate sentence be?

14 A So it'd be 15 years for the criminal sexual conduct in
15 the second degree and six years for the probation violation.
16 So, 21 years total.

17 Q Thank you.

18 Now, moving on to institutional. You talked
19 institutional misconduct yesterday, and, if I remember
20 correctly, you said he had -- he didn't have any violations
21 while he was in SCDC?

22 A That's correct.

23 Q Let me ask you this.

24 In your experience as an expert in doing these types of
25 cases and working with sex offender evaluators, is there --

Marie Gehle - Direct examination
By Mr. Runyan

73

1 are there things that incarcerated individuals, individuals
2 can do to better themselves?

3 Are there courses they can take?

4 A Yes, in some institutions those things are available.

5 Q What types of things would be available?

6 A So, specifically there -- there's programming in, in
7 what's called character based housing units. That offers
8 probably the most programming to better yourself in the
9 prison system. But there's also some faith based
10 programming that volunteers typically come into the prison
11 and work with the, with inmates. That can be Jump Start.
12 It can be the Kairos program, things like that.

13 Q In your review of the records and your interview with
14 Mr. Owens, did he indicate that he'd taken any of these
15 things or that he had applied to take any of these things?

16 A I need to just look to be sure.

17 Q All right.

18 A Just give me one second.

19 (Pause.)

20 A He didn't tell me that he participated in those
21 programs and it's often not in the records. They're not in
22 the records that SCDC provides to me. So I always offer
23 that they can send it to me if they want to. But I -- he
24 didn't say that, that he had participated in any kind of
25 programming like that.

74

Marie Gehle - Direct examination
By Mr. Runyan

1 Q All right. Doctor, let's move on to your diagnosis.

2 Are you familiar with this book?

3 A Yes.

4 Q And can you tell the jury what this book is?

5 A That's the Diagnostic and Statistical Manual of Mental
6 Disorders. It's what mental health professionals use to
7 review symptoms and make diagnoses of people.

8 Q Is it considered authoritative in your field?

9 A Yes.

10 Q And could you explain what authoritative means?

11 A It -- it is kind of -- it's the authority. It's the
12 book that everybody uses. It's, it's published by the
13 American Psychiatric Association and I mean I, I don't know
14 a single clinician who doesn't have it on their shelf.

15 Q So, you use this when you're working with -- doing
16 these evaluations?

17 A Correct.

18 Q So what are personality disorders?

19 A Personality disorders, kind of in a general sense, are
20 just the way that you view the world. It can cause lots of
21 problems. But the technical definition is an enduring
22 pattern of inner experience and behavior that deviates
23 markedly from the expectations of the individual's culture.
24 It's pervasive and inflexible, has an onset in adolescence
25 or early adulthood, is stable over time, and leads to

Marie Gehle - Direct examination
By Mr. Runyan

75

1 distress or impairment.

2 Q Did you consider any personal disorders, disorders for
3 Mr. Owens?

4 A When I do these evaluations I always consider
5 personality disorders, specifically antisocial personality
6 disorder, because that has been strongly associated with
7 sexual offending. And so that's what I'm asked to do. So,
8 I always consider them. But when I met with him he did not
9 present with the characteristics that were indicative of a
10 personality disorder.

11 Q So, in your evaluation of Mr. Owens, were you able to
12 diagnose him with a relevant personality disorder?

13 A No.

14 Q So what are paraphilic disorders?

15 A Paraphilic disorders are deviant sexual interests and
16 it's a little bit more than that. So, I can give you the
17 technical definition. So, a paraphilia is any intense or
18 persistent sexual interest other than sexual interest in
19 genital stimulation or preparatory fondling with
20 phenotypically normal, physically mature consenting human
21 partners.

22 So basically it's saying that it's any intense and
23 persistent sexual interest that is focused in areas other
24 than the genitals. So, it would be like if you were
25 sexually aroused by feet, that could be a paraphilia,

76

Marie Gehle - Direct examination
By Mr. Runyan

1 paraphilia, or if it's any other activities. So, fondling
2 and genital stimulation, those are activities that are, that
3 are normal for sexual activity. But if you are sexually
4 aroused by hitting somebody or doing things like that, that
5 would be abnormal. That could be a paraphilia.

6 A paraphilic disorder is when you have a paraphilic
7 interest that occurs over a period of at least six months
8 and it involves you either acting upon it with a
9 non-consenting person or it causes you significant distress
10 or impairment. So, if you have a paraphilic interest, but
11 you're figuring out how to act on that with a consenting
12 person, so maybe you fantasize and they're agreeing to
13 fantasize with you, that's -- that can be a paraphilic
14 interest but it's not a disorder. It's when they act upon
15 it with a non-consenting person, so against somebody's will,
16 or whether it causes them a lot of impairment in their
17 functioning in day-to-day life.

18 Q Now, paraphilic disorders, are they considered mental
19 abnormalities?

20 A They can be, yes.

21 Q Did you consider any paraphilic disorders for Mr.
22 Owens?

23 A Yes.

24 Q And what did you consider?

25 A So when I have a case that is somebody who has

Marie Gehle - Direct examination
By Mr. Runyan

77

1 committed criminal sexual conducts, that type of offense,
2 with adults, I look at two disorders primarily. There's two
3 disorders that are, that are clearly associated with that
4 kind of behavior.

5 So, the first is sexual sadism and the second is
6 biastophilia.

7 Q In your evaluation of Mr. Owens, were you able to
8 diagnose him with a relevant mental abnormality?

9 A Yes, I diagnosed with other specified paraphilic
10 disorder with a specifier biastophilia.

11 Q Okay. Could you tell us what is other specified
12 paraphilic disorder as defined by the DSM?

13 A So, let me actually get --

14 Q I'll get you the page.

15 A -- this out here.

16 Q 705.

17 A Thank you.

18 So, defined by the DSM, it -- it is this category
19 applies to presentations in which symptoms, characteristic
20 of a paraphilic disorder that cause clinically significant
21 distress or impairment in social, occupational, or other
22 important areas of functioning, predominate, but do not meet
23 the full criteria for any of the disorders in the paraphilic
24 disorders diagnostic class. The other specified paraphilic
25 disorder category is used in situations in which the

78

Marie Gehle - Direct examination
By Mr. Runyan

1 clinician chooses to communicate the specific reason that
2 the presentation does not meet the criteria for any specific
3 paraphilic disorder.

4 This is done by recording other specified paraphilic
5 disorder followed by the specific reason. For example,
6 zoophilia. Examples of presentations that can be specified
7 using other specified designation include, but are not
8 limited to, recurrent intense sexual arousal involving
9 telephone scatologia, which is obscene phone calls,
10 necrophilia, which is corpses, zoophilia, which is animals,
11 coprophilia, which is feces, klismaphilia, which is enemas,
12 or urophilia, which is urine, that has been present for at
13 least six months and causes marked distress or impairment in
14 social, occupational, or other important areas of
15 functioning. Other specified paraphilic disorder can be
16 specified as in remission and/or as occurring in a
17 controlled environment.

18 Q Doctor, in, in your words, tell us what that means.

19 A What that means is this is the diagnosis that you use
20 when one of the eight specific para -- paraphilias that are
21 outlined in this book are not relevant to your case. That's
22 what it is in my opinion. Some people would say that if
23 they don't meet the full criteria for one of those
24 disorders, but they still have problems in functioning
25 related to their sexual behavior, then you could use this.

Marie Gehle - Direct examination
By Mr. Runyan

79

1 But that's not how I look at it.

2 So, in this, in this book, they list I believe eight of
3 the most common, probably most researched paraphilic
4 disorders, and there are literally thousands of paraphilic
5 disorders. People can be sexually aroused to about
6 anything.

7 So, they can't list everything in this book. They
8 chose eight and then anything that's outside of those eight
9 gets the other specified paraphilic disorder if you can show
10 a pattern of that arousal lasting six months at least, and
11 if they've acted on it with a non-consenting person or it
12 causes clinically significant distress or impairment.

13 Q So, you've mentioned a specifier.

14 What is a specifier?

15 A It's just the specific reason.

16 Q And did you give, along with your diagnosis of other
17 specified paraphilic disorder, you gave a specifier in this
18 case?

19 A Yes.

20 Q And what was that?

21 A Biastophilia.

22 Q And what is biastophilia?

23 A It's a specific deviant sexual interest, and
24 specifically it is an interest in coercive sexuality,
25 coercive sexual acts with non-consenting persons.

80

Marie Gehle - Direct examination
By Mr. Runyan

1 Q And what is the criteria or diagnosis for this, for
2 biastophilia?

3 A So you have to show that pattern of arousal lasting at
4 least six months where you are acting upon -- in
5 non-consenting persons. So you're in a situation where
6 there's no consent from the other person, and you're
7 sexually aroused in those situations.

8 Q And how does Mr. Owens meet the diagnostic criteria?

9 A When I look at his offense history, so that the details
10 of his offenses and specifically those two sexually violent
11 offenses, I want to look at everything that happened in that
12 offense. So, he hit and pushed the victims. He knocked one
13 victim unconscious. He forced her to perform oral sex while
14 she was bleeding from her mouth. He used physical force to
15 move the victims such as pulling their hair, pushing,
16 pulling their bodies, things like that.

17 He, he was definitely sexually aroused in situations
18 where it was not consensual, and he could tell that the
19 victims were not consenting. They weren't pretending. It
20 wasn't a, a situation where they were quiet about the
21 offending. They were reacting to him.

22 The -- one of the victims was bleeding from her mouth.
23 I mean she had a split. I mean there's no, no way that he
24 could, in his mind, think she wants this to happen.

25 So, he -- if you can be aroused in that type of

Marie Gehle - Direct examination
By Mr. Runyan

81

1 situation, that's really indicative of that biastophilic
2 arousal.

3 I know that these arousal patterns lasted for at least
4 six months because I have offenses that are at least six
5 months apart and share those characteristics. And he
6 definitely acted upon them with non-consenting persons.

7 Q Do you recognize this book?

8 A Yes.

9 Q Could you tell the jury what this book is?

10 A This is a Best Practices in Forensic Mental Health
11 Assessment. It's part of a series and this is the book on
12 the evaluation of sexually violent predators.

13 Q And this is a book that people in your field use when
14 doing evaluations?

15 A Yes.

16 Q And do you use it --

17 A Yes.

18 Q -- when doing your evaluations?

19 Now, specifically on Page 23, there's a section down at
20 the bottom on paraphilia and rape.

21 Did Mr. Owens, in your interview, indicate, when you
22 asked him, was he -- that -- if he was aroused by
23 non-consensual sex, what did he tell you?

24 A He denied that.

25 Q So what does this book and this section tell you about

82

Marie Gehle - Direct examination
By Mr. Runyan

1 someone who denies being aroused to non-consensual sex?

2 A Well, it talks about how it's not uncommon that you'll
3 get that from offenders. So, it, it lists some other things
4 that you can look at as indicators of that type of arousal.

5 Q Now, where did these indi -- indicators come from?
6 was it specifically -- was it research based?

7 A They came from, yeah, a researcher who works in
8 sexually violent predator evaluations.

9 Q And as you, on Page 24, as you were going over this
10 list, any of these things that -- these indicators that
11 were -- matched Mr. Owens offending pattern?

12 A Yes. So he had ejaculation or clear signs of sexual
13 arousal during events that are clearly non-consensual. The
14 victims reported that he ejaculated.

15 His, his offenses were repetitive. So, this says
16 repetitive patterns of actions as in following scripts and
17 these were very similar. The, the offenses were very
18 similar in nature. So that, that looked repetitive to me.

19 Virtually all of his criminal history is sexual. That
20 was, that was -- in his case, that was true. He also had
21 concomitant cooperative sexual partners but sexually
22 offended nonetheless. What that means is that, in his case,
23 he was in a relationship. He was in different relationships
24 during the offending. I think that one of the offenses he,
25 on his lunchtime break, went and paid a Court fine and then

Marie Gehle - Direct examination
By Mr. Runyan

83

1 he went out and, you know, sexually assaulted a woman.

2 His girlfriend worked where he worked. So, they worked
3 together. I mean he had a girlfriend that whole time. So
4 if it, if it was just about sex, he had a consenting partner
5 and he chose to offend anyway.

6 That's a really important thing to look at because it's
7 speaking to preference.

8 why would somebody act out in a way that could get them
9 sent to prison for 21 years if they weren't really aroused
10 by it when they could just go home and have sex with their
11 wife, or their girlfriend, and not go to prison at all?

12 So, you have to look at like what kind of consequences
13 are they willing to put up with or, or have put upon them in
14 order to act on all -- act out on this arousal.

15 Q So what does it mean for Mr. Owens to be diagnosed with
16 other specified paraphilic disorders biastophilia?

17 A It means that there's a mental abnormality, sorry,
18 mental abnormality that's related to his sexual offending,
19 and that predisposes him to commit acts of sexual violence.

20 Q So now let's turn to -- you've diagnosed him with a
21 relevant mental abnormal -- abnormality. Let's turn to what
22 you do as a, as a risk assessment.

23 How do you assess risks in your field?

24 A So the way that I assess risks is I look for dynamic
25 risk factors, and then I score two actuarial risk assessment

84

Marie Gehle - Direct examination
By Mr. Runyan

1 measures. Those things are in the research associated with
2 sexual recidivism.

3 Q Could you tell us -- just explain to the jury what risk
4 factors are.

5 A Risk factors are anything that has been found in
6 research to be related to sexual recidivism. So they take a
7 large group of sex offenders, they look at them for a
8 variety of factors, and then they see who reoffended, and
9 what factors differentiate those two groups. So, it's
10 things like gender, which it's usually men who commit the
11 sex offenses.

12 It's things like age. So, it's younger offenders
13 typically reoffend.

14 It's things like how many offenses you committed
15 before, whether you offended male victims, stranger victims,
16 non-family victims, how many times have you been convicted
17 of any type of offenses, whether you've had violent offenses
18 that are nonsexual, things like that.

19 Q And are there multiple types of risk factors?

20 A Yes. But we typically categorize them into two
21 categories. So, static factors and dynamic factors.

22 Q Okay. Let's talk about static factors.

23 What are, what are static risk factors?

24 THE COURT: Counsel?

25 MR. RUNYAN: Yes, ma'am.

Marie Gehle - Direct examination
By Mr. Runyan

85

1 THE COURT: why don't we do this?

2 why doesn't everybody just stand up right now and
3 stretch for just a minute?

4 Okay. It's a rainy day outside and the weather is
5 making us all feel maybe a little sleepier than normal.
6 We've been going now over 30 minutes.

7 (WHEREUPON, the jurors comply.)

8 THE COURT: So, is everybody okay?

9 (WHEREUPON, the jurors nods affirmatively.)

10 THE COURT: Okay. All right. Okay. Thank you.

11 All right. Please continue.

12 MR. RUNYAN: Thank you, Your Honor. I need a drink of
13 water sometimes.

14 THE COURT: Yes. And, of course, the witness can
15 certainly -- I think there's water there for you?

16 THE WITNESS: Yes, there is. Thank you.

17 THE COURT: It's hard for me to see over this bench
18 that was made for a very tall person in the past. So, I'm
19 standing.

20 Okay. All right. Please continue.

21 MR. RUNYAN: Thank you.

22 So, Doctor Gehle, what are static risk factors?

23 A Static risk factors are things that are generally
24 unchangeable. So, it's things like age, your offense
25 history, whether you've been convicted of a violent offense,

86

Marie Gehle - Direct examination
By Mr. Runyan

1 some of those victim characteristics like gender of the
2 victim, relationship to the victim, things like that.

3 Q And I, I think you mentioned earlier, were there, were
4 there actuarial assessments that you performed as a part of
5 your evaluation?

6 A Yes, ma'am, I completed two of them.

7 Q And are actuarial assessments things that people in
8 your profession use or typically reason to rely on in, in
9 forming their opinions?

10 A Yes, almost every evaluator uses those types of
11 assessments.

12 Q Could you explain to the -- so, you said you did the
13 Static-99R and the Static-2002R.

14 That was -- those were the two assessments?

15 A Yes.

16 Q Okay. Can you explain to the jury what an actuarial
17 assessment is and how it works?

18 A So, an actuarial assessment is a way to combine static
19 risk factors and you get a total score. That will also give
20 you a risk level, and we can -- I can use it to compare the
21 person to the average sex offender. So, the average sex
22 offender on that instrument is a score of two. So, I want
23 to see how do they relate to that, are they higher, or
24 lower, the same as.

25 But the actuarial part of it is when you combine the

Marie Gehle - Direct examination
By Mr. Runyan

87

1 risk factors and get a total score. I can go to an
2 actuarial table which provides a percentage of people with
3 the same score that reoffended within a certain period of
4 time. For the Static-99R and the Static-2002R, the
5 timeframe is people who were released from custody, how many
6 of them reoffended within five years of their release.

7 Q Could you give us a real world example of an actuarial?

8 A So, a real world example would be if you've had a heart
9 attack. You can go to your doctor afterwards and they're
10 gonna look at a variety of risk factors to see what your
11 chance is for another heart a fact -- another heart attack
12 so they'll know how aggressively they need to treat you or
13 can tell you like, you know, I don't know, scare you maybe
14 into making some life-style changes.

15 So, some of those risk factors for a heart attack would
16 be your age, your gender, your weight, how much you
17 exercise. They might do a stress test to see how you do on
18 that. They'll look at prior health conditions, whether you
19 have like diabetes, whether you have a family history of
20 heart disease. They'll look at a variety of factors, and
21 they can come up with a percentage of likelihood that you'll
22 have another heart attack within a certain period of time.

23 They do that by looking at large groups of people who
24 have had heart attacks, and they look at the risk factors
25 that are related to having another heart attack.

88

Marie Gehle - Direct examination
By Mr. Runyan

1 Q So, the same methodology applies to this -- to the
2 Static-99 is the actuary that you're talking about?

3 A Yes.

4 Q Why do you perform these assessments?

5 A Well, I perform them because they're the most accurate
6 way for me to estimate whether somebody's going to reoffend
7 sexually.

8 Q And what's the information you've learned from these
9 assessments is part of the basis of your opinion?

10 A Yes.

11 Q Are -- so let's talk about the results of the Static --
12 you performed the Static-99 on Mr. Owens.

13 Well, tell us briefly what's the range of scoring on
14 the Static-99R.

15 A So, the Static-99R is a 10 question assessment and the
16 scores range from negative three to 12. Your points can
17 decrease as you age. So, negative three to 12 and the score
18 of two is the average score.

19 Q And what did Mr. Owens score on the Static-99R?

20 A His score was seven.

21 Q And what did you find significant about his score?

22 A Well, that score puts him in the well above average
23 risk category. It's a very high, high score compared to the
24 other people that I evaluate. And when I look at that
25 actuarial table, people with a score of seven, 27.7 percent

Marie Gehle - Direct examination
By Mr. Runyan

89

1 of them reoffended sexually within five years. When I
2 compare him to that average offender with a score of two, a
3 score of seven means that it's 5.25 times the expected
4 recidivism rate. So, it's about five times higher.

5 Q Five times higher than the average sex offender?

6 A Yes.

7 Q How many categories -- you said well above average risk
8 category.

9 How many categories are there on the Static-99?

10 A There's five.

11 Q And what are they?

12 A They are -- Level 1 is very low risk. Level 2 is below
13 average risk. Level 3 is average risk. Level 4-A is above
14 average risk and Level 4-B is well above average risk.

15 Q So he's in the highest category there is to be---

16 A Yes.

17 Q ---rated?

18 A Yes.

19 Q What does the Static-99 -- Static-2002R, how is it
20 different from the Static-99R?

21 A Well, it has the same name because it came from the
22 same research group, but they're very, very different
23 instruments, and they look at the information differently.
24 So, when I score a 99R, I have to kind of do that and then
25 wipe all that information out of mind to score the 2002R

90

Marie Gehle - Direct examination
By Mr. Runyan

1 because everything's considered differently.

2 So, the Static-99R puts, I don't know, maybe equal
3 emphasis on charges and convictions but the 2002R just
4 ignores charges and only looks at convictions. And they,
5 they -- on that instrument, things are broken down into some
6 different areas. I'll put out my scoring sheet and tell you
7 those.

8 So it looks at persistence of sexual offending, deviant
9 sexual interest, relationship to victims, general
10 criminality, those categories.

11 Q Well, what is the range of score on the Static-2002R?

12 A The range of those scores are negative two to 13.

13 Q And what was Mr. Owens score on the 2002R?

14 A He had a score of eight.

15 Q And what does a score of eight mean to you?

16 What's significant about it in your opinion?

17 A It's, again, it's a very high score. It's in the
18 highest category level, that 4-B, well above average risk
19 category. And when I look at the actuarial table, people
20 with this score of eight in the large samples reoffended or
21 34.3 percent of those offenders reoffended within five
22 years -- and reoffended sexually within five years. So,
23 about 35 percent reoffended when they had a score of eight.

24 Q And what is the average score for a sex offender on the
25 2002R?

Marie Gehle - Direct examination
By Mr. Runyan

91

1 A Three.

2 Q A three.

3 why do you use both assessments?

4 A Well, the research shows that, that if you're gonna use
5 one, use the Static-99R and then, if you use the 2002R, it
6 adds just a little bit more accurate estimation of the
7 person's recidivism risk. So, it's recommended by the
8 authors of the instrument in high stakes evaluations such as
9 this where decisions are gonna be made that effects
10 somebody's liberty. So, that's why I use both.

11 Q Now these two instruments, they're clinician scored by
12 you?

13 A Yes.

14 Q And are you trained to give these evaluations?

15 A Yes.

16 Q How are you trained?

17 A Well, I'm trained because I've attended seminars by the
18 authors of the instruments. So, I was trained by them. I
19 attended their recommended trainings.

20 Q On both?

21 A Yes.

22 Q So, doctor, what does the research say about the
23 percent of sex crimes that are unreported?

24 A It's about 30 to 40 percent of sex crimes that get
25 reported. So, it's about, I guess, 60 to 70 percent do not

92

Marie Gehle - Direct examination
By Mr. Runyan

1 get reported.

2 Q So, would you agree with this statement that the --
3 these assessments, the Static-99, as accurate as they are,
4 do have some potential to underreport risks?

5 A They do and that -- that's possible.

6 Q Why would that be possible?

7 A It's possible because offenses are not reported. So
8 there's undetected offending. But some of the research
9 doesn't just support that view. When they recalibrate the
10 instrument periodically, the offense estimates often go
11 down.

12 Q Okay. So you mentioned age earlier in your testimony.
13 Do the Static-99R and 2002R, do they -- how can -- a
14 person can lower their score basically?

15 How can a person lower their score on a Static-99 since
16 it's static?

17 A The primary way is by getting older.

18 Q And what does that mean when somebody gets older?

19 A Well, you lose points. So, there's different
20 categories for age. So, you calculate somebody's age at
21 release from their last sex offense. And if they're between
22 like 18 and 35, they get a point of a one, one point. If
23 they're between 35 and roughly 40, they get zero points. If
24 they are between 40 and 60, they lose one point. So, it's
25 negative one point. And if they're 60 years or older, they

Marie Gehle - Direct examination
By Mr. Runyan

93

1 lose three points on the 99R.

2 On the 2002R, the categories are roughly -- yeah,
3 roughly the same or they are the same but the scores will
4 range from a two to a negative two where, on the 99R, it's a
5 one to a negative three.

6 Q All right.

7 A So, age is weighted a little bit differently on these
8 instruments.

9 Q Was Mr. Owens, when you scored Mr. Owens, was he given
10 any of these, these deductions?

11 A So, his score on the 99R was a negative one for his age
12 and on, and on the 2002R was zero.

13 Q So, on the Static-99R, because of his age, he went from
14 an eight to a seven?

15 If he was younger he would of been eight, but, because
16 of his age, he's a seven?

17 A Correct.

18 Q Okay. And on the Static-2002R there's no change?
19 Zero points?

20 A Correct.

21 Q Okay. So, despite the -- despite this kind of
22 protective factor of age, and, and losing points on the
23 static, and his potential for underreporting risks because
24 sexually violent -- sexual crimes go unreported pretty
25 heavily, Mr. Owens still scores in the well above average

94

Marie Gehle - Direct examination
By Mr. Runyan

1 category?

2 A Yes.

3 Q Let's turn to dynamic risk factors, doctor.

4 what are, what are dynamic risk factors?

5 A Dynamic risk factors are, again, factors that are
6 related to sexual reoffending. But they're things that can
7 be changed or targeted through treatment. So, it includes
8 things like whether they're preoccupied with sex, what kind
9 of life-style they lead, what are their sexual interests,
10 and some things like that.

11 Q And these are based in -- these are based in research?

12 A Yes.

13 Q I think the term is empirically supported, correct?

14 A Yes, that means research --

15 Q Okay.

16 A -- supported.

17 Q Okay. And the research supports these dynamic risk
18 factors are directly related to sexual reoffending?

19 A Yes.

20 Q Does -- on your assessment of Mr. Owens, does he have
21 any dynamic risk factors?

22 A Yes. So, when I'm looking at dynamics risk factors, I
23 rely on a big meta analysis, which means some researchers
24 pulled all the research that they could find that was good
25 quality related to these types of risk factors, and they

Marie Gehle - Direct examination
By Mr. Runyan

95

1 basically collated all the results so that they could have a
2 very, very large sample, a very diverse sample.

3 So in that article, that research, they identified I
4 believe 12 that were definitely associated with sexual
5 recidivism. They also identified a few other risk factors
6 that were well associated. But it -- but there wasn't
7 enough research on it to say it was definite.

8 So, I'm looking at these 12 factors and I found seven
9 of those applied to Mr. Owens.

10 Q Okay. Let's go through each one of those briefly and
11 talk about them.

12 So, what is sexual preoccupation?

13 A Sexual preoccupation is one of those dynamic risk
14 factors and it is -- it's not just being -- like having sex
15 on your mind all the time. It's the way that you use sex in
16 your life.

17 So, are you having sex that's impersonal, are you
18 having just a lot of sort of random one night stand kind of
19 sex, what's the meaning of sex to you, that, that sort of
20 thing is what we're looking.

21 Q Did you find Mr. Owens had sexual preoccupation?

22 A Yes.

23 Q And what does it mean for Mr. Owens to have that?

24 A It means that he's at increased risk to commit another
25 sex offense.

96

Marie Gehle - Direct examination
By Mr. Runyan

1 Q Okay. Why?

2 A Because this is associated in research with sexual
3 offending.

4 Q Well, what's specific to his offending pattern would,
5 would lead you to believe---

6 A Okay.

7 Q ---he has sexual preoccupation?

8 A So, his sexual interest seemed to dominate his
9 functioning. They were intense. He reported that he had
10 sex with a lot of prostitutes even though he had ready
11 access to consenting sexual partners but he chose to engage
12 with prostitutes. That means that a lot of his sexual
13 behavior was directed to somebody other than a romantic
14 partner. Outside of relationship, it was impersonal, it was
15 transactional, and he also took considerable risks to engage
16 in that type of sexual behavior. I mean it is a crime to,
17 to hire a prostitute for sex.

18 Q What is sexualized violence?

19 A Sexualized violence is when you're looking at
20 somebody's offense history or their self-reported history,
21 you're seeing that they're sexually aroused by violence,
22 control, power, domination, things like that in, in their
23 sexual activity.

24 Q Did you find that Mr. Owens has the risk factors of
25 sexualized violence?

Marie Gehle - Direct examination
By Mr. Runyan

97

1 A Yes, I did.

2 Q And what was significant in his offending pattern that
3 led you to believe this?

4 A Well, he had repeated acts of sexual violence despite
5 having access to consenting sexual partners. That indicates
6 that he has that preference because he's going far out of
7 his way to engage that sexual arousal pattern, to engage in
8 violence mixed with sex, when he could just have sex with a
9 consenting partner, and he was -- his abusive behavior was
10 directed towards females. Exclusively he's not a guy who's
11 getting into fights with men. He's just directing all that
12 violence towards women.

13 Q And what is multiple paraphilias?

14 A Multiple paraphilias means that, as a dynamic risk
15 factor, if you have more than one paraphilic interest, that
16 this risk factor applies to you.

17 Q Did you find that Mr. Owens had this risk factor
18 multiple paraphilias?

19 A Yes.

20 Q And what did you find in his offense pattern that was
21 significant that led you to believe this?

22 A Well, so he definitely has an interest in that
23 biastophilia. But I also looked at his interest in
24 telephone scatologia. That's the obscene phone calls. I
25 did not diagnose him with a disorder related to that because

98

Marie Gehle - Direct examination
By Mr. Runyan

1 I didn't have enough evidence of that six month time period
2 to, to call it a disorder.

3 I think it probably exists but there was some lack of
4 records as to when those phone calls actually happened. So,
5 I couldn't establish that it was six months but he has both
6 of those interests.

7 Q And did he tell you something in his -- the interview
8 with him about the obscene phone calls, about his
9 interest -- deviate interests?

10 A He said this it was just funny and that he just did it
11 for fun, which I didn't necessarily believe because he also
12 said that when, when he made phone calls and a, a male
13 answered, he didn't talk in that way. So, it wasn't just
14 about humor. It was about -- it was about the gender of the
15 person answering. So, it was sexual.

16 Q Did you ask him if he was aroused by the phone calls?

17 A Yes.

18 Q Did he tell you he was?

19 A I, I don't believe that he admitted to that, no. He
20 said that he was aroused by I think one person because she
21 spoke back to him.

22 Q Tell me what -- you didn't diagnose him with, with
23 telephone scatologia but you said he has the characteristics
24 of it.

25 what about telephone scatologia in, in your assessment

Marie Gehle - Direct examination
By Mr. Runyan

99

1 of him was important otherwise?

2 A So that diagnosis will not lead to sexually violent
3 offending because it's my understanding that obscene phone
4 calls, unlawful use of telephone, that's not categorized as
5 a sexually violent offense. So, it really is important for
6 this one part right here because it means that he has this
7 risk factor, multiple paraphilias. Otherwise, if that was
8 his only condition, I wouldn't be recommending commitment
9 because that condition doesn't lead to sexually violent
10 offending.

11 Q The next one is lack of emotionally intimate
12 relationships.

13 what is that and how does it -- how does Mr. -- it
14 relate to Mr. Owens?

15 A So that disorder or that risk factor means that
16 somebody has a lot of problems in their relationships,
17 there's a lot of conflict, or it can mean that they don't
18 have any relationship history at all. So, in his case, he
19 had a lot of conflict in his relationships. He was very
20 secretive in his relationships. He was offending while he
21 was involved with people. He hid a great deal. He said he
22 completely hid his substance use from everybody including
23 his partners who he was living with, and he was unfaithful
24 to several of his partners. Those are the characteristics
25 as defined by the researchers.

100

Marie Gehle - Direct examination
By Mr. Runyan

1 Q The next -- our next one I believe you diagnosed him
2 with or say that -- dynamic risk factor that he has is
3 life-style impulsiveness.

4 A Yes.

5 Q Can you explain what that is and how it relates to Mr.
6 Owens?

7 A So that risk factor is looking at whether somebody
8 lives like an impulsive life-style. Do they have routines
9 or do they just -- is it kind of a free-for-all and they
10 don't have those routines. Do they make good choices in
11 their day-to-day or are they irresponsible or responsible.
12 Do they have realistic long term goals or not. Are they
13 unable to delay gratification and act after thinking and not
14 just on impulse.

15 So, for Mr. Owens, I found that he, he reported a long
16 history of drugs and alcohol, which is evidence of that
17 life-style impulsiveness, had a lot of irresponsible
18 decision making, a lot of more short term goals, if any, but
19 he lacked long term goals, and he seemed unable to deal with
20 any boredom or to delay gratification, acted a lot on
21 impulse.

22 Q The next one is poor problem solving.

23 Could you tell us what that is and how it relates to
24 Mr. Owens?

25 A Yes. That one is exactly how it sounds. It's whether

Marie Gehle - Direct examination
By Mr. Runyan

101

1 somebody can identify problems, think about effective
2 solutions, ways to handle their problems, use those
3 effective solutions to solve everyday problems or whether
4 they avoid problems, over think it, just kind of ignore it
5 or deploy really ineffective solutions like I'm mad at
6 somebody, so I'll go punch them in the face. That's not
7 really good problem solving.

8 So, for Mr. Owens, what I noted was he had some
9 difficulty recognizing that things were problems. He had
10 trouble identifying a range of possible solutions that would
11 be effective. He, he had trouble identifying solutions that
12 would be lawful. He avoided problem -- problems. He would
13 blow up in anger and he would often displace that anger on
14 unrelated persons.

15 So, I think this, this was really important for him.
16 He was displacing his anger, such as in the first offense he
17 said I had a fight with my mother-in-law. I had a fight
18 with my wife. I was really angry. So, I drove to the track
19 and I just punched a random person and knocked her down, you
20 know. So, that's displacement of anger. So, that's how
21 that applies to him.

22 Q Okay. And the last one, the seventh one out of the 12
23 you said, resistance to rules and supervision.

24 Could you tell us what that is and how it applies?

25 A Yes, this risk factor is looking at somebody's kind of

102

Marie Gehle - Direct examination
By Mr. Runyan

1 compliance with authority and whether they can comply with
2 rules such as probation rules.

3 So, in his case, he violated the conditions of
4 probation repeatedly. He failed to attend sex offender
5 treatment as ordered. He seems compliant and respectful
6 when you're meeting with him and with I think authorities,
7 but there's a lot of noncompliance in his behavior. So, he
8 just didn't do what he was suppose to do.

9 Q So, how did the static dynamic risk factors that you
10 mentioned relate to Mr. Owens risk to sexually reoffend if
11 he's not confined for -- in a secured facility for
12 treatment?

13 A When I look at it all together, to me, it says that
14 he's likely to commit acts of future sexual violence if he
15 is not confined in a secure facility.

16 Q Did you talk to Mr. Owens about his future plans?

17 A Yes.

18 Q And what were his plans as he described to you if he
19 was released?

20 A I believe he said that he plans to live with his
21 father. His -- he said it -- he'll -- he plans to live with
22 his father maybe for the first year. His, his father is, I
23 believe, living with somebody who -- and he's planning to
24 marry her. So that, that will happen. Plans to work on
25 cell phone towers. Wants to stay in state so that he has

Marie Gehle - Direct examination
By Mr. Runyan

103

1 access to family and support that way, and that he has a
2 girlfriend, and he plans to get married potentially.

3 Q What, if any, probation or community supervision does
4 he have?

5 A He's required to complete two years of community
6 supervision upon his release from prison. But that time
7 starts when he -- upon his release from prison.

8 Q And what does his history suggest about his ability to
9 meet the conditions of this?

10 A He had a lot of problems complying with probation in
11 the past. He had multiple violations of probation.

12 As a sex offender who's released on community
13 supervision, he will be required to do sex offender
14 treatment, and he hasn't been willing to go through that
15 process in the past. So, that could be a problem for him.

16 Q Do you believe that his -- that he's -- his future
17 plans are realistic given his level of risk?

18 A I mean his, his plans are -- I guess they're fine but I
19 don't think that he can be safely managed in the community
20 with the risk level that he has. It -- his risk is very
21 significant to commit another sex offense, and he's not
22 worried that he'll commit another sex offense in what he
23 told me. He's just not worried about it. Like I, I won't
24 be in situations like that. I won't step foot in a bar. I
25 won't, you know, drive through a neighborhood where there's

104

Marie Gehle - Direct examination
By Mr. Runyan

1 prostitutes, things like that.

2 But he's not admitting that he sexually assaulted
3 anyone. He's saying he just failed to pay prostitutes and
4 they retaliated by filing charges against him and making
5 false allegations against him.

6 So, when somebody is not really recognizing or
7 admitting, you know, even to themselves what they've done,
8 it makes it really hard for them to identify all the -- I
9 guess all the scenarios, all the risk factors that they
10 have, all the things that put them at risk, all the things
11 that happened that led them to offend in the first place.
12 If he's not admitting to that, then he's gonna have a hard
13 time recognizing those factors, and I don't know that he'll
14 know that he's in a high risk situation until he's -- until
15 after he's offended.

16 Q So, Doctor, putting everything together that you
17 discussed yesterday and today, did you make any conclusions
18 about whether Mr. Owens meets the criteria for civil
19 commitment?

20 A It's my opinion that he meets criteria of a sexually
21 violent predator.

22 Q Is it your expert opinion that Mr. Owens suffers from a
23 relevant mental abnormality?

24 A Yes.

25 Q And what was that diagnosis?

Marie Gehle - Direct examination
By Mr. Runyan

105

1 A That was other specified paraphilic disorder
2 biastophilia.

3 Q Do you have an opinion as to whether Mr. Owens other
4 specified paraphilic disorder biastophilia causes him
5 serious difficulty controlling his behavior?

6 A I think it does, yes.

7 Q Why is that?

8 A Because he's acted on it multiple times, and if he --
9 I, I have no evidence that it's gone away. These things
10 tend to last a really long time, maybe over the whole course
11 of the life. They can be managed through treatment. He's
12 not done any treatment. So, there's no real reason to
13 believe that it's gone away.

14 Q So, would you say the paraphilias are chronic in
15 nature?

16 A Yes.

17 Q Do you have an opinion as to whether Mr. Owens is
18 likely to commit future acts of sexual violence?

19 A Yes, I believe that he's likely.

20 Q Do you have an opinion as to whether Mr. Owens mental
21 abnormality makes him likely to engage in acts of sexual
22 violence if not confined for long term -- in a secure
23 facility for long term control -- control, care, and
24 treatment?

25 A Yes.

106

Marie Gehle - Direct examination
By Mr. Runyan

1 Q Do you have an opinion as to whether Mr. Owens meets
2 the criteria to be found a sexually violent predator?

3 A It's my opinion he does.

4 Q Did you draw all of your conclusions to a reasonable
5 degree of psychological certainty?

6 A Yes.

7 Q Thank you. Please answer, answer any questions Mr.
8 Thompson may have.

9 THE COURT: Mr. Thompson, why don't, why don't we --
10 sorry. I'm not sure that the court reporter can understand
11 me with my mask on.

12 why don't we go ahead and take a 15 minute break and
13 let everybody get some coffee and use the restroom, and then
14 we'll start with cross-examination.

15 Okay. Madam Forelady, and members of the jury, if
16 you'll follow Mr. Bogan and Ms. Dill.

17 All rise please.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 THE COURT: Okay. Thank you all and you can be at
21 ease.

22 And, again, Doctor Gehle, you can step down---

23 THE WITNESS: Thank you.

24 THE COURT: ---use the rest room but please don't talk
25 with anyone.

1 THE WITNESS: Sure.

2 THE COURT: Okay. All right. Thank you.

3 (WHEREUPON, a short recess was taken at this time.)

4 THE COURT: Counsel, can y'all come up just one second?

5 (WHEREUPON, a bench conference was held at this time.)

6 THE COURT: Okay. Before we have the jury come back,
7 I, I just want to emphasize to everyone that while I
8 certainly understand this is a very difficult situation for
9 everyone, especially family members of Mr. Owens, that you
10 do need to please have a poker face. I, I -- again, I, I,
11 I, I understand it's difficult and my job is to make sure
12 that there's an even playing field for all, and I don't want
13 to have to stop Court with the jury in here and ask someone
14 to leave the courtroom. I, I think that that would be
15 unfortunate -- an unfortunate instance.

16 Okay. And so I know it's hard but if everyone can just
17 try to, again, use your poker faces.

18 All right. Thank you.

19 All right. And so anything else, counsel, before we
20 have the jury come back?

21 MR. RUNYAN: Nothing from the Petitioner.

22 THE COURT: Okay. Okay. Okay. Anything else from the
23 Respondent?

24 MR. THOMPSON: No, ma'am.

25 THE COURT: Okay. Everybody okay on their water, got

108

1 what you need?

2 All right. we'll have the jury.

3 It'll take them a few minutes to get over here. Y'all,
4 y'all will probably hear the door okay.

5 okay.

6 THE BAILIFF: All rise please.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE BAILIFF: Thank you. Be seated please.

10 THE COURT: Okay. Madam Forelady, and members of the
11 jury, are we ready?

12 THE FORELADY: We are.

13 THE COURT: Okay. Thank you.

14 We are continuing with the Matter of the Care and
15 Treatment of Jeffery Scott Owens. 20-419. We are now going
16 to start cross-examination of Doctor Gehle.

17 Mr. Thompson.

18 MR. THOMPSON: Thank you, Your Honor.

19 If it please the Court?

20 THE COURT: Yes, sir.

21 MR. THOMPSON: Mr. Runyan.

22 CROSS-EXAMINATION

23 BY MR. THOMPSON:

24 Q It's still morning.

25 Good morning, Doctor Gehle.

Marie Gehle - Cross-examination
By Mr. Thompson

109

1 A Good morning.

2 Q Well, let's start out by records, looking at the
3 records you reviewed.

4 The records you reviewed were mostly 2006 and earlier,
5 right?

6 A I looked at more recent things from the Department of
7 Corrections but the majority of records were from 2006 and
8 earlier.

9 Q All right.

10 A You're correct.

11 Q Well, the records you looked at from the Department of
12 Corrections did not give rise to any issue, did it?

13 A That's correct.

14 Q In other words, there were no disciplinaries from 2006
15 through today or --

16 A That -- that's correct.

17 Q -- or through the date that you looked at the records?

18 A That's correct.

19 Q So, that would not have been applicable to any
20 diagnosis of him being a sexually violent predator?

21 A That's correct.

22 Q Okay. So, what you've looked at was incident reports,
23 arrest warrants, statements, and all from the incidents
24 occurring prior to 2006?

25 A Yes.

110

Marie Gehle - Cross-examination
By Mr. Thompson

1 Q Actually I think it was prior to 2005.

2 He didn't go to Court until 2006, right?

3 A It was 2005 and prior, yes.

4 Q Yeah.

5 Okay. Now, in your testimony yesterday I believe you
6 testified, and I, I think in your report you indicated he
7 had 12 sexual offenses.

8 Can you tell me what those 12 are?

9 And I know it's gonna take you a minute.

10 A It's gonna take me more than a minute but --.

11 MR. THOMPSON: And, and, excuse me.

12 Judge, may I move that podium here where I can --?

13 THE COURT: Sure.

14 MR. THOMPSON: If I'm strong enough to.

15 THE COURT: You are. Thank you.

16 MR. THOMPSON: Thank you.

17 A Okay. So, he had the assault with intent to commit
18 criminal sexual conduct in 1992 and he pled to the ABHAN.
19 He had the two counts of harassing phone calls in 1993 in
20 North Carolina, two counts of unlawful use of telephone in
21 1993 in South Carolina, and a criminal sexual conduct in the
22 second degree and assault and battery of a high and
23 aggravated nature in 1999, and he was convicted of the
24 ABHAN.

25 Q You say 1989?

Marie Gehle - Cross-examination
By Mr. Thompson

111

1 A 1999.

2 Q '99. Okay.

3 A I believe that's what I said. Yes, 1999.

4 The 2001 criminal sexual conduct in the third degree in
5 which he was convicted of that, and he had the charge in
6 2003 for criminal sexual conduct in the third degree, and
7 then he had the conviction for criminal sexual conduct in
8 the second degree in 2005.

9 Q Well, now by my count -- and now on the 1999, the CSC
10 second and the ABHAN, the CSC second, at that point in time,
11 was dismissed, right?

12 And I understand you said it's still a sexual offense
13 but it was dismissed, right?

14 A Yes. When I, when I'm collating those numbers, I'm
15 looking at the charges. I think that's how I reported it.

16 Q Okay. And -- I only count that being 11.

17 A I think there was also a kidnapping charge that was
18 dismissed. Must be number 12 and that was -- so, he was
19 indicted in 2005 for a charge of kidnapping by a direct
20 indictment, and then he pleaded to the criminal sexual
21 conduct in the second degree. I'm sorry.

22 Q Okay.

23 A So 12.

24 Q Fine.

25 Now, in the 1999 CSC second and ABHAN, I believe

112

Marie Gehle - Cross-examination
By Mr. Thompson

1 yesterday you testified that the CSC second was dismissed
2 and he pled to the ABHAN, right?

3 A That's correct.

4 Q Did he actually plead to ABHAN?

5 If you look at Page 16 of your report, it indicates
6 that, I believe, that the charge was dropped down to a
7 Magistrate's Court offense?

8 A That's what I found in Public Index Records. It looked
9 like the -- while it says that the charge was remanded to
10 the Municipal court and he pleaded guilty.

11 Q So that would be a simple assault and battery as
12 opposed to an ABHAN?

13 A The records said it was assault and battery and of a
14 high, of a high and aggravated nature from the records that
15 I reviewed.

16 Q And that's what he was charged with, correct?

17 A I believe so, yes.

18 Q Did you review a record that said that's what he pled
19 to?

20 A I might have to look at the original records, which I
21 didn't bring up here with me, to give you a definitive
22 answer on that. That's what I -- that's how I looked at it
23 definitely at the time but let me see if I have -- if I can
24 find specific evidence of that from here.

25 I think we're talking about 1999, correct?

Marie Gehle - Cross-examination
By Mr. Thompson

113

1 Q Yes.

2 A Okay.

3 Q Just that, that ABHAN charge in 1999.

4 A I can't tell from my report. I don't have -- well, I
5 think I'd have to an -- I'd have to look at the original
6 records to give you an answer on that specifically.

7 Q well, do you want to get your original records and look
8 at them?

9 A If you'd like me to.

10 Q Please.

11 A I'd have to go --.

12 You'll have to bear with me. I'll have to find these.

13 Q Okay.

14 A Okay. So that record I found in the public index. So
15 I have two documents related to that, and they all -- in all
16 spots it says original charge and code charge. It, it says
17 assault and battery of a high and aggravated nature.

18 Q Okay. That was the original charge. No, no
19 disagreement.

20 But what was the disposition of it?

21 A This record, it, it says disposed, guilty, bench trial.
22 It's the same cause number and it says assault and battery
23 of a high and aggravated nature and it was 30 days time
24 served.

25 Q In Summary Court, Magistrate's Court, or Municipal

114

Marie Gehle - Cross-examination
By Mr. Thompson

1 Court?

2 A It says Magistrate's Court, yes.

3 Q Okay. Do you know whether or not a Magistrate's Court
4 would have jurisdiction over a sentence that carries more
5 than 30 days?

6 A I don't know that information. I'm not a lawyer.

7 Q That's not part of your forensic screening?

8 A No.

9 Q Okay.

10 A It's not.

11 Q All right. Okay. Let's move on to something else
12 then.

13 You indicated there were two probation violations,
14 right?

15 A Yes, that was my understanding.

16 Q And I believe, in your testimony yesterday talking
17 about the sentence he received in 2005, you indicated that,
18 that there were two probation violations that were six years
19 and six years at that time.

20 A Yes.

21 Q All right. How many probation violations was there in
22 2005?

23 A So, according to my records, there was a probation
24 violation that was issued on July 14th, 2005, and a second
25 probation citation that was issued on June 27th, 2006, or

Marie Gehle - Cross-examination
By Mr. Thompson

115

1 that's, that's my understanding.

2 Q Okay. Okay. And were those for different charges?

3 A Again, I'll have to find the original documentation if
4 I can find it. So, give me -- bear with me.

5 Q Well, maybe we can make it simple this way.

6 When he went to prison in 2006, what sentence did he
7 receive?

8 A Fifteen years for the sexual offense.

9 Q Okay. And what else?

10 A And it was my understanding that it was two probation
11 violations and it was six years consecutive. I have two
12 different cause numbers for probation violations. That's
13 what led me to believe that there was two of those.

14 Q All right. So now if he got 15 years on the sex
15 offense in 2005, and two six year sentences consecutive to
16 each other, that would be 15 plus 12, would it not?

17 A That's correct.

18 Q So that'd be 27 years?

19 A Correct.

20 Q Earlier today you testified he got 15 plus six, which
21 was 21 years?

22 A I agree with you, yes.

23 Q All right. So there's two---

24 A I'd have to look at the original records to see cause
25 these cases are very complicated. There's multiple

116

Marie Gehle - Cross-examination
By Mr. Thompson

1 offenses. There's records from a criminal history that I --
2 then I have to look at the public index. I'm following
3 cause numbers. For some of the charges I have the original
4 arrest warrants. For some of them I don't. So, it's
5 complicated to put it all together and I can look it up but
6 it will take me a minute.

7 Q No, I, I -- I'm -- that -- that's all I need right
8 there.

9 So, it's safe to say then that you're making a
10 diagnosis based on the records you've received, some of
11 which are complete, some of which are not, and that some of
12 which you don't even understand when you get them?

13 A I don't know if I would agree with that entirely.
14 That's not necessarily what a -- the diagnosis is based on.
15 But, in some cases, there are missing records. In some
16 cases they are hard to decipher. Different documents can
17 say different things. Things can be incomplete definitely.

18 Q But all that is included in your diagnosis, right?

19 A Well, diagnosis is different than reporting a legal
20 history.

21 Q But you're using that legal history as a part of your
22 diagnosis, are you not?

23 A Parts of the legal history are used to underpin the
24 diagnosis, yes.

25 Q All right. Now, let's go to your diagnosis. Talk

Marie Gehle - Cross-examination
By Mr. Thompson

117

1 about it for a few minutes. You say you used the Static-99
2 as one of the tools for making your diagnosis.

3 Is that correct?

4 A No, definitely I did not say that.

5 Q Oh, you did not say that?

6 A No.

7 Q well then what did you use the Static-99 for?

8 A It's part of the risk assessment.

9 Q Okay. It's part of the risk assessment and do -- you
10 use your risk assessment for making your diagnosis, don't
11 you?

12 A No, they're separate things.

13 Q well then you got me confused.

14 So explain to me how, how using this information is not
15 used in your diagnosis.

16 A A diagnosis is just whether he has a mental abnormality
17 or personality disorder. It's---

18 Q Okay.

19 A ---or, or it's -- a diagnosis is just a mental health
20 condition.

21 Q Okay. So, I -- I'm sorry. I've, I've got terminology
22 mixed up then. I'm the one that's mixed up there.

23 So -- but you use the Static-99 in arriving at your
24 conclusion?

25 A Yes, I use it to help me make it -- a, a decision about

118

Marie Gehle - Cross-examination
By Mr. Thompson

1 whether he's likely.

2 Q Okay. And you keep using the word likely.

3 A Correct.

4 Q Likely, does that mean he's guaranteed he's gonna
5 commit a new offense?

6 A No, I'm using the word likely as it's defined in the
7 statute, in the SVP Statute.

8 MR. THOMPSON: May I approach, Your Honor---

9 THE COURT: Yes, sir.

10 MR. THOMPSON: ---the witness?

11 THE COURT: Yes, sir.

12 Q Do you recognize what that is?

13 A Yes.

14 Q And what is it?

15 A It's an old copy of the Static-99R coding form.

16 Q Okay. Is there a new copy?

17 A Yes.

18 Q Are the questions on the new copy different?

19 A I don't believe that they're different but when I --
20 so, if I can just hold them up?

21 Q Go right ahead.

22 A The things at the bottom are different.

23 Q All right. In other words, you're saying the scoring
24 may be different?

25 A It's, it's more that those risk categories have

Marie Gehle - Cross-examination
By Mr. Thompson

119

1 changed. And so this -- and just the way that -- like
2 there's different information on this one, the new version,
3 and this one. I believe that the scoring is --.

4 Q well --.

5 A Like the actual questions are actually the same.

6 Q well, the questions are what I'm interested in.

7 A Okay.

8 Q Not the scoring there.

9 All right. The first question is his age of release.
10 Is that correct?

11 A Yes.

12 Q So that would be current?

13 In other words, that's not 2005 and earlier?

14 That would be current?

15 A Yes, and, for him, it would continue. So, it'd be the
16 age that he is. Now, if he was released to the community
17 and then was I evaluating him after he was out in the
18 community for a period of time after release, then his age
19 would, would stop. But now it would -- we would always be
20 using it -- a current calculation until he's released from
21 secure confinement.

22 Q Okay. The second question is has he ever lived with
23 and that, that -- explain that.

24 A Has he ever lived with a lover?

25 Q Or a spouse or whatever.

120

Marie Gehle - Cross-examination
By Mr. Thompson

1 I mean is spouse included in that?

2 A I mean the, the question is has he ever lived with a
3 lover, and what, what that question is looking at -- it's
4 very specific. It is has he cohabited with a romantic
5 partner for a period of at least two years consecutively.

6 Q Right.

7 And that would have to be based on prior to 2005,
8 right?

9 A That's correct.

10 Q Because they don't let him live with a romantic partner
11 in prison, do they?

12 A That's correct.

13 Q Okay. So, that's an old factor for an evaluation?

14 A It's part of their history. So, it's a static factor,
15 yes.

16 Q All right. Number three. Index nonsexual violence,
17 any convictions.

18 what is an index nonsexual violence?

19 A So, the index offense is their last sexual offense
20 typically. So, it's the last one committed --

21 Q Okay.

22 A -- or the last one they were charged with -- accused,
23 accused of.

24 Q So that would be---

25 A But---

Marie Gehle - Cross-examination
By Mr. Thompson

121

1 Q ---2005?

2 A But I'm -- no.

3 Q Okay. I'm saying---

4 A And then it -- whether they have any nonsexual violence
5 that was along with the sex offense --

6 Q Okay.

7 A -- and whether they were convicted of that. So like a
8 kidnapping charge along with a sex offense could count as
9 nonsexual violence.

10 Q Okay. But my question is so that would go back to 2005
11 or earlier?

12 A That's correct.

13 Q All right. Question Number 4, prior nonsexual
14 violence, does that go back to 2005 or earlier?

15 A Yes.

16 Q Okay. Number 5, prior sex offenses, same question.
17 Does that go back to 2005 or earlier?

18 A For Mr. Owens it does, yes.

19 Q Okay. Number 6, prior sentencing dates.

20 Now this one wouldn't be 2005, would it?

21 It would be 2006, is that correct, when he was
22 sentenced?

23 A It would be prior to the index offense.

24 Q Well---

25 A So it would be 2005.

122

Marie Gehle - Cross-examination
By Mr. Thompson

1 Q Okay. So, the, the last one he was convicted of, the
2 criminal sexual conduct second, wouldn't count under this
3 one?

4 A Correct.

5 Q All right. Number 7, any convictions for noncontact
6 sex offenses.

7 Again, that would go back to 2005/2006 or earlier,
8 right?

9 A For Mr. Owens it would, yes.

10 Q Okay. Eight, any unrelated victims.
11 Again, 2005 and 2006?

12 A For Mr. Owens, yes.

13 Q Nine, any stranger victims.

14 Again, 2005/2006?

15 A Yes.

16 Q Number 10, any male victims.

17 Again, that would be 2005/2006?

18 A Yes.

19 Q And, and that's because there hasn't been any victims
20 since that point in time.

21 Is that correct?

22 A That's correct. He's been incarcerated.

23 Q Right.

24 So, nine out of those ten questions on that form deal
25 with issues occurring prior to 2005/2006?

Marie Gehle - Cross-examination
By Mr. Thompson

123

1 A For Mr. Owens, they do, yes.

2 Q Okay. The only one that would be current is his age?

3 A Yes.

4 Q All right. If Mr. Owens were to go into treatment, if,
5 if this jury were to put him into treatment, he comes out of
6 treatment, and you give him this same test again, would it
7 score the same?

8 A It would depend on what his age was.

9 Q So, it might be more in favor of him if he's older?

10 A Correct.

11 Q Okay. But he couldn't get any worse?

12 A It could because he could have new victims in the
13 program. I mean he could commit other sex offenses and
14 things that happen in institutions can count on this
15 instrument in certain circumstances.

16 Q Okay. But if he were to do what he was suppose to do
17 in the program and get out, his numbers would essentially be
18 the same as this?

19 A That's correct. It's a baseline.

20 Q It's a baseline and it's a baseline on nine out of the
21 ten questions that, that were formed 15 years -- 15 to 16
22 years ago?

23 This is 2021, right?

24 A In his case, many of those factors are -- I mean this
25 is historical information that we're basing it on. So, for

124

Marie Gehle - Cross-examination
By Mr. Thompson

1 him, it would go back to 2005, 2006, and prior, yes.

2 Q Well, we're talking about his case, right?

3 A Yes.

4 Q Okay. And now the, the Static-99, the actuarial part
5 of it, is based on a huge sample, correct?

6 A That's correct.

7 Q Not just his case but everybody's case that they've
8 studied?

9 A Yes.

10 Q Okay. And you say that, based on all these people
11 they've studied, you say he's -- he, he scored a seven.

12 Is that correct?

13 A He scored a seven on this instrument, yes.

14 Q Okay. And that seven wouldn't change next week, next
15 year unless he got out and committed another offense?

16 A I mean it can change today if he committed another
17 offense and certain things happen. You know, if he was
18 charged---

19 Q Yeah.

20 A ---and things -- then things could change.

21 Q But I believe you said he, he scored a seven?

22 A Correct.

23 Q And you say that, according to those actuarial
24 tables -- and life insurance companies use actuarial tables,
25 don't they, to predict when---

Marie Gehle - Cross-examination
By Mr. Thompson

125

1 A It's my understanding they do, yes.

2 Q Yeah.

3 To predict when you're gonna die?

4 A Yes.

5 Q Based on those actuarial tables, you say that that big
6 sample, 27.7 percent of them would reoffend within five
7 years.

8 Is that correct?

9 A 27.7 did reoffend within five years---

10 Q Did reoffend---

11 A ---in that sample.

12 Q ---within five years?

13 A Uh-huh. (Affirmative).

14 Q All right. But that means then that 72.3 percent of
15 them did not reoffend.

16 Is that correct?

17 A In five years, that's correct.

18 Q All right. So how do we know whether Mr. Owens is
19 gonna be in that 27 percent or the 72 percent?

20 A Now, it's difficult to say that. It's my opinion that
21 he is in that and that his risks makes his likely.

22 Q Now, this Static-99, this study they've done, is it
23 done only on people who have been convicted of a sex
24 offense?

25 A They look at people who are charged and convicted, but,

126

Marie Gehle - Cross-examination
By Mr. Thompson

1 for the most part, that initial group is convicted. I, I
2 believe that they're -- yeah, they're all -- they're all
3 convicted of at least one offense from my understanding.

4 Q Okay. Do you know what the rate of someone who has
5 never been convicted would be of committing a crime within
6 five years, a sex crime?

7 A So what's just the general like --?

8 Q The general public.

9 A If we just picked a random person?

10 well---

11 Q Or just the general public.

12 Has there been a study done on just a general
13 population?

14 A I, I don't know what that number is. It's a good
15 question. I don't know, in the general population, what the
16 likelihood somebody is to commit a sex offense. I, I don't
17 know.

18 Q Okay. So, this study only deals with people who have
19 been convicted of sex offenses?

20 A That's correct.

21 Q All right. Now, your second one was a -- the
22 Static-2002, right?

23 A Static-2002R. R meaning for revised, yes.

24 Q Oh, is that what the R stands for?

25 A Yes.

Marie Gehle - Cross-examination
By Mr. Thompson

127

1 MR. THOMPSON: Okay. May I approach, Your Honor?

2 THE COURT: Yes, sir.

3 Q This may be an old form too but is this similar to what
4 you used?

5 A Yes, it is an old form but it's -- it app -- it appears
6 to be the same.

7 MR. THOMPSON: And I'm sorry.

8 Just for the record, Your Honor, I provided Mr. Runyan
9 the copies of what I just handed you.

10 THE COURT: Thank you. You were reading my mind.

11 All right.

12 Q This form is -- what's the difference between the 2002R
13 and the 99R?

14 A There's actually a lot of differences. The, the thing
15 that's really similar is the name but that's because it
16 comes out of like the same research group. So they just, I
17 guess, liked that name. They liked to name things that but
18 they're very, very different instruments.

19 Q Okay. I guess my -- maybe I didn't phrase my question
20 correctly.

21 why do we have two?

22 what does one cover that the other one doesn't?

23 A Well, the -- it's -- the, the information is looked at
24 in very different ways and there's some different questions
25 on either instrument.

128

Marie Gehle - Cross-examination
By Mr. Thompson

1 Q Okay. Well, let's look at the questions. The first
2 one on the 2002R is again age.

3 Is that correct?

4 A That's correct.

5 Q That's current?

6 A Yes.

7 Q All right. The second question is prior sentencing
8 occasions.

9 A Yes.

10 Q So that would go back?

11 A Right. Sorry. Prior sentencing occasion for sexual
12 offenses.

13 Q Okay.

14 A That's different than what you said on the---

15 Q And, and the---

16 A On the Static-99R there's a question prior sex
17 offenses. On that, you're looking at how many charges and
18 how many convictions, and then there's a, a table, and you
19 look at whichever is higher, charges or convictions, and it
20 comes out with a, you know, a zero, one, two, or three
21 score. On this one, this is just convictions that are
22 separate convictions, sentencing occasions, and they have to
23 be completely separate meaning you have to be charged with,
24 then convicted before it can be a new sentencing occasion.

25 Q All right. Well, that answers my earlier question

Marie Gehle - Cross-examination
By Mr. Thompson

129

1 what's the difference between the two.

2 Okay. Thank you. But question number two on here, the
3 prior sentencing occasions for sexual offenses.

4 In Mr. Owens case, that would go back to 2006, right,
5 or does this deal only with the index or prior to the index?

6 A So on both of these instruments, you identify the index
7 offense, which is the most recent -- on, on the Static-99R,
8 it is the most recent charge or conviction depending on the
9 circumstances, and, on the 2002R, you're looking at the most
10 recent conviction. So, that's the index offense and then
11 you have to look prior to that.

12 Q So, so Question Number 2 doesn't deal with the 2006
13 conviction?

14 It would deal with convictions prior to that?

15 A Right, because the 2006 is the index.

16 Q The index.

17 Okay. Yes.

18 A So they want to look at whether they can differentiate
19 just a sex offender from a repeat sex offender. So, that's
20 why they like suggest -- well, it's not suggestion. That's
21 why you have to sort of look at everything before the index
22 offense cause, when you're scoring this on just a general
23 sex offender, this might be the first offense they've had or
24 this might be the 15th offense, and that's how you're
25 gonna help differentiate a sex offender from a repeat sex

130

Marie Gehle - Cross-examination
By Mr. Thompson

1 offender.

2 Q All right. But the gist of my question is we're gonna
3 go back to 2000 -- well, that would be 2005 or so before
4 we -- on this one, right?

5 A Yeah, the index is 2006 convictions. So, we're gonna
6 look at the offenses prior to that.

7 Q All right. Question Number 3 is does he have any
8 juvenile arrest for sexual offense and convicted as an adult
9 for a separate sexual offense.

10 We go back a long ways on that about a juvenile arrest,
11 right?

12 A That's correct.

13 Q He's what, 52 now?

14 A Yes.

15 Q Okay.

16 A 51 or 52, yeah.

17 Q So, he'd have to be 18 or under?

18 A Yes.

19 Q All right. Now, Question Number 4, the rate of sexual
20 offending, explain that one to me please.

21 A The rate of sexual offending. You're looking at how
22 many times they've been convicted of a sexual offense in --
23 over the course of their life. And so you get less than one
24 sentencing occasion every 15 years, they get a zero. One or
25 more sentencing occasions every 15 years, they get one.

Marie Gehle - Cross-examination
By Mr. Thompson

131

1 So, essentially you add up the -- all of the sentencing
2 occasions and you divide that -- like their age, you divide
3 by that number to see if you get more or less than 15.

4 Q Okay. So, in Mr. Owens case, he would score a one,
5 correct?

6 A Yes.

7 Q All right. But all those sentencing, the sexual
8 offending occasions, occurred prior to 2006?

9 A Correct.

10 Q Okay. Deviant sexual interest, Question Number 5.

11 Any sentencing occasion for noncontact sex offenses,
12 and just the gist of my question, just to simplify things,
13 that will be based on anything occurring prior to 2006 also,
14 would it not?

15 A In his case, yes.

16 Q Okay. Question 6, any male victims, again, no
17 occasions since 2006.

18 So, it would be prior to that?

19 A Yes.

20 Q And, Number 7, any young or unrelated victims.

21 Again, we'd be looking at prior to 2006, right?

22 A Correct.

23 Q Question 8, any unrelated victims.

24 Again, prior to 2006?

25 A Correct.

132

Marie Gehle - Cross-examination
By Mr. Thompson

1 Q Question 9, any stranger victim.

2 Again, prior to 2006?

3 A Correct.

4 Q Now, this one has 14 questions. Any prior involvement
5 with the criminal justice system.

6 Are we looking at prior to 2006 on that also?

7 A Prior to the index offense. So, for Mr. Owens, that
8 would be 2006---

9 Q Okay.

10 A ---when he was convicted, yes.

11 Q All right. Prior sentencing occasions for anything.
12 Does that deal with the index also, index offense?

13 A It's prior to the index.

14 Q All right. So that would be prior to 2006?

15 A That's correct.

16 Q Any community supervision violation.

17 Now, let me ask you this, and you may not know the
18 answer, he has a probation violation, correct?

19 A Yes.

20 Q All right. Do you understand that, in the law of South
21 Carolina, there's a difference between a -- probation and
22 community supervision?

23 A Yes.

24 Q All right. Does this question dealing with community
25 supervision deal with the community supervision as defined

Marie Gehle - Cross-examination
By Mr. Thompson

133

1 by law in the State of South Carolina?

2 MR. RUNYAN: Objection, Your Honor. Outside her
3 knowledge.

4 MR. THOMPSON: She's---

5 THE COURT: Y'all can come up please.

6 And I tell you, while they're coming up, why doesn't
7 everybody just stand up for just a minute, okay, stretch.
8 Don't know if the temperature's going go up or down in this
9 room but it seems like now the air is blowing towards me.

10 So, y'all stretch, jump around a little bit if you need
11 to.

12 Okay?

13 (WHEREUPON, a bench conference was held outside the
14 hearing of the jury at this time.)

15 THE COURT: Are y'all okay?

16 (WHEREUPON, the jurors nod affirmatively.)

17 THE COURT: Okay. I should of told y'all to bring some
18 socks and hat.

19 Okay. And so, with regard to the objection, I will
20 sustain that, Mr. Thompson. I think that you made your
21 point, sir. If you can please move on.

22 MR. THOMPSON: Okay. Thank you.

23 Q Question -- let me take this off so I can at least
24 breathe while I'm taking. Question Number 13, years free
25 prior to index six -- sex offense.

134

Marie Gehle - Cross-examination
By Mr. Thompson

1 Again, that's prior to 2006?

2 A For Mr. Owens, yes.

3 Q Okay. And 14, any prior nonsexual violence sentencing
4 occasion.

5 Again, index offense?

6 A Correct.

7 Q So, prior to 2006 --

8 A Correct.

9 Q -- for Mr. Owens?

10 A Uh-huh. (Affirmative).

11 Q So, the only thing on either one of these Static-99R or
12 Static-2002R forms that applies to the current situation of
13 Mr. Owens is his age. Everything applies, on these
14 questionnaires, to 2002 or prior. I mean 2006 or prior.

15 A It's based on his history. So, you know, for the --
16 it's, it's based on a, largely, on things prior to the index
17 offense for every offender, yes.

18 Q Okay. And on the 2002R I believe you testified that
19 he, he scored an eight.

20 A That's correct.

21 Q And in that actuarial world out there where they've
22 done this vast study of all these people, 34.3 percent of
23 them would reoffend within five years?

24 A Of the people with a score of eight, yes.

25 Q Okay. And that means that 63.7 percent would not --

Marie Gehle - Cross-examination
By Mr. Thompson

135

1 A That's correct.

2 Q -- or did not, correct?

3 A That's correct.

4 Q Okay. And, again, can you tell me whether or not he
5 will?

6 A Again, it's my opinion that he's, that he's in that
7 group and that he's likely.

8 Q It's your opinion that he may but can you say with
9 certainty that he will or he won't?

10 A No, I can not.

11 Q There was a lot of reliance on old records in making
12 this, this determination, wasn't there?

13 A Many of the records were -- yeah, I mean they're
14 historical, yes.

15 Q And as to this Static-99 and the Static-2002R, it's old
16 stuff that we basically had to rely on, right?

17 A I'm sorry.

18 what?

19 Q It was old records that and, and old events and
20 occasions and information concerning them that, that these
21 forms were basically relying on.

22 A Yes, I scored the instruments as in compliance with the
23 scoring rolls and that's based on historical information.

24 Q Okay. Now, you've testified today earlier that you
25 believe he had a paraphilic disorder and I'm not even sure I

136

Marie Gehle - Cross-examination
By Mr. Thompson

1 can pronounce it, biastophilia?

2 A Yes.

3 Q Okay. And you described that as an interest in
4 coercive sexual acts with non-consenting persons?

5 A Yes.

6 Q And you said that, and, and I underlined these words,
7 that can be considered a mental abnormality, right?

8 A Yes.

9 Q Can be. Not guaranteed to be.

10 A Well, I answered it that way because I think I was
11 asked whether paraphilic disorders can be or are mental
12 abnormalities and mental abnormality is a legal term. And
13 so I need to see if it is, is a mental abnormality for this
14 individual.

15 Q Okay. And speaking of, of that, in your dynamic risk
16 factors, one of the indications was multiple para --
17 paraphilias, right?

18 A Correct.

19 Q And one of the -- you basically had two, biastophilia
20 and the telephone scatologia?

21 A Yes.

22 Q Or however you pronounce that.

23 A You're pronouncing it correctly.

24 Q Okay. But you also indicated in your testimony, and
25 that was the only two, and it -- the dynamic risk factors

Marie Gehle - Cross-examination
By Mr. Thompson

137

1 required multiple.

2 That'd be more than one, right?

3 A Yes.

4 Q You also indicated in your testimony though that there
5 was not enough evidence to diagnose the telephone
6 scatologia?

7 A Yes, this risk factor says multiple paraphilias, not
8 multiple paraphilic disorders. So, each piece of
9 information is figured out a little bit differently
10 depending on the purpose. So whether it's for the
11 diagnosis, for the risk factors, sometimes that's using the
12 same language, but they're looking at it in different ways.
13 So, that means I have to look at it in different ways.

14 Q Okay. Now, in your dynamic risk factors, you've listed
15 seven.

16 Is there any set number you have out of the 12 in order
17 to, to make a diagnosis, or not diagnosis, but a
18 determination?

19 A No.

20 Q No.

21 would one be sufficient?

22 A It would depend on the person.

23 Q Okay. And one of the dynamic risk factors you
24 indicated was lack of emotionally intimate relationship with
25 adults.

138

Marie Gehle - Cross-examination
By Mr. Thompson

1 A That's correct.

2 Q If I were, if I were single, never had a relationship
3 in my life, would I have a dynamic risk factor?

4 A If you were being evaluated as a sex offender, then,
5 yes, you could have that even if you haven't had that
6 relationship history, and, and they're, they're very clear
7 in the research that they mean both. Whether your
8 relationships have been very conflictual, and you've been
9 unfaithful, you have relationship problems, also a lack of
10 relationship history period. So, both count as that risk
11 factor.

12 Q And what about -- let's talk about the life-style
13 impulsiveness.

14 what if I just see something, I got to have it right
15 then, buy a car, buy a stereo, or something like that, being
16 impulsive on that, does that mean that I'm -- have a dynamic
17 risk factor?

18 A It would depend. If that is accompanied by other
19 things, if that's -- if you, acting in that way, created
20 more problems in your life. Though it, it would also depend
21 on how you looked at it and just -- it would depend on
22 things I guess.

23 Q Okay. well, you say if I had other problems.

24 what if I didn't have very much money and I was wasting
25 money buying stuff?

Marie Gehle - Cross-examination
By Mr. Thompson

139

1 A Yeah, that could be more indicative of a problem, yes.

2 Q Okay. Would that be a risk factor to determine whether
3 or not I was a sexually violent predator?

4 A It could be for a certain person, yes. That risk
5 factor, like having life-style impulsiveness, has been
6 related to sexual reoffending.

7 Q What about leading to sexual offending?

8 A Excuse me?

9 Q What if I've never offended?

10 A If you've never offended, then we wouldn't be here
11 doing this evaluation. So, I -- it could, it could be a
12 problem for somebody in their life. I mean, you know,
13 spending money you don't have can cause problems depending
14 on your circumstances. It might mean that you end up
15 homeless. It might mean that you end up living in your, you
16 know, parent's house for a while. I mean that could be a
17 good thing for you. It would really depend.

18 Q Well, let's talk about testing for a moment.

19 Okay. I'm assuming you know what the Hare PCL is?

20 A The PCLR?

21 Q Yeah.

22 A Yes.

23 Q Okay. And what is that?

24 A It's the Psychopathy Checklist Revised. Hare is --
25 Doctor Hare, he's the author of that test.

140

Marie Gehle - Cross-examination
By Mr. Thompson

1 Q All right. And what does that test do?

2 A It's a, it's an interview guide and then a scoring
3 instrument to, I guess, diagnose somebody with psychopathy.
4 It gives you an overall score and they have a cutoff. So,
5 if you score above a certain cutoff on, on, on ratings of
6 different characteristics, it could be determined to be a, a
7 psychopath.

8 Q All right. Did you give Mr. Owens the -- this test?

9 A No.

10 Q And why not?

11 A Well, for one, I don't routinely give it but there was
12 no indication that he's a psychopath. He was very pleasant
13 and cooperative in the interview. So, it wasn't warranted.

14 Q Okay. I would assume the same probably applies for the
15 personality assessment inventory since you said you see no,
16 no reason for psychopathy?

17 A Okay. Psychopathy means that somebody's a psychopath.
18 That means without conscience. That's, that's different
19 than psychopathology, which you would use the PAI to look
20 at. They're different in---

21 Q Is that where you---

22 A They're different constructs. They sound the same but
23 they are very different things.

24 Q Did you use the Personality Assessment Inventory?

25 A No.

Marie Gehle - Cross-examination
By Mr. Thompson

141

1 Q why not?

2 A For one, I, I interviewed him remotely but that's not
3 an instrument that I typically give. If I want to have an
4 assessment of personality that's something that's more
5 comprehensive, or of mental health problems that's more
6 comprehensive, I'll give you an MMPI that's similar to the
7 PAI.

8 But given that we were in the pandemic, I wouldn't be
9 able to give him any of those instruments. Especially when
10 he was interviewed, I think things were very locked down.
11 He was actually quarantined in the prison at the time. So
12 there were, you know, some accommodations that had to be
13 made. But it's not a test that I routinely give in sexually
14 violent predator evaluations.

15 Q well, what about the Conners' Continuous Performance
16 Test?

17 A That's a test of a -- attention and concentration. It
18 wouldn't be relevant in sexually violent predator
19 proceedings.

20 Q well, did you not see any issues relating to his, his
21 attention while you were talking with him?

22 A I didn't see any issues with that but, even if I did,
23 that doesn't lead to sexually violent offending. So, I have
24 a very narrow focus when I do these evaluations. I'm -- I
25 don't need to diagnose or assess for every single condition

142

Marie Gehle - Cross-examination
By Mr. Thompson

1 that he could ever have. But I saw no reason that -- that
2 that test would be relevant and it's not relevant in the
3 research to sexual offending.

4 Q Okay. What about the Multiphasic Sex Inventory, MSI
5 II?

6 A Yes, that has -- yes.

7 What about it?

8 Q All right. What's it's -- what's it's use?

9 A Well, it's something that's not used very often these
10 days. The validity of it is not great. So, we used to use
11 it at the Department of Mental Health but stopped when more
12 research came out to say that it wasn't very valid and
13 reliable.

14 Q Wasn't it initially designed to assess psychosexual
15 characteristics among people that have either committed a
16 sex offense or alleged to have committed one?

17 A That's my understanding. They stopped using it, the
18 Department of Mental Health, before I started working there.
19 So, I haven't used it personally. I've seen reports on it
20 but I don't have like a detailed knowledge about, about it.

21 Q All right. What about Abel Assessment for Sexual
22 Interest, the AASI-3?

23 A Yes.

24 Q Okay. It's designed to measure the sexual interest and
25 to collect information about abusive and sexual problem

Marie Gehle - Cross-examination
By Mr. Thompson

143

1 behaviors.

2 Is that correct?

3 A Yes.

4 Q Did you use that test?

5 A No.

6 Q Why?

7 A That's a viewing time measure and the validity of that
8 test is very suspect. It's often been found to be
9 inadmissible in Court.

10 Essentially what they do is have you sit at a computer
11 and they show you pictures of various things. Like maybe a
12 picture of a little girl in a dress, and then they measure
13 how long you look at the picture. So, if you look at it
14 longer, then it's assumed that you are interested in little
15 girls. There's all other kinds of reasons you could be
16 looking at that picture like maybe it looks like your
17 granddaughter or a kid you knew in school or something like
18 that.

19 It's also an, an instrument that they have not been
20 forthcoming with how they calculate the results. So, you
21 take the test, the results go to a group in Atlanta, and
22 then they send results back to you, and you don't -- like no
23 researcher has ever gotten to see how they come up to those
24 results.

25 Q So, are you saying that this test is no longer used?

144

Marie Gehle - Cross-examination
By Mr. Thompson

1 A No, I'm saying that I don't use it. The evaluators
2 that I work with don't use it but some people still use it,
3 yes.

4 Q Are you familiar with the Penile Plethysmograph,
5 Plethysmograph?

6 A Yes.

7 Q Okay. Did you use that in this case?

8 A No.

9 Q And what is that?

10 A Well, a Penile Plethysmograph, PPG, is a test that's
11 suppose to measure, measure sexual arousal. If it's to be
12 used at all, which I don't believe it should be used in this
13 context because, again, the validity and reliability is not
14 well established with that instrument, but it's particularly
15 poor with offenders against adults. So, it has more utility
16 with children but it's still not a great instrument and I
17 wouldn't use it in this type of proceeding.

18 Q Well, now, one of the things that they look at in the
19 PPG, besides children, don't they look at coercive and
20 abusive relationships?

21 A That's what it's -- I guess that's what they say
22 they're measuring. But the problem is is that's what's been
23 shown to individuals that they call stimulus sets -- so, the
24 way this test works is they put a gauge on your penis. It's
25 a circular gauge. It goes around the base of your penis and

Marie Gehle - Cross-examination
By Mr. Thompson

145

1 then they show you various pictures or you listen to
2 different stories on a headset and they want to measure
3 whether your girth changes in your penis. They're looking
4 at very minute changes. So, like millimeters, 5-millimeters
5 of stretch, which is very, very small, compared to what a
6 fully erection is.

7 This stimulus sex that they look at are what---

8 THE COURT: Counsel?

9 Counsel, can you-all agree that we can move past this?
10 She did not use this test.

11 Is that correct?

12 MR. THOMPSON: Well, she didn't use the test but I want
13 to go into why it wasn't used---

14 THE COURT: Okay.

15 MR. THOMPSON: ---and why it could of been.

16 THE COURT: So, ask her that.

17 Okay?

18 MR. THOMPSON: Okay.

19 Doctor Gehle, Mr. Owens, his past record shows some,
20 for lack of a better word, abusive, coercive indications
21 towards females, right?

22 A Yes.

23 Q One of the things this test measures, with the pictures
24 and the sound, is his reaction to not only the children or
25 things like that but to coercive and abusive acts --

146

Marie Gehle - Cross-examination
By Mr. Thompson

1 A I---

2 Q -- with adults.

3 A I disagree with that. That's what the test says it
4 measures but there's not good research on what it's actually
5 measuring.

6 Q Okay.

7 A So there's research that shows that if you even just
8 mention the word of genitals to people, that can elicit
9 arousal. So, if they're doing that, but they're saying it's
10 a coercive situation that they're showing them, they don't
11 know if they're getting aroused to the use of the words of
12 the genitals or whether it's actually the coercive situation
13 because they haven't done research on that -- on those
14 stimulus sets. And so it's very problematic. I don't use
15 that test.

16 Q Okay. But if you were to have used that test, that
17 would be a test showing the current state, right, not 15
18 years ago?

19 A I guess I don't want to say that necessarily because I
20 don't know what that test actually is measuring because we
21 don't have good research on what it's actually measuring.
22 But, yes, it would be a test that I'd give now and it would
23 be measuring something now but I wouldn't know what it was
24 actually measuring. That's the problem with that test.

25 Q But whatever results you get would be current results,

Marie Gehle - Cross-examination
By Mr. Thompson

147

1 right?

2 A Yes, with my caveats.

3 Q And have you ever been involved in a case where that
4 test was used?

5 A I've never given or ordered that test.

6 Q Have you -- you've testified in Court, right?

7 A Yes.

8 Q Has the State ever brought in another witness that's
9 used that test?

10 A Yes.

11 Q And that test was admitted into Court, into evidence?

12 A Yes, at times it's admitted. At times it's been not
13 admitted, yes.

14 Q Okay. You just have a preference not to use it?

15 A I have a strong preference not to use it and that's
16 based on the research findings. I disagree that it's used
17 in these cases.

18 Q Now, let's talk about Mr. Owens release, his plans for
19 release.

20 I believe you said he indicated he planned to live with
21 his dad, right---

22 A Yes.

23 Q ---on release and his stepmother?

24 A I, I believe he -- if they are --.

25 Q I think you indicated they weren't married.

148

Marie Gehle - Cross-examination
By Mr. Thompson

1 A That's what he told me at the time, yes.

2 Q Okay. That's what he told you?

3 A Yeah, he said that they were waiting to get married
4 until he was released.

5 Q Okay. Did he give you any indication of what kind of
6 work he was gonna do when he got out?

7 A Yes, he told me that he planned to work on cell phone
8 towers.

9 Q Okay. Did he tell you whether or not he was qualified
10 to do that?

11 A I believe that that might be work that he's done in the
12 past.

13 Q Okay. So, he has a plan for work when he gets out?

14 A Yes.

15 Q He has a plan for where he's gonna live?

16 A Yes.

17 Q Okay. I believe you indicate he would be on community
18 supervision for two years?

19 A Yes.

20 Q What about the Sex Offender Registry, will he also be
21 on that?

22 A Yes.

23 Q What about GPS monitoring, ankle monitoring, where they
24 can track him?

25 Are you aware of that?

Marie Gehle - Cross-examination
By Mr. Thompson

149

1 A He -- it's -- from my understanding, when people are,
2 are released on community supervision, they might have a
3 period of like up to six months of GPS monitoring. So, he
4 could, he could have that. I'm not sure.

5 Q So you don't know about the GPS monitoring?

6 A I know that it's a part of community supervision but it
7 could be individualized. I'm -- so I'm not clear if that's
8 gonna -- if that applies to everybody or if it's mandatory.
9 I know that he won't be on long term GPS monitoring for --
10 as a sex offender.

11 MR. THOMPSON: Just a moment, Your Honor. I believe I
12 may of covered everything.

13 THE COURT: Yes, sir.

14 while you're looking, I'm gonna ask everyone to stand
15 up again. We last stood about 30 minutes ago.

16 (WHEREUPON, the jurors comply.)

17 MR. THOMPSON: I do have one other thing.

18 THE COURT: Okay. Everyone please be seated. Thank
19 you.

20 (WHEREUPON, the jurors comply.)

21 THE COURT: Yes, sir, please continue.

22 MR. THOMPSON: Thank you.

23 Doctor Gehle, in your evaluation of Mr. Owens, it came
24 out that he had a problem, and I believe you testified it
25 has to do with alcohol, cocaine, and acid.

150

Marie Gehle - Cross-examination
By Mr. Thompson

1 Is that correct?

2 A Yes, that was based on his self-report.

3 Q All right. And later on in testimony when we was
4 talking about the paraphilia, you said those were pervasive,
5 chronic?

6 A Correct.

7 Q And that it wasn't caused by alcohol or drugs but it
8 could be exacerbated by it.

9 Is that correct?

10 A Yes, because of -- alcohol can effect judgment overall,
11 yes --

12 Q Okay.

13 A -- when you're intoxicated.

14 Q Now, part of any treatment plan would be to get him to
15 recognize his problems, right?

16 A Yeah, that's a typical step, yes.

17 Q And one of the problems, at that time, being alcohol
18 and drug use?

19 A It could be.

20 Q Okay. But there's been no indication of alcohol or
21 drug problems since 2006, has there?

22 A He had no infractions for substance use or possession
23 in, in the Department of Corrections.

24 Q So, as far as we know, he's been clean for 15 years?

25 A I believe so. He gave various accounts of his

Marie Gehle - Cross-examination
By Mr. Thompson

151

1 substance use history. So, it's, it's actually hard to tell
2 if he was being honest with me or if he was being honest
3 with prior evaluators. For me, he said that he had this
4 really long history of substances. He hid it from
5 everybody. Nobody at all knew about it.

6 In prior evaluations he said that he had stopped
7 drinking long before those evaluations. So, back in 1993 he
8 said that he had stopped drinking. He was not interested at
9 all in drug use. So, he gave me a different account. I
10 don't know which one's true.

11 Q Okay. But we don't have any reason to suspect there's
12 been a problem since 2006?

13 A He says it's not been a problem.

14 Q Okay. Thank you.

15 THE COURT: Redirect?

16 MR. RUNYAN: Briefly, Your Honor.

17 THE COURT: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MR. RUNYAN:

20 Q Doctor Gehle, there was a lot of talk about what's been
21 done, you know, prior to 2006 and looking at the records.

22 Could you explain again why it's important to look at
23 past behavior?

24 A If you want to know what somebody's likely to do in the
25 future, you have to look at their past behavior. The more

152

Marie Gehle - Redirect examination
By Mr. Runyan

1 often they -- they've done it, the more likely they are to
2 do it again. So, all of that stuff is relevant and it's the
3 way that you score these actuarial risk assessment
4 instruments which are the most accurate way to estimate
5 whether somebody's likely to commit acts of sexual violence.
6 I mean it's the best that we can do.

7 Q In fact, the two -- the Static-99, Static-2002R, that's
8 their design, right, cause these are static factors that you
9 look at in the past, correct?

10 A Yes.

11 Q All right. So now you were asked about the general
12 population committing a sex crime, was there any studies on
13 the general population committing sex crimes. The
14 Static-99R and Static-2002R, they only deal with people who
15 have been convicted of a sex offense.

16 Is that correct?

17 A Correct.

18 Q And Mr. Owens is a convicted sex offender?

19 A Yes.

20 Q And it's really not one or the other. I think the
21 question was one or the other. You don't use one or the
22 other. You could use one. You could use the other or you
23 could use both.

24 Is that right?

25 A Of the instruments?

Marie Gehle - Redirect examination
By Mr. Runyan

153

1 Q Yes.

2 A Yes, it's recommended to use both in these types of
3 evaluations. But, as an evaluator, I could make a choice
4 that would be to use one or the other.

5 Q And you're not looking for just any criminal behavior
6 in your evaluations. You're kind of looking for sexually
7 deviate or sexually criminal behavior.

8 A Yes, and then I'm specifically looking at sexually
9 violent offending as well.

10 Q And just -- could you remind the jury where has Mr.
11 Owens been since 2006?

12 A He's been incarcerated in jail or prison.

13 Q Now, there was also talk about the risk factors kind of
14 being -- if I, you know, was impulsive with my money, would
15 that make me likely to commit a sex offense or I think Mr.
16 Thompson used himself as an example, but we're not talking
17 about every day people, right?

18 These dynamic risk factors are associated with people
19 who have committed sex offenses.

20 Is that correct?

21 A Yes, I mean we start with the group of sex offenders
22 and then we look at the factors that are related to
23 reoffending. So, we're not looking at what are the risk
24 factors to ever commit a sex offense. It's to commit
25 another sex offense. It would probably be very different

154

Marie Gehle - Redirect examination
By Mr. Runyan

1 factors. I -- but I'm not sure cause I haven't seen studies
2 of that necessarily.

3 Q So, if I just blew all my money, and was impulsive, and
4 I had poor problem solving and all the other things that you
5 listed, that would be different than if I had been convicted
6 of a sex crime---

7 A Correct.

8 Q ---if I had those same -- okay.

9 A Correct.

10 Q There's also a lot of talk about all these different
11 tests.

12 Are -- is, is you, as an expert, as an expert in
13 forensic psychology, are you bound by a set -- a protocol?

14 I mean do you have to do everything else any, any other
15 examiner does?

16 A No.

17 Q And you, you testified to us -- give us your steps
18 again, just briefly, the protocol that you used.

19 A Well, I receive a packet of information that I review.
20 I conduct an interview. I score the actuarials. I look for
21 the dynamic risk factors. I outline all that information in
22 a report and give my opinions and back that up with the
23 evidence of all the information and things from the
24 actuarial, from the research to come to conclusions.

25 Q And you've done that in roughly I think you testified

Marie Gehle - Redirect examination
By Mr. Runyan

155

1 209 instances previously?

2 A I've done 209 pre-commitments but I've also done 90
3 some other sexually violent predator evaluations of people
4 who are committed to the program. So I've, I've done 300
5 SVP evaluations.

6 Q And there was some specific -- specifically a lot of
7 talk about the PPG and you don't use that instrument because
8 you feel it's not reliable?

9 A I feel like, yeah, that rely -- reliability and
10 validity has not been established in the research.

11 Q Last -- I think I'm almost done, Your Honor.

12 Last question I guess or last two questions.

13 You were asked if you could say with certainty that Mr.
14 Owens would commit another sexual offense, correct?

15 A Correct.

16 Q And that's not your mandate, is it?

17 A That's correct.

18 Q What is your mandate under these?

19 A I'm ordered to give an opinion to the Court as to
20 whether he has a mental abnormality or a personality
21 disorder that makes him likely to commit acts of sexual
22 violence if not confined in a secure facility for long term
23 control, care, and treatment.

24 Q And what does likely mean?

25 A Likely means to such a degree as to pose a menace to

156

Marie Gehle - Redirect examination
By Mr. Runyan

1 the health and safety of others and that's defined in the
2 statute.

3 Q It's not will he commit. It's is he likely to commit.

4 A Correct.

5 Q And you gave your opinion to a reasonable degree of
6 psychological certainty that he would, correct?

7 A That he's likely, yes.

8 Q That he's likely.

9 Thank you, Your Honor.

10 THE COURT: Okay. Thank you.

11 Ma'am, you may step down.

12 Any objection to Doctor Gehle being released from her
13 subpoena?

14 MR. RUNYAN: Nothing further, no.

15 MR. THOMPSON: No, ma'am.

16 THE COURT: Okay. Thank you, ma'am. You may step
17 down.

18 Next witness.

19 MR. RUNYAN: Your Honor, at this time the State would
20 rest.

21 THE COURT: Okay. I believe that there's some matters
22 that I may need to take up outside the presence of the jury
23 at this time?

24 MR. THOMPSON: May we approach, Judge?

25 THE COURT: Yes.

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 THE COURT: Okay. We're checking on some things
4 regarding scheduling.

5 why don't you-all stand up again?

6 (WHEREUPON, the jurors comply.)

7 THE COURT: I think it helps us to be more alert. I
8 got my husband a stand up desk and every time I go to his
9 office he's sitting down using it. So -- okay. That's -- I
10 got him one of those chairs with the ball and he uses it to
11 hang his coat on everyday.

12 Okay. So, I'm gonna have some updates for us in just a
13 minute.

14 (Pause.)

15 THE COURT: Okay. Okay. Counsel, if y'all will come
16 back up real quick?

17 (WHEREUPON, a bench conference was held out of the
18 hearing of the jury at this time.)

19 THE COURT: Okay. At this time there are some matters
20 that I need to take up outside your presence. And so I'm
21 going to ask our bailiffs to take you into what would be
22 your normal jury room right outside this room. I don't
23 anticipate this is gonna take very long. There are two
24 bathrooms in there as well.

25 okay. So hopefully -- but this -- I'm assuming that

158

1 we'll be out for maybe 10 minutes, okay, and come back in.

2 All right. All rise.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Okay. At this time are -- please be
6 seated.

7 Are there any motions by the Respondent now that the
8 Petitioner has rested?

9 MR. THOMPSON: Yes, Your Honor. We would move for a
10 directed verdict. The evidence does not support proceeding
11 to determine whether or not Mr. Owens is a -- considered a
12 sexually violent predator.

13 THE COURT: Let me hear from the Petitioner please.

14 MR. RUNYAN: Yes, Your Honor.

15 Your Honor, when ruling on a directed verdict motion,
16 the Trial Court is required to view the evidence in the
17 light most favorable to the nonmoving party, and that, in
18 considering the directed verdict motion, a trial justice
19 can -- trial judge concerned with the existence, not weight.

20 There's two things that the State has to show and that
21 is does Mr. Owens have a sexually violent offense, and does
22 he have a personality disorder or mental abnormality that
23 makes him likely to engage in acts of sexual violence if not
24 confined for long term control, care, and treatment.

25 We have entered into evidence his qualifying

1 convictions, a criminal sexual conduct in the third degree
2 and criminal sexual conduct in the second degree. We have
3 offered a mental health expert in forensic psychology,
4 Doctor Marie Gehle, who has testified that Mr. Owens does
5 suffer from a relevant mental abnormality and that that
6 mental abnormality makes him likely to reoffend based on her
7 assessment and her -- her risk assessment and her
8 evaluation. I think we've met that burden.

9 THE COURT: Okay. Anything else?

10 MR. THOMPSON: No, ma'am.

11 THE COURT: Okay. At this time I would respectfully
12 deny your motion, sir.

13 Are you ready to proceed?

14 MR. THOMPSON: Yes, we are.

15 THE COURT: Okay. And so in checking -- and y'all can
16 be seated.

17 In checking with our bailiffs it's my understanding
18 that lunch is not here yet for the jury. And so I would
19 like to continue on to make the best use of our time. I
20 just need five minutes and then, when I come back, we will
21 begin with the Respondent's case.

22 Okay. And so if the Respondent needs a break, now
23 would be the time for him to take it.

24 All right. Okay. Thank you.

25 (WHEREUPON, a short recess was taken at this time.)

160

1 (WHEREUPON, the following takes place within the
2 presence of the jury.)

3 THE COURT: Okay. You all please be seated.

4 And, counsel, can y'all come up for just one moment.

5 (WHEREUPON, a bench conference was held out of the
6 hearing of the jury at this time.)

7 THE COURT: All right. Madam Forelady, and members of
8 the jury, are we ready to go?

9 THE FORELADY: Yes, we are.

10 THE COURT: Okay. Thank you.

11 I have now conferred with counsel and also with the
12 bailiffs and with our deputy clerk. And we ordered lunch
13 today out of an abundance of caution not knowing exactly how
14 long these things would take and not wanting to belabor it
15 and y'all get lunch at three o'clock or something, okay,
16 cause it -- you can't get lunch here in 30 minutes.

17 So, I want y'all to understand that I've conferred with
18 counsel and understand that I will be attempting to let
19 you-all break for lunch as close to one o'clock as possible.

20 All right. After that we'll come back in at 2:00.
21 That will give y'all a chance to eat.

22 Okay. And so -- but we still have some more work to do
23 before we break for lunch and my understanding is the lunch
24 has not arrived yet.

25 All right. And so, with that, I will call upon the

1 Respondent.

2 MR. THOMPSON: We would call Jeffery Scott Owens to the
3 stand.

4 THE COURT: Mr. Owens, please come around, sir.
5 sir, you'll need to be sworn.

6 JEFFERY OWENS, being first duly
7 sworn, testified as follows:

8 THE CLERK: All right. Thank you. You may be seated.

9 THE COURT: Sir, make yourself comfortable. I don't
10 know if there's water there.

11 THE WITNESS: I'm fine. Thank you.

12 THE COURT: Okay. If you would state your full name
13 for the record?

14 THE WITNESS: Jeffery Scott Owens.

15 THE COURT: Yes, sir.

16 MR. THOMPSON: Please the Court, Your Honor.

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. THOMPSON:

20 Q Mr. Owens, for the court reporter, spell your first
21 name?

22 A Jeff---

23 Q Is it J-E-F-F-R-E-Y or E-R-Y?

24 A E-R-Y.

25 Q Okay. Let's just get the elephant out of the room to

162

Jeffery Owens - Direct examination
By Mr. Thompson

- 1 start with.
- 2 2006 you was convicted of sex offenses, right?
- 3 A (Witness nods affirmatively.)
- 4 Q And you was convicted of sex offenses before that?
- 5 A Yes, sir.
- 6 Q And since 2006 you have been in incarcerated?
- 7 A I have been incarcerated since 2005.
- 8 Q 2005.
- 9 okay.
- 10 A Yes, sir.
- 11 Q Prior to going to Court?
- 12 A Yes, sir.
- 13 Q okay. Are you ready to get out?
- 14 A Yes, sir.
- 15 Q when you get out, where you gonna live?
- 16 A I -- with my dad and my stepmother.
- 17 Q okay. Are they married?
- 18 A They are now. As of last November.
- 19 Q okay. when you get out, do you have plans for work?
- 20 A Yes, sir.
- 21 Q And what are those plans?
- 22 A I've already had a job offer at PCRG wireless doing
- 23 cellphone work, which I have done previously. I worked
- 24 there for about three years.
- 25 Q what kind of work did you do there?

Jeffery Owens - Direct examination
By Mr. Thompson

163

1 A Tower technician. I, I climbed towers. I started off
2 as a construction supervisor, then moved on to a tower
3 technician where we climb the towers installing antennas.

4 Q Okay. Now, you've been present in the courtroom.
5 You heard Doctor Gehle's testimony, haven't you?

6 A Yes, sir.

7 Q All right. One of the things she testified to is that
8 you've had no sex offender classes in the Department of
9 Corrections?

10 A That's correct, sir. They don't offer them.

11 Q I was about to say can you tell me why you haven't had
12 any?

13 A They, they just don't offer it. At either institution
14 that I was at it was never offered. I had brought that to
15 her attention during the evaluation, and that's when I was
16 told that it was at Broad River, which I was never at Broad
17 River, and had no knowledge of anything like that.

18 Q Okay. Did you take any kind of classes in the
19 Department of Corrections?

20 A Yes, sir, while I was at McCormick Correctional
21 Institution, the faith and character base program. I was a
22 part of it for three and a half years. I've attended AA --
23 excuse me. I've attended AA classes while I was in that
24 program and while I was at McCormick. I left McCormick in
25 2013 and went to Tyger River Correctional Institution.

164

Jeffery Owens - Direct examination
By Mr. Thompson

1 I worked in the Prison Industries there and they did
2 not -- they did not have the AA classes at Tyger River but I
3 did -- you know, they had a, I guess, a faith class that was
4 referred to as Every Man's Journey.

5 You know, it's just a group of people together. They,
6 they discussed what got you to where you're at, you know, to
7 where we was at incarcerated, the journey that you took to
8 get there, then the journey why you're in prison to better
9 yourself, and then, of course, you know, the journey
10 afterwards. I was a part of that for -- it was almost a
11 year before the pandemic hit and they shut everything down.

12 Q Everything was locked down from the pandemic then?

13 A Yes, sir.

14 Q Okay. Now, you, you mentioned AA.

15 Did you have a problem with alcohol and drugs prior to
16 going to prison?

17 A Yes, sir, I did.

18 Q All right.

19 A I -- I'm sorry, y'all. Yeah, I had a bad problem with
20 it. I drank just about everyday.

21 Q Okay. Since you've been out of prison, have you had
22 use -- have you used alcohol or drugs?

23 A No, sir, I have not touched a thing.

24 Q Have you had access to it since you've---

25 A Yes, sir.

Jeffery Owens - Direct examination
By Mr. Thompson

165

1 Q ---been in prison?

2 A There's just as much alcohol, drugs that -- in the
3 Department of Corrections as there is on, on the outside.

4 Q Okay. Do you plan to continue when you get out in AA?

5 A Yes, sir, that's my -- I -- my -- one of my goals is
6 I'd like to keep attending AA. It's not helped me but just
7 what I've went through. This -- everything that I've been
8 through since I've been incarcerated and what led to my
9 incarceration. You know, I try to help other people at the
10 same time. I've done the same thing since I've been here in
11 the county jail with the new people coming in.

12 I mean they're -- we got 19, 20, 21 year old kids
13 coming in with sex offenses over there, and, you know,
14 that -- and they just acting like it's a --.

15 Q Okay. Let's don't go into other people.

16 A Okay. I apologize.

17 Q That's all right. Your time in the Department of
18 Corrections, you said something to me when we met a while
19 back.

20 Do you remember what you said?

21 A Well, no.

22 Q When I asked if you'd learned anything while you was
23 there.

24 A I've learnt so much there about everything. Just the
25 responsibility of your actions, what it, what it actually --

166

Jeffery Owens - Direct examination
By Mr. Thompson

1 what it causes, what you -- your actions, what you -- what
2 it causes you to lose. Since I've been in the Department of
3 Corrections, I mean I've, I've lost so much and it's my
4 fault. It's my fault that I've lost everything that I had
5 prior to getting arrested and the things that I've lost. I
6 lost my mother while I was in there, which, you know, that
7 was, that was hard, you know, to lose a family member while
8 you're, while you're incarcerated.

9 But it's just not only what it done to me. What -- my
10 actions just didn't affect me. It affected other people.
11 It affected the victims, of course, and there's no way that
12 I could ever apologize or say I'm sorry enough for, for what
13 I caused the victims but it affected my family.

14 My actions from when I, when I first got in trouble
15 affected me and my family. I've got a daughter that I have
16 not seen since she was five years old. Twenty-four years I
17 have not seen my daughter, which is my fault. But she
18 contacted me last year, and, you know, the plan is to, you
19 know, try to re -- you know, reconcile -- get back with her
20 to, you know, try to start something to see if there is
21 anything there.

22 Q Are you gonna be the same man coming out that you were
23 going in?

24 A No, sir, I will never be that, that person again.
25 Alcohol, that's something I will never touch. That was my,

Jeffery Owens - Direct examination
By Mr. Thompson

167

1 that was my demon that I will never, never do it again. All
2 I care about -- I want, I want to be with my family. I want
3 to go to church. I've got a support group out of this world
4 and --.

5 Q Tell us about that support group.

6 A Well, starting off with I got, I got my dad and my
7 stepmother. That's, that's two of my biggest right there.
8 Then I've also -- I've got people who were employed with the
9 South Carolina Department of Corrections at McCormick and
10 Tyger River.

11 The chaplain at Tyger River, Chaplain Painter, has, you
12 know, let me know that they gonna be starting that Every
13 Man's Journey support group outside of prison, and that's
14 what -- I, you know, to plan to try to, to help out with
15 that. Employees of Tyger River that, you know, that I work
16 with. I worked in the Prison Industries at Tyger River.

17 The supervisor---

18 Q What is that?

19 A Excuse me?

20 Q What is Prison Industries?

21 A Prison Industries is -- it's Shaw Flooring that's
22 inside of the Tyger River Correctional Institution. It's a
23 private sector there. I've worked there. I've worked in
24 Prison Industries my whole -- the whole time I've been down.
25 At McCormick, I worked there doing upholstery work. Learned

168

Jeffery Owens - Direct examination
By Mr. Thompson

1 a great trade doing that. Upholstering everything from a
2 chair to a car seat.

3 Then, at Tyger River, like I said, we done the hardwood
4 flooring. It's a minimum wage PI and I started at the, at
5 the bottom scraping wood which is not really great for
6 somebody that, you know, my age at that time but -- and I
7 worked my way all the way up to -- I was quality
8 coordinator. I was over every bit of the quality in three
9 plants on that yard.

10 Q Okay. Now, I guess what I was trying to get to, what
11 did prison do to you?

12 A It humbled me. It gave me respect for other people.
13 It, it taught me, you know, that that's not the place you
14 want to be. This is not a life -- it's not a life you want
15 to live whatsoever. Responsibility is the main thing. Just
16 the responsibility to, you know, to own up to your, to your
17 actions too, you know, know that you did wrong.

18 Q Did it break you?

19 A It broke me bad. I -- that's -- to be away from your
20 loved ones, to be away from your family, I've not -- this
21 is -- yesterday was the first day I seen my father since
22 February of last year. Of course, because of the pandemic
23 and all that. But when he walked -- when I seen him out in
24 the hallway when we came in yesterday, I mean it -- you
25 know, it, it tore me up, him and my stepmother both.

Jeffery Owens - Direct examination
By Mr. Thompson

169

1 You know, they've been great to me. But they, they --
2 that's my, that's my rock right there. That's my support.

3 Q Okay.

4 A And---

5 Q Now, besides who -- your support group when you get
6 out, is there anything else -- are you -- Doctor Gehle
7 testified you'd be on community supervision.

8 A Yes, sir, I'm -- there's two years of community
9 supervision, and, to my understanding, that I was on a
10 lifetime GPS monitor. That's what -- I understood that.
11 But so the testimony earlier about -- just about six months,
12 that was, that was new to me there. I wasn't aware of that.

13 Q Will you also be on the Sex Offender Registry?

14 A Yes, sir, be on the Sex Offender Registry and I --
15 pretty sure -- I mean that's lifetime.

16 Q Now, you violated probation in the past, right?

17 A Yes, sir, I sure did.

18 Q Why do you think if -- you could complete community
19 supervision now?

20 A There's nothing that's ever gonna cause me to ever
21 break the law. I -- I'm never coming back into the, into
22 the justice system again. This is -- 16 and a half years of
23 my, of my life gone because of stupidity.

24 I'm not blaming everything on the alcohol. I don't
25 want people to sit there and think that I'm hollering that

170

Jeffery Owens - Direct examination
By Mr. Thompson

1 alcohol's the -- it -- alcohol just caused me to make poor
2 decisions. It, it made me make bad, bad decisions. It's
3 something I can't ever take back.

4 what I did in the past, I -- it embarrasses me. I'm
5 ashamed of it and, you know, like I said, I let a lot of
6 people down with, with the things that I did. I -- you
7 know, the people that I hurt, I am so sorry. There's
8 nothing that I could ever do to, you know, to repay that.

9 Q And basically just one more question.

10 You heard Doctor Gehle say that, when you was on
11 probation before, you did not do sex offender treatment
12 that's required.

13 A Correct.

14 Q Can you explain what happened there?

15 A When I was doing the sex offender treatment, I had
16 just, I had just got out of jail, been sentenced. The job
17 that I was working, I couldn't get off work for the, the
18 treatment plans. I was -- it was every Tuesday, and if, if
19 I'm not mistaken, it was two or three o'clock, it's been a
20 while back, for the time at \$25.00 a week, and that was one
21 of the things.

22 But I talked to my probation officer and they -- he
23 told me that we could postpone that. I was on five years
24 probation at the time and he said we will postpone that to a
25 later date. I went to, I think, five or six classes but my

Jeffery Owens - Direct examination
By Mr. Thompson

171

1 job, at the time, is just, you know, having to get off that
2 every Tuesday was putting a strain on, on my job at the
3 time. It's not that I just --.

4 Q So you didn't refuse to do it?

5 You just---

6 A No, sir. No, sir.

7 Q You asked that it be delayed?

8 A Exactly.

9 Q And that was agreed to by your probation officer?

10 A Yes, sir.

11 Q There was some issue of probation violation. You had
12 one probation violation.

13 Is it correct that you had one probation violation---

14 A Yes, sir, just one.

15 Q ---in 2006?

16 A Yes, sir.

17 Q And that resulted in a six year consecutive sentence?

18 A Right. It got, it got -- they violated my probation
19 when I got arrested in 2005. The arrest violated the
20 probation. The 2006 was not the probation violation. The
21 2006 was when I got convicted of the probation violation.
22 It was not a separate probation violation.

23 Q Okay. That's when it went to Court?

24 A Yes, sir.

25 Q Do you think you have a mental abnormality?

172

Jeffery Owens - Direct examination
By Mr. Thompson

1 A No, sir, I do not.

2 Q Okay. If you were to be released, would you be willing
3 to continue with some kind of a treatment if that's what
4 community supervision requires?

5 A Yes, sir, most definitely. Most definitely.

6 Q Thank you. I don't have any further questions.

7 A Thank you, sir.

8 THE COURT: Sir, please answer any questions by
9 Mr. Runyan.

10 Mr. Runyan, cross-examination.

11 MR. RUNYAN: May it please the Court?

12 CROSS-EXAMINATION

13 BY MR. RUNYAN:

14 Q Mr. Owens, I think you said you were here during all of
15 Doctor Gehle's testimony.

16 Is that correct?

17 A Yes, sir.

18 Q Okay. Talking about the classes, you said you took
19 faith based character class and when you -- while you were
20 in McCormick.

21 Is that correct?

22 A Yes, sir.

23 Q I think -- what was the name of that program?

24 A It was just -- it was a faith -- that's what it was,
25 faith and character based program. It -- they actually had

Jeffery Owens - Cross-examination
By Mr. Runyan

173

1 no name. It's just -- it's -- they just called it a faith
2 and character based program.

3 Q Wasn't like Kairos?

4 A No, sir, I went through Kairos. I went through Kairos
5 at McCormick also.

6 Q So you went to Kairos too?

7 A Yes, Kairos---

8 Q They didn't tell you what the name---

9 A Kairos, Kairos is not---

10 THE COURT: Okay. One at a time---

11 MR. RUNYAN: Sorry.

12 THE COURT: ---all right, so our court reporter can
13 make a record. Thank you.

14 Ask the question again.

15 Q So now that I've had -- told you about Kairos, now
16 you've taken Kairos?

17 A Yes, sir, I was in, in Kairos in two -- 2008 I believe
18 it was. But, like I said, it was -- Kairos was not a, a
19 class. It was not a -- it was a weekend thing. It was a
20 religious, faith based, well, I ain't gonna say faith based
21 cause it's religious, thing where volunteers came in and you
22 spent that weekend I think from Thursday to Sunday and you
23 have your little, you know, your group meetings and it was
24 just talking, you know.

25 It was all religious. It was talking about God and the

174

Jeffery Owens - Cross-examination
By Mr. Runyan

1 things, you know, that God can do in your life, you know,
2 that, that sort of stuff. They brought food in every
3 afternoon for every day, you know, fed you through it and
4 all that. But it's not -- I never thought Kairos was, you
5 know, categorized as a class.

6 Q Did you get any sort of certificate?

7 Kairos usually gives out cert -- certificates.

8 A Yes, sir, I got---

9 Q You did?

10 A ---a certification. Everybody who went -- goes through
11 Kairos gets a certificate, yes, sir.

12 Q Do you still have your certificate?

13 A I imagine it's in my -- it was in my warden's jacket.

14 Q Okay.

15 A I would imagine.

16 Q And the faith based character course that you took, did
17 that issue certificates?

18 A They don't -- you don't actually get anything -- in
19 others words, it's a, you know -- some of the classes that
20 you take that volunteers come in for, I believe that they
21 had their certificates for. But a lot of the classes you,
22 you took was a requirement to be in the faith and character
23 based program at the same time also.

24 Besides AA, I was taking a, a, a -- I can't even -- I
25 can not pronounce this word, apotha -- apothalistics

Jeffery Owens - Cross-examination
By Mr. Runyan

175

1 (phonetic) --

2 Q Okay.

3 A -- I believe was the name of it. Once again, it was a,
4 a religious, you know, a Christian group where there was
5 never any volunteers that come in with that. The, the
6 fellow who would run it was also an inmate but he went
7 through the CDU program I believe it was, and, you know,
8 he -- of course, he was qualified to be, I guess, a mentor.
9 And so, you know, also I took that.

10 Q Okay. And your Every Man's Journey, did they give out
11 certificates?

12 A No, sir, that --.

13 Q Okay.

14 A Every Man's Journey was a new class -- a new program
15 that got started and, like I say, I was in it maybe a year.
16 We met once a week. It was more, more a support group than
17 a class. But, once again, you know, cause -- because of the
18 pandemic, of course, we wouldn't allowed -- you know, like I
19 say, Tyger River, the whole thing got shut down. And so
20 it -- everything stopped.

21 Q So you've done all these things prior to your interview
22 with Doctor Gehle, right?

23 A Yes, sir.

24 Q So why didn't you tell Doctor Gehle about them?

25 A When Doctor Gehle asked me if I'd been had any classes

176

Jeffery Owens - Cross-examination
By Mr. Runyan

1 taken, and I told her that I had been in a -- was in the
2 faith and character based program, she told me then she
3 wants to know if I had any sex abuse classes and I said
4 ma'am, they don't offer them in SCDC and that was it.

5 Q That's not true. They do offer them in SCDC though.

6 A Not that I'm aware of, no, sir.

7 Q I think -- I believe you just testified that you were
8 made aware that sexual offender treatment is available at
9 Broad River.

10 A That -- Ms. Gehle told me that during the evaluation.
11 while I was incarcerated, I had no earthly idea. During the
12 evaluation when I said -- when I brought up to her that it
13 was not offered at none of the institutions I was at, and
14 she said well, it is offered in SCDC. I said I don't know
15 about it. She said Broad River.

16 I had no way of knowing this. I had no way of knowing
17 it.

18 Q It seems to me, Mr. Owens, that if, if I -- if you're
19 in the interview, and Doctor Gehle's talking to you about
20 your life and your change, these are things that you would
21 want to tell her.

22 A And I attempted to tell her.

23 Q But you---

24 A But she wanted to hear about sex abuse classes. That
25 was what -- that was her exact words. I want to know about

Jeffery Owens - Cross-examination
By Mr. Runyan

177

1 the sex abuse classes that you're taking. I attempted to
2 tell her about -- I've told her about the faith and
3 character based program at McCormick and she wanted to know
4 about sex abuse classes.

5 Q Well, let's talk about sex offender treatment. You
6 didn't take it in prison cause -- well, you're saying it
7 wasn't offered.

8 A Right.

9 Q You were Court ordered to take sex offender treatment.

10 A Yes, sir.

11 Q Is that right?

12 And you didn't.

13 A Part of the probation, yes, sir.

14 Q Right.

15 And you didn't do that?

16 A That's what I was intending when I -- me and my
17 probation officer, he had agreed to postpone it. I had went
18 to like five or six class, and, because of my job, the
19 probation officer, when I talked to him, he said we, you
20 know, we, we could postpone this until a later date.

21 Q Do you have any documentation that the probation
22 officer said that?

23 A No, sir, I do not. I couldn't even tell you -- I, I
24 don't even know the name of my probation officer it's been
25 so long ago.

178

Jeffery Owens - Cross-examination
By Mr. Runyan

1 Q Well, it's kind of curious.

2 It doesn't sound like they agreed with you cause you
3 got violated for not going to it, correct?

4 A No, sir, I did not. I never got violated for not going
5 to a -- to that. I got violated for the -- my probation
6 because I got rearrested. I got---

7 Q Well, there were two things.

8 A ---arrested again.

9 Q I think you got---

10 THE COURT: Okay. Again --

11 MR. RUNYAN: Sorry.

12 THE COURT: -- let him answer fully and then you
13 answer---

14 MR. RUNYAN: I'm sorry, Your Honor.

15 THE COURT: ---ask your questions, sir. I know
16 that --.

17 MR. RUNYAN: Right.

18 THE COURT: I understand.

19 Okay. But our -- Mrs. Green needs to make a record.

20 MR. RUNYAN: Yes, ma'am.

21 THE COURT: All right. Thank you. Ask the question
22 again.

23 MR. THOMPSON: Well, I'll just, I'll just kind of move
24 on to a little -- a different topic. Well, the same topic.
25 Just a different question. There it is.

Jeffery Owens - Cross-examination
By Mr. Runyan

179

1 Your Honor, may I approach the witness, Your Honor?

2 May I approach?

3 THE COURT: Yes, sir.

4 what is the purpose?

5 MR. RUNYAN: I want just to, to -- there's some CW
6 numbers up here and I believe these are the numbers of
7 the -- his probation violence -- probation violations.

8 THE COURT: Okay. Have you shown that --

9 MR. RUNYAN: Yeah.

10 THE COURT: -- to opposing counsel?

11 If y'all need to stand up again, you can.

12 Okay. Y'all want to stand up for just a second?

13 (WHEREUPON, the jurors comply.)

14 THE COURT: Okay.

15 MR. RUNYAN: we'll forego---

16 THE COURT: Please be seated.

17 (WHEREUPON, the jurors comply.)

18 THE COURT: Okay. Counsel, are you ready?

19 MR. RUNYAN: No, it's no necessary -- not necessary to.
20 I'm ready to proceed.

21 THE COURT: Okay. Thank you.

22 Q So we can agree that you didn't take Court mandated
23 sexual offender---

24 A I didn't complete it, no, sir.

25 Q Okay. And you said that was because you were working?

180

Jeffery Owens - Cross-examination
By Mr. Runyan

1 A The job I had I had a first shift job at the time, and
2 if I'm not mistaken, the classes, it's either two or three
3 o'clock. It was one of the two. My shift was never over
4 until 4:00, and even they -- I just started this job
5 because, like I said, I just, you know, I -- I'd just come
6 out.

7 I'd been incarcerated. I went to Court and got the
8 job, and going every Tuesday, it was -- you know, it was
9 kind of putting a strain on that because I worked, I worked
10 for Confab Metal Fabrication here in Spartanburg, and
11 sometimes we'd be working outside of the, of the building.
12 I mean I had to be at Laurens or whatever. And, you know,
13 that was putting a strain on everything because I had to
14 take off every Tuesday to go to that. So, they agreed to
15 postpone it.

16 Q So, it wasn't convenient for you and your work
17 schedule, correct?

18 A I'm not gonna say it wasn't convenient for me. It
19 wasn't convenient for my job because I had to -- I mean I
20 had to work. I had to live.

21 Q But the Court ordered sex offender treatment was in
22 lieu of serving time in prison, right?

23 It was a part of your probation?

24 A Exactly. And I was also on five years probation.

25 Q So that was part of your probation?

Jeffery Owens - Cross-examination
By Mr. Runyan

181

1 So, it was like your sentence you were serving outside
2 of the prison, right?

3 A I'm not, I'm not understanding what you're saying.

4 Q Well, you were under orders by the Court on probation
5 to do certain things, right?

6 A Right. And sex offender treatment was one of them.

7 Q And you got a -- I think it was a six year sentence
8 suspended to one -- after one year served, you got five
9 years probation?

10 A I was -- six years suspended to five years probation,
11 one years home detention.

12 Q Uh-huh. (Affirmative).

13 A I had been in the -- at the time I was in the County
14 Jail for seven months. The remaining five months of that
15 one year I was on the home detention monitor, and then, of
16 course, yes, after, after that one year was complete, then
17 it was five years probation, correct.

18 Q I guess what I'm getting at is the probation was in
19 lieu of you being in prison?

20 Yes?

21 A Not being in prison, no, sir. It was, it was my
22 sentence. I never went to the Department of Corrections on
23 that sentence.

24 Q You got a one year suspended sentence?

25 A I got a six year --

182

Jeffery Owens - Cross-examination
By Mr. Runyan

1 Q Uh-huh. (Affirmative).

2 A -- suspended to five years probation, one years house
3 arrest. In the county jail, I, I done seven months that
4 they gave me credit for that I was in jail waiting to go to
5 Court because I, you know, I couldn't afford to be bonded
6 out. When I went to Court after that seven months, they
7 gave me credit for the seven months that I had already
8 served and I done a, a remaining five on the home monitor.
9 I was never in SCDC on that period.

10 Q Correct.

11 But if you violated your probation, hypothetically,
12 let's say you did some other crime, could you have gone back
13 to prison?

14 A I did.

15 Q You did?

16 A Yes, sir.

17 Q So, the sex offender treatment was a part of your
18 sentencing?

19 A The sex offender treatment was part of my sentencing on
20 the probation.

21 Q Yes.

22 A I violated a probation.

23 Q Okay. We'll move on.

24 You will agree that you were convicted of, in 1992, of
25 assault and battery of a high and aggravated nature,

Jeffery Owens - Cross-examination
By Mr. Runyan

183

1 correct?

2 A Yes, sir.

3 Q And that you told Doctor Gehle that you "knocked the
4 hell out of her and she fell."

5 Is that correct?

6 A Yes, sir.

7 Q It was bad enough that she sprayed you with mace,
8 right?

9 A As she was getting up, yes, sir, she did.

10 Q Uh-huh. (Affirmative).

11 Looks like later in the report you told Doctor Gehle
12 "it was more like a push, a slap."

13 A I know I, I assaulted the lady. Whether it was -- you
14 know, I mean I, I guess yes, I mean.

15 Q Well, it seems different. I mean like knocking the
16 hell out of her and pushing her, slapping her, seems
17 difference (sic). So, I just want -- I want you to tell us
18 which it was.

19 A You've never had to -- ain't nobody's ever had the hell
20 slapped out of them?

21 I mean --.

22 Q Is that what you did, you slapped the hell out of her?

23 A Pretty much. I mean I --.

24 Q Why'd you do it?

25 A I was mad. I was upset. It wasn't no -- it wasn't

184

Jeffery Owens - Cross-examination
By Mr. Runyan

1 targeted at her.

2 Q well, didn't you tell Doctor Gehle that you didn't know
3 why you did it?

4 A I told her the exact reason I just told you, sir. I
5 was mad. I got no, I got no excuse or no reason why I took
6 it out on her other than the fact that I, that I was upset
7 and I did, I did that.

8 Q Okay. So, you got -- when were you sentenced on that
9 one?

10 You remember?

11 A Not right offhand. I think three years probation I
12 believe. It might of been. I'm not a hundred percent sure.

13 Q Yes, five years suspended to three years with
14 counseling.

15 A Right.

16 Q Okay. What kind of counseling was that one if you
17 know?

18 A I think it was just like a -- I seen a psychiatrist I
19 believe it was.

20 Q You saw a psychiatrist.

21 So, you saw the psychiatrist that Doctor Gehle talked
22 about in 1993?

23 You went to see him?

24 A Yes, sir.

25 Q Yeah.

Jeffery Owens - Cross-examination
By Mr. Runyan

185

1 So, you remember going through that psychological
2 evaluation that you---

3 A I---

4 Q ---talked about?

5 A I remember having to do it and everything. I, I can't
6 possibly -- I couldn't possibly sit here and tell you what
7 was said during it or --.

8 Q You don't have---

9 A I don't even remember the psychologist name.

10 Q Just you went to it?

11 A Yes, sir.

12 Q Okay. So, Doctor Gehle asked you how you did on
13 probation for that -- for those -- for that assault.

14 How'd you do?

15 A I violated with the phone harassment.

16 Q And that was the obscene phone calls in 1993.

17 You got two counts in North Carolina, correct?

18 A Got two counts in North Carolina and two counts down
19 here at the same time, yes, sir.

20 Q Did you spend time in prison in North Carolina?

21 A Maybe -- right at a year I believe it was.

22 Q A year.

23 And then I guess, when you got out, you came back down
24 here and what, what happened?

25 Shortly after you came back down here you got

186

Jeffery Owens - Cross-examination
By Mr. Runyan

1 arrested---

2 A No, sir.

3 Q ---for the charges in South Carolina?

4 A No, sir.

5 Q All right.

6 A All the charges were at the same time. It's just that
7 I had the charges in North Carolina and charges in South
8 Carolina at the same time. When, when I got out of North
9 Carolina, when they released me, a month later I went to, I
10 went to Court here.

11 Q That's my question, yes. So --.

12 A Yeah. But, like I said, it wasn't -- I didn't have --
13 get, get the charges in North Carolina, do the time, come
14 down here, and then reoffend and do it again. All the
15 phonecalls were at the same time. It's just North Carolina
16 tried me before South Carolina did.

17 Q Understood.

18 But I, I -- what I was getting at was that, as soon as
19 you got released---

20 A A month and a half later, yes, sir.

21 Q ---you had -- you moved down here and, and you were
22 arrested---

23 A Right.

24 Q ---for the charges here?

25 A Correct.

Jeffery Owens - Cross-examination
By Mr. Runyan

187

1 Q Did you go to prison for those, the South Carolina
2 charges?

3 A They -- Youthful Offender Act one to six. I'd been
4 in -- I was in jail for four months and they sent me to the
5 Department of Corrections and I was in there for seven
6 months I believe it was.

7 Q So -- but you got some time in 1994?
8 would that be about right?

9 A I got out I believe on January of the -- '94 I believe
10 it was. I'm not -- like I say, that's, that's been a while
11 back. I was 24 years old, dude.

12 Q But not, not in '94.
13 Some time in '94?

14 A Right.

15 Q Okay. Is that fair to say?

16 A Yes, sir.

17 Q Okay. Now, I guess, by my count, Mr. Owens, this is --
18 you have the assault and then you had the obscene phone
19 calls in North Carolina---

20 A Yes.

21 Q ---and South Carolina where you spend some various
22 times incarcerated.

23 A I sure did, sir.

24 Q So here you are in 1994 and you're out in the
25 community.

188

Jeffery Owens - Cross-examination
By Mr. Runyan

1 well, what happens in 1999?

2 A In 1999 I was arrested for a CSC third I believe it was
3 and assault and battery of a high and aggravated nature.

4 Q And you pled guilty to that?

5 A I pled guilty to a simple assault. The CSC third was
6 dismissed. The assault and battery of a high and aggravated
7 nature got dropped to a simple assault. I pled guilty to
8 simple assault in Magistrate's Court here. Thirty days time
9 served.

10 Q Okay. So you were punished for that?

11 A Excuse me?

12 Q You were punished for that?

13 A Punished for that?

14 Q Yeah.

15 A Yes, sir.

16 Q Yeah. Yeah.

17 A Thirty days.

18 Q You get consequences for that, right?

19 A Yes, sir, I---

20 Q Cause not just 30 days.

21 You had time served, right, cause you'd already been in
22 jail?

23 A Yes, sir.

24 Q Okay.

25 A I spent a, a couple months. I'm not exactly -- I can't

Jeffery Owens - Cross-examination
By Mr. Runyan

189

1 remember exactly how long.

2 Q well, that's fine.

3 But you got, you got -- you were in jail. They -- and
4 you served your time and that was---

5 A Yes, sir.

6 Q ---that satisfied the sentence, right?

7 A Yes, sir.

8 Q Okay. So that's -- you got out some time in 1999 or
9 was it early 2000?

10 A No, I'm pretty sure it was '99.

11 Q Okay. Some time in '99?

12 A Somewhere around there, yes, sir.

13 Q Okay. So what happened in 2001?

14 A Got rearrested again, a CSC.

15 Q CSC.

16 So, you got arrested for CSC second, correct?

17 That was the initial charge?

18 A I believe so, yes, sir.

19 Q And you pled down to CSC third, right?

20 A Yes, sir, I sure did.

21 Q All right. This time you didn't have an opportunity to
22 plead down to ABHAN, right?

23 A I've never pled anything down to an ABHAN I don't
24 believe.

25 Have I?

190

Jeffery Owens - Cross-examination
By Mr. Runyan

1 Q well, you pled to the ABHAN in two -- 1992.

2 A of '92.

3 okay. I'm sorry. I --.

4 Q Yeah, that's okay.

5 So, you didn't have that option in 2001?

6 You were charged with criminal sexual conduct in the
7 second degree and you pled down?

8 A Second degree and they dropped it to a CSC third,
9 correct.

10 Q And that was in 2001?

11 A I was arrested in 2001. I didn't go to Court until
12 2004 I believe it was.

13 Q So roughly a year after your -- the ABHAN that you---

14 A Yes, sir.

15 Q You say simple assault. I think Doctor Gehle had some
16 records that said it was ABHAN.

17 A It was, it was never an ABHAN. I mean it was an ABHAN
18 originally but the plea deal -- the -- what I was convicted
19 of was a simple assault.

20 Q Okay. But basically that's a year later --

21 A Okay.

22 Q -- you had committed --

23 A Yes, sir.

24 Q -- a sexually violent offense, correct?

25 A Excuse me?

Jeffery Owens - Cross-examination
By Mr. Runyan

191

1 Q A sexually violent offense, criminal sexual conduct in
2 the third degree?

3 A Criminal sexual conduct in the third degree is not a
4 violent offense.

5 Q It's a sexually violent offense.

6 A It's a sexual offense but not a sexually violent
7 offense.

8 Q It's a sexually violent offense under this Act, isn't
9 it?

10 A Okay.

11 Q Okay. So but -- okay. So you pled guilty to that.
12 what, what did you get for that?

13 what was your sentence?

14 A That was the six years, six years suspended to five
15 years probation, one years house arrest.

16 Q Okay. So this is the one where you had the -- you had
17 to get the sex offender treatment?

18 A Yes, sir.

19 Q Okay.

20 A Excuse me.

21 Q And that victim was a stranger, right?

22 You picked her up on the side of the road?

23 A She was a prostitute, yes, sir.

24 Q She was a stranger?

25 A A stranger, yes, sir.

192

Jeffery Owens - Cross-examination
By Mr. Runyan

- 1 Q And you picked her up on the side of the road?
- 2 A Yes, sir.
- 3 Q Pulled her hair?
- 4 A Off Howard -- no, sir.
- 5 Q Oh, you didn't?
- 6 A Howard Street is where I picked her up at.
- 7 Q Okay. You rape her?
- 8 A She performed oral sex. They was nothing more than
- 9 that.
- 10 Q Okay. Against her, her will?
- 11 A No, sir, it was not against her will.
- 12 Q Oh.
- 13 A It was just I didn't pay her.
- 14 Q So why'd you have to get violent with her?
- 15 A Oh, I mean she got mad at me. I mean not trying to be
- 16 funny about anything, but I -- you know, once she did that
- 17 and I told her I wasn't gonna pay her and everything, you
- 18 know, she started -- you know, she got mad. So, I pushed
- 19 her down and I took off.
- 20 Q So you say she was a prostitute.
- 21 why didn't you pay her?
- 22 A I, I got no -- I got no answer for that.
- 23 Q Could the answer be just cause you like to have
- 24 nonconsensual sex?
- 25 A Excuse me?

Jeffery Owens - Cross-examination
By Mr. Runyan

193

1 Q Could the answer be because you like to have
2 nonconsensual sex?

3 A No, sir.

4 Q Okay. Okay. So after 2001 when you get the criminal
5 sexual conduct third degree with this woman that you picked
6 up and sexually assaulted, what happens then in 2005?

7 A 2005 is --

8 Q Yeah.

9 A -- when I got arrested for criminal sexual conduct and
10 for what I got my prison time on.

11 Q That's what you got the 15 years for?

12 A Yes, sir.

13 Q So you were arrested for criminal sexual conduct in the
14 first degree and kidnapping?

15 A Right.

16 Q Right.

17 And you pled that -- you didn't have an option to plead
18 to ABHAN either, did you?

19 A No, sir.

20 Q You didn't have the option to plead that to criminal
21 sexual conduct in the third degree, did you?

22 A No, sir, they come up with criminal sexual conduct
23 second degree.

24 Q And you pled guilty to that?

25 A Yes, sir.

194

Jeffery Owens - Cross-examination
By Mr. Runyan

1 Q And got 15 years?

2 A I got 15 years, yes, sir, with -- and then the time for
3 the probation violation.

4 Q And this was for sexually assaulting another stranger,
5 correct?

6 A Yes, sir.

7 Q And you picked her up on the side of the road?

8 A Yes, sir, I picked her up in Una.

9 Q Okay. You punch her in the face?

10 A Not when she first got in. Afterwards, yes, sir, I
11 did.

12 Q Okay. Was she bleeding?

13 A Yes, sir.

14 Q Did you have her perform oral sex on you while she was
15 bleeding?

16 A No, sir, I did not.

17 Q Oh.

18 A The punt -- the hitting did not come in until after.

19 Q Okay. So, you had the nonconsensual oral sex with her
20 and then you punched her?

21 A There was no -- there was never any nonconsensual sex.

22 Q That's not what the records shows, Mr. Owens. I mean
23 you pled guilty.

24 There was a finding of fact, right?

25 A I did plead guilty, yes, sir. I sure did.

Jeffery Owens - Cross-examination
By Mr. Runyan

195

1 Q So you came to a Court with a judge, an attorney, and
2 there was a finding of fact?

3 A Yes, sir.

4 Q And that fact was that you---

5 A Yes, sir. I pled guilty, yes, sir.

6 Q And that you sexually assaulted her?

7 A I pled guilty, yes, sir.

8 Q And then in -- at the same time what we've talked about
9 in some way is that, because of that criminal sexual conduct
10 in the second degree plea, that was a violation of your
11 probation?

12 A Right.

13 Q So you got tacked on to -- your 15 years --

14 A Yes, sir.

15 Q -- another six years?

16 A Yes, sir, it -- which that wind up getting -- going to
17 five years but it, it was done after I was in SCDC because
18 the one year house arrest that was on there was given for
19 time served.

20 Q And you don't believe you have a problem with sexual
21 behavior.

22 Is that right?

23 A No, sir, I don't. I had a problem with alcohol and
24 drugs. I didn't -- that was my problem. That's what --
25 that's what I had a problem with.

196

Jeffery Owens - Cross-examination
By Mr. Runyan

1 Q You just testified earlier that you didn't want people
2 to think that you really had a -- you know, it wasn't
3 because of the drugs and alcohol.

4 A I didn't want nobody to know that I had that problem.

5 Q Well, I think you just testified here that you, you
6 didn't want people to think that was your problem why you
7 were doing this.

8 A No, I said it's not the main reason that I did it.

9 Q Right.

10 A I said alcohol is -- did not cause me to do it. It
11 caused me to make bad decisions.

12 I committed my crimes. I am guilty of the crimes that,
13 that I pled to or I, I never would of pled to them. Even
14 though I pled guilty to these, yes, they are circumstances
15 to everything. But, like I said, I mean I'm guilty. I, I
16 did -- I, I, I committed crimes and I served my time for it.

17 Q And you don't believe you have any risk to reoffend
18 sexually?

19 A No, sir, I will never -- I will never break the law
20 again. I will never -- anything that's -- you tell me it
21 can't be done, I will not do it period.

22 Q Well, Mr. Owens, you've, you've lied about your past
23 before, haven't you?

24 A I'm sorry?

25 Q You've lied about your past before, haven't you?

Jeffery Owens - Cross-examination
By Mr. Runyan

197

1 A Yes, sir, I've lied about my past.

2 Q You told---

3 A I think everybody's probably lied about their past
4 before.

5 Q Okay. You even told Doctor Gehle that you lied about
6 your past. In fact, some of the stuff I think you told her
7 was the first time you told anyone.

8 Is that right?

9 A The first time I did what now?

10 Q I think you told Doctor Gehle that some of the stuff
11 you were telling her was the first time you had told anyone?

12 A I don't recall that.

13 Q Don't recall.

14 So, these -- you don't see a pattern in all these
15 offenses?

16 A Of course there was a pattern. You -- yes, sir, there
17 was.

18 Q Well, why don't you tell us, in your words, what the
19 pattern is?

20 A The pattern was that, you know, I would, I would get
21 drunk and I would -- I'd pick up me a prostitute and I
22 would, you know, I had sex with her. I can't explain why I
23 did the things that I did. I have no reason for that. I
24 have no excuse or anything else for anything that I've done.

25 Like I -- once again, no, I'm not blaming my crimes on

198

Jeffery Owens - Cross-examination
By Mr. Runyan

1 alcohol. Not blaming them on drugs or anything. They
2 didn't help any. They didn't help any at all. They did not
3 help in my decision making.

4 But, like I say, once again, I -- I've assumed
5 responsibility for my actions. I did that the day that I
6 pled guilty and I got this time, and I been paying for them
7 for every day for the last 16 and a half years.

8 Q Well, why didn't you change your behavior?

9 It seems to me, by my count, you've had five different
10 occasions in which you've been in the criminal justice
11 system where you've had the opportunity to, to change your
12 life.

13 A I, I don't drink anymore. I don't do drugs anymore. I
14 don't do any of that stuff anymore to cause anything like
15 that for me to even have any type of thoughts that way. I
16 don't -- I'm not that same person that I was that got locked
17 up at all. The night that I -- that, that morning that I
18 got locked up, that night, afternoon, yeah I -- I'd been
19 drinking and I'd been drinking heavily and I don't drink
20 anymore.

21 Q Well, I'm just confused, Mr. Owens, because sometimes
22 your testimony sounds like you're, you're blaming it on the
23 alcohol and---

24 A No, sir, I'm not.

25 Q But sometimes it sounds like you're, you're saying I, I

Jeffery Owens - Cross-examination
By Mr. Runyan

199

1 don't have a problem, that wasn't the problem, and I did my
2 actions, and it wasn't the alcohol. But then you say it's
3 that -- I'm, I'm trying to -- just clarify for me.

4 A I've never sit there and said that -- what I did I did.
5 It's the alcohol that caused me to make the bad decisions.
6 It didn't, it didn't help anything. I made my decisions and
7 everything and I, and I committed the crimes.

8 was I under the influence when I did it?

9 Yes, sir, I was. I was. It, it didn't help my
10 decision making skills whatsoever.

11 Q And you want to believe -- the jury to believe that
12 after all these chances that you've had, and that, you know,
13 the probation -- the violations that you've had, the
14 repeated sex -- sexually violent offenses that you've had,
15 that this time you're gonna be different?

16 A Of course I'm gonna be different. I most definitely am
17 gonna be different. I've done 16 and a half years without
18 any incident at all. Granted it was all in SCDC.

19 But, like I said, I has access to alcohol in SCDC. I
20 had access to drugs in SCDC. I had access to sex in SCDC
21 and I'm not talking about men or anything. I'm -- with
22 women but I did not choose that route. I chose that that
23 was the time for me to change and that's what I did.

24 Q You had access to women, consensual women, that wanted
25 to have sex with you?

200

Jeffery Owens - Cross-examination
By Mr. Runyan

1 A Officers down there, any---

2 THE COURT: Sir, move forward.

3 MR. RUNYAN: Okay. I think I'll be done then, Your
4 Honor.

5 THE COURT: Okay. Thank you.

6 MR. THOMPSON: I got one---

7 THE COURT: Anything on redirect?

8 MR. THOMPSON: I just got one question.

9 REDIRECT EXAMINATION

10 BY MR. THOMPSON:

11 Q Did they have sex offender classes at McCormick?

12 A No, sir.

13 Q Did they have them at Tyger River?

14 A No, sir.

15 Q Were you ever in Broad River?

16 A Thirty days -- 16 days under quarantine from August the
17 6th to August the 29th I believe it was.

18 Q Were you offered sex offender classes during that---

19 A No, sir.

20 Q ---twenty days?

21 A I was quarantined.

22 Q Okay. Thank you.

23 THE COURT: Okay. Sir, you may step down. Watch your
24 step.

25 THE WITNESS: Thank you, ma'am.

1 THE COURT: Thank you.

2 Counsel, can you-all come up for just a moment?

3 (WHEREUPON, a bench conference was held out of the
4 hearing of the jury at this time.)

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, it's my understanding that your lunch is here. And so
7 we're going to break for lunch now. There's some matters I
8 need to take up with the lawyers. So, we're gonna continue
9 to work for a while.

10 But if you-all will follow the bailiffs out. We'll
11 come back in about 10 after 2:00 to give y'all a chance to
12 eat lunch, have a break, okay, and set -- again, do not
13 discuss the case. I have not told y'all to start
14 deliberating yet.

15 All right. Is everybody understanding me on that?

16 (WHEREUPON, the jurors nod affirmatively.)

17 THE COURT: Okay. All right. And so, with that,
18 please follow the bailiffs.

19 Everyone please rise.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: Okay. Counsel, can y'all come up for just
23 one moment?

24 (WHEREUPON, a bench conference was held at this time.)

25 THE COURT: All right. So, if y'all want to go ahead

202

1 and put your -- put any motions on the record in
2 anticipation of your resting --

3 MR. THOMPSON: All right.

4 THE COURT: -- and then we'll say that when they come
5 back in, okay, so they don't have to leave again.

6 Mr. Thompson, sir, does the Respondent rest at this
7 time?

8 MR. THOMPSON: Your Honor, we would rest. And, and
9 just for convenience and economy, I realize the jury's not
10 here, we'll go ahead and rest at this time. Then we can put
11 it on the record when they come in.

12 THE COURT: Yes, sir, any motions?

13 MR. THOMPSON: I would renew my motions for a directed
14 verdict.

15 MR. RUNYAN: Your Honor, yeah. The State does -- the
16 State would say that we don't think there's anything that
17 Mr. Owens offered that would change the position that we
18 have met the standard and we'd ask this case go to the jury.

19 THE COURT: Anything else, Mr. Thompson?

20 MR. THOMPSON: No, ma'am.

21 THE COURT: Okay. Sir, I respectfully deny your
22 motion. Thank you.

23 Okay. And so we will be in recess until 10 after 2:00,
24 okay, after which we'll put that on the record when we come
25 back in that, that you-all have -- that you have rested and

1 then we will have closings and charge.

2 MR. THOMPSON: Okay.

3 MR. RUNYAN: Okay.

4 THE COURT: I've got to go contact the other lawyers in
5 the other case.

6 Okay?

7 MR. RUNYAN: Thank you, Your Honor.

8 THE COURT: And if y'all want to come into my office
9 you can.

10 MR. RUNYAN: We're gonna do that now?

11 THE COURT: Yes.

12 MR. RUNYAN: Okay.

13 THE COURT: Okay.

14 (WHEREUPON, a recess was taken at this time for lunch.)

15 THE COURT: For your information, when the jury comes
16 in for closing and charge, no one is allowed to enter and
17 exit the courtroom.

18 Okay. We don't break it up.

19 Counsel, can y'all come up just a second too?

20 Just want to make sure --.

21 (WHEREUPON, a bench conference was held at this time.)

22 THE COURT: Okay. Ladies and gentlemen, we are back on
23 the record with regard to the matter of -- in the Matter of
24 the Care and Treatment of Jeffery Scott Owens. Counsel is
25 aware, but I do need to put something on the record at this

204

1 time, that, during our lunch break, I made the decision to
2 excuse a juror and that was the foreperson of the jury.

3 I talked with counsel about it at the bench after the
4 jury went out for lunch off-the-record. And then I did
5 speak with that juror in my office and I explained to her my
6 reasons for doing so and I had already explained that to the
7 lawyers and then I talked to the lawyers again in my office
8 and explained that a bailiff would instruct the jury that
9 the alternate is now part of the jury and that they could
10 choose their foreperson, a, a new foreperson.

11 And as I have explained to the lawyers, my concern was
12 that I noticed that that juror seemed to either be drowsy,
13 or even at a couple of times, dozing off during testimony
14 when the witnesses were right in front of her. And, in, in
15 my opinion, none of this is boring, you know, and I got -- I
16 could see directly and I had a, a, a line view, a direct
17 line view, of, of this juror.

18 Now, I did not do this lightly and -- but I, I have
19 done it. I think it was best and I believe that counsel
20 concurred with that decision.

21 Is that correct, Mr. Runyan?

22 MR. RUNYAN: Yes, Your Honor.

23 THE COURT: Mr. Thompson.

24 MR. THOMPSON: That's correct, Your Honor.

25 THE COURT: Okay. Now, further, I had a request from

1 counsel that I -- when the jury comes back in, that I
2 explain something to them about my reasoning. I have
3 thought about that. I am not going to explain anything to
4 them.

5 I know that y'all want me to and, and maybe y'all could
6 state why y'all wanted me to do that. But I have had
7 similar instances in the past, and, and I, I have never
8 explained, for several reasons, sometimes someone has a
9 family emergency and they have to leave. They don't want
10 anyone else on the jury to know that.

11 Okay. And so they are gone. We get a call at the
12 lunch hour and then we put someone else in the place or
13 there's something that happens overnight with someone and
14 they, you know, become ill and we put someone in their
15 place.

16 So, let me hear from the State regarding I -- what you
17 had wanted me to tell them and, again, I'm not going to tell
18 them anything but I want you to put it on the record.

19 MR. RUNYAN: Thank you, Your Honor.

20 I guess the concern was, with myself and Mr. Thompson,
21 discussed it outside your chambers was that there may be
22 some perception that it was -- either the State or Mr.
23 Thompson that had requested her to be excused because she
24 had been talked to yesterday and again today. So, we just
25 didn't want to, you know, make the appearance that it was

206

1 the -- through either myself or Mr. Thompson's choosing to
2 have her or request her to be excused.

3 THE COURT: Okay. Mr. Thompson.

4 MR. THOMPSON: That's correct, Your Honor. It's just,
5 you know, we don't want the jury back there speculating as
6 to why the foreman of their jury was removed and we would
7 just think that if Your Honor were to tell them why there
8 would be no speculation and no fault afforded to anybody.

9 THE COURT: Okay. Well, I, I do understand I guess
10 your reasoning but I think it is a very dangerous thing.
11 And, and so I am not going to say anything to them. I am
12 going to inform the alternate, a Mr. Smith, that he is now
13 an official member of the jury. He's been here throughout
14 the entire trial. There have been no deliberations as of
15 yet. They are prohibited from deliberating until I tell
16 them that they can and then the next thing.

17 Okay. So, I instructed the head bailiff, Joan, to
18 explain to the jury that they needed to select their own
19 foreperson. She brought me a note that she wrote saying
20 the -- well, she wrote a note saying that I had asked them
21 to pick another foreperson. The response that came back was
22 they want me to do it, okay, and I will when they come in.

23 All right. So, anything else before we get started?

24 MR. RUNYAN: No, ma'am.

25 THE COURT: Okay.

1 MR. THOMPSON: I just need to rest on the record when
2 they come in, Judge --

3 THE COURT: Yes, sir.

4 MR. THOMPSON: -- in front of them.

5 THE COURT: Okay. And all of the -- all of the
6 exhibits are right here, right?

7 It's just -- it's 1, 2 and 3.

8 MR. RUNYAN: Yes, ma'am.

9 THE COURT: All right. And so we will now have the
10 jury.

11 Okay. And y'all know I give a couple sentence intro
12 into your closings.

13 Okay. And I'm assuming nothing in reply?

14 MR. RUNYAN: No.

15 THE COURT: Okay. So I'll ask you that as well.

16 MR. RUNYAN: Okay.

17 THE COURT: All rise.

18 THE BAILIFF: All rise please.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: Okay. Thank you-all. Please be seated.

22 All right. And so the first matter is our alternate,
23 Mr. Smith.

24 THE JUROR: Yes, ma'am.

25 THE COURT: Yes, sir, Juror Number 149.

208

1 Yes, sir, you are now an official part of the jury.

2 All right. Thank you. Also I need to pick a
3 foreperson at this time.

4 And so, Mr. Smith?

5 THE JUROR: I think it's two.

6 THE COURT: A Mr. Nicholas --

7 THE JUROR: That's me.

8 THE COURT: -- Smith.

9 Okay. Mr. Nicholas Smith, I am going to ask, sir, that
10 you serve as the foreperson of the jury, and I'm gonna ask
11 that you and Jaylon Smith switch places.

12 Okay. If you-all -- it may mean that the other couple
13 of you fellows, if y'all can just maybe move out and let
14 them move back in. I know the plexiglass makes it
15 difficult.

16 All right. And so, again, sir, Mr. Nicholas Smith,
17 Juror Number 151, you are now the foreperson of this jury,
18 and, sir, I will explain your responsibilities to you in
19 more detail when I charge you on the law and go through the
20 verdict form.

21 Okay. And so thank you-all again for serving. It's
22 very important.

23 And, sir, Mr. Smith, are we ready to go?

24 THE FOREMAN: Yes, ma'am.

25 THE COURT: All right. And we have now reached the

1 part in the trial in the Matter of Jeffery Scott Owens, this
2 is Action Number 2419, for closing arguments. And I am
3 going to give you just a very brief introduction. But, but,
4 first, let me officially -- they've already told me this.
5 So, let me get them to put this on the record.

6 Mr. Thompson.

7 MR. THOMPSON: Thank you, Your Honor.

8 The Respondent would rest.

9 THE COURT: Okay. And anything in reply?

10 MR. RUNYAN: No, Your Honor.

11 THE COURT: Okay. And so now we have officially
12 reached the point in the trial for closing arguments of
13 counsel and then I will charge you on the law.

14 All right. The parties have presented their evidence
15 in this case. It is now time for the attorneys to make what
16 is called closing arguments.

17 The arguments of the attorneys are not evidence in this
18 case. Their statements and arguments are meant to help you
19 understand the evidence and apply the law to the evidence.
20 You should disregard any remark, statement, or argument
21 which is not supported by the evidence presented during the
22 trial or the law that I will explain to you after the
23 arguments.

24 And so, now, Mr. Runyan, sir.

25 MR. RUNYAN: Please the Court.

210

1 THE COURT: Yes, sir.

2 MR. RUNYAN: Mr. Thompson.

3 Good afternoon, ladies and gentlemen.

4 I want to thank you as well for serving on this jury.
5 Like I said in the beginning, yesterday afternoon, it's an
6 important duty and you guys have done your duty.

7 If you remember, I asked you, there was one thing that
8 I really wanted you to do and that was listen to the
9 evidence, and throughout this trial, I've been watching you
10 as we've been going on and I can tell that you guys have
11 paid attention to everything that was said here. So, thank
12 you for that.

13 Now, Mr. Owens is a sexually violent predator. A lot
14 of talk about -- has been about, you know, all of his
15 history being prior to 2006, that he hasn't done anything
16 since 2006.

17 Well, if you remember what Doctor Gehle told you, she's
18 an expert in forensic psychology and she told you that
19 psychology is the study of behavior. That's not just future
20 behavior or present behavior. That's the study of past
21 behavior as well because, if you remember, she told you the
22 most important thing in her job, and the biggest predictor
23 of future offense is to look at somebody's past offending.

24 So, she has to look at those things to formulate her
25 opinions. And what she's looking for, if you remember she

1 testified, is a pattern of behavior and we talked about that
2 with Mr. Owens. You know, what -- did he recognize a
3 pattern of behavior.

4 And what Mr. -- Doctor Gehle came up with is that, for
5 a 13 year period from 1992 to 2005 when he was presently
6 incarcerated, while in and out of prison and in the
7 community, he offended sexually against women repeatedly.
8 He did this despite being incarcerated. He did this despite
9 probation. He did this despite being mandated to take sex
10 offender treatment and he was given the chance to change.
11 In '92 after he offended, in '93 after he offended, in '99
12 after he offended, in 2001 after he offended, and now today,
13 in 2005, he's asking for another chance to change.

14 But what has he done with his chances?

15 when he's been given another chance to go back in the
16 community, he sexually reoffended.

17 I don't think that you were surprised when Doctor Gehle
18 testified that, when she did her risk assessment and she did
19 those tests that we talked so much about, I don't think you
20 were surprised that he scored in the well above average
21 category to reoffend based on his history.

22 Now, when we first met yesterday afternoon I gave you a
23 personal example of -- and I asked you to think about
24 changing one's behavior because of consequences or amending
25 one's behavior because of consequences and I gave you the

212

1 story about when I was a child and I burned my fingers and I
2 don't want to touch stoves again. You know, that's, that's
3 amending your behavior.

4 So, why doesn't Mr. Owens amend his behavior?

5 well, you already have the answer if you really think
6 about it. You guys already have the answer. It's because
7 he can not amend his behavior. He can not control his
8 behavior and this is what this all boils down to is whether
9 or not he has the ability to control his behavior, and I
10 think he explained it best when he was on the stand today.
11 If you remember, he said, quote, I wrote it down, "I can't
12 explain why I did those things."

13 well, I tell you it's because what Doctor Gehle said.
14 The answer is because he has a paraphilia, a paraphilic
15 disorder. Remember Doctor Gehle said how this paraphilic
16 disorder dominates his functioning. He can't stop. He
17 needs treatment.

18 Now, Mr. Thompson, the way, you know, he's, he's
19 presented this, I almost think that Mr. Owens is been
20 walking around out in the community for the past 15 years.
21 He keeps talking about he hasn't done anything since 2006.
22 well, he's been incarcerated in that time.

23 So, has he been?

24 He's been in prisons where they have guards, cameras,
25 strict scheduling, lockdowns, roll calls, all sorts of

1 things. It's very hard to do anything.

2 Now, I think it's good and I believe Mr. Owens when he
3 says that he's gotten treatment for his drinking problem.
4 Remember Doctor Gehle he -- she had a drinking problem,
5 alcoholic problem, disorder in controlled -- sustained -- in
6 controlled environment I think is the word she used. But I
7 this it's good he's got treatment for, for that.

8 And he may not drink anymore, but, as he said, it
9 wasn't the drinking that did. He said I am responsible for
10 my actions. You know, the drinking helped me go -- get
11 along with it but I'm responsible for my actions. And if
12 you remember Doctor Gehle said his substance abuse and
13 drinking that really doesn't -- it might take down some of
14 the inhibitions but, if you have that paraphilic disorder,
15 whether you're drinking or not, you have the paraphilic
16 disorder. In other words, being drunk doesn't make you
17 suffer from a paraphilic disorder.

18 And remember what she said that these disorders are
19 chronic in nature, which means if he has it now, he had it
20 back then, and he hasn't had any treatment, and he needs
21 treatment. And when he has treatment, he can learn to
22 manage these things. As Doctor Gehle said, these things can
23 be managed. And once he gets the treatment he needs, he can
24 be released back out into the community.

25 Now, this has been a relatively short trial. I know

214

1 maybe this is the first time you've done a trial but this is
2 a relatively short one. So I'm not going to really, you
3 know, belabor the facts or go over them in any, any great
4 detail because I know you -- they're probably fresh in your
5 mind.

6 But since it is the State's burden, you know, there's a
7 few things that I want to go over with you and highlight
8 because we have to show you these things. We have to prove
9 these things to you.

10 Now, remember those two things are that we have to show
11 that Mr. Owens has been convicted of at least one sexually
12 violent offense, and a second thing we have to show is that
13 he suffers from a mental abnormality or personality disorder
14 that makes him likely to engage in acts of sexual violence
15 if he's not confined for long term control, care, and
16 treatment.

17 Now, remember this is the State's burden and we talked
18 about it earlier or yesterday afternoon. I said we have a
19 higher burden in this case because there's an important
20 liberty interest, and we welcome that burden, and that
21 burden is beyond a reasonable doubt.

22 Now, in a few minutes the Judge is gonna tell you what
23 beyond a reasonable doubt means. She's gonna explain it all
24 to you and she is the one you must listen to when it comes
25 to that. She is the, you know, the ultimate authority on

1 the law here today.

2 But I'm gonna tell you that I think she's gonna tell
3 you that proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced. After listening to the
5 evidence, you're firmly convinced, and let's review the
6 evidence briefly and how it applies to these things that we
7 have to prove. And I think we can dispense with the first
8 one very quickly.

9 Has he been convicted of at least one sexually violent
10 offense, and we have entered into evidence documents that
11 you'll have back in the jury room when you go back to
12 deliberate. They are his conviction for criminal sexual
13 conduct in the third degree, his conviction for his criminal
14 sexual conduct in the second degree, and you'll have his
15 probation violations and I want you to remember that he was
16 on probation for his criminal sexual conduct in the third
17 degree. He was out on probation for this sexually violent
18 offense when he committed this sexually violent offense and
19 he got his probation revoked for that. So, he got a total
20 sentence of 21 years.

21 I encourage you to look at those. Read them. Read
22 everything's on there. Read the front. I don't, I don't
23 think they're front and back but sometimes they are. These
24 are not. So -- but read them. There's three pages. Read
25 those when you're doing your deliberations.

216

1 These convictions, the Judge will tell you, are
2 qualifying convictions as sexually violent offenses under
3 this Act. So, I think the State has proven that first
4 element.

5 The second element we have is does he suffer from a
6 mental abnormality or personality disorder that makes him
7 likely to engage in acts of sexual violence if not confined
8 for long term control, care, and treatment. The State
9 provided you with this -- an expert, Court appointed expert,
10 Doctor Marie Gehle. She was qualified as a forensic
11 psychologist, as an expert in forensic psychology and
12 forensic sex offender evaluations, and she testified to you
13 that she -- this is what she does.

14 She's done over 209 I think she said and she's
15 testified over a hundred times in cases of this nature. And
16 you heard from Doctor Gehle that she says Mr. Owens suffers
17 from other specified paraphilic disorder biastophilia, and
18 let's just briefly consider what she took into account when
19 she gave him that diagnosis. She told you that biastophilia
20 is sexual arousal. It's a deviant sexual interest and is a
21 sexual arousal to nonconsensual sex.

22 She also considered that he has two convictions for
23 sexually assaulting females strangers. Those are there. He
24 also has two assault and battery of a high and aggravated,
25 aggravated nature crimes that were sexual in nature against

1 females. He also has the four counts of harassing phone
2 calls where he called women in two different states, North
3 Carolina and South Carolina, and said really demeaning,
4 threatening, demeaning things, vulgar things to them.

5 She also considered the fact that he hit and punched
6 his victims. He knocked one unconscious. He pulled them by
7 the hair. He used force to move them around. He had one
8 victim perform oral sex on him while she was bleeding from
9 the mouth.

10 Now, Mr. Owens denies arousal to this type of interest.
11 He denies that -- arousal to sexual, sexual deviate sexual
12 interest. But remember what Doctor Gehle said. That's
13 common in these cases. You know, most people don't want to
14 tell you what they're sexually aroused too and they
15 certainly don't want to tell you they're aroused to a
16 paraphilia.

17 Remember she talked about these indicators, those based
18 indicators, that show -- that can show people are sexually
19 aroused to deviant behavior and those were that he had
20 willing partners to have sex with him. I mean he could go
21 have sex with women but he chose to rape these women, that
22 virtually all his crimes, from 1992 to 2005, were crimes
23 that were sexual in nature and violence against women.

24 She also told you that there was a pattern to these
25 behaviors. He picked these women up. He'd drive down the

218

1 road. He'd pick up strange women and he would take them
2 some place and he would sexually assault them.

3 The last one, and I think the one that was most
4 important to Doctor Gehle, was that he ejaculated during a
5 clearly nonconsensual encounter, which means he was aroused.
6 He climaxed during a non-consenting encounter. So, those
7 are all indicators that he has sexual arousal and that's how
8 she came up with her diagnosis of biastophilia.

9 Now, the second part of this is does that paraphilic
10 disorder make him likely to commit acts of sexual violence
11 and she answered that question yes. And remember what she
12 did.

13 She did a risk assessment and she looked at what she
14 calls -- what they -- profession calls static and dynamic
15 risk factors. Remember the static risk factors are the ones
16 that don't change. They're static. The only thing that can
17 change is age and that changes the score. And then the
18 dynamic risk factors are things that are related to sexual
19 reoffending but they can be treated. You know, you can
20 learn how to solve problems. You can learn how to live your
21 life a little better.

22 So, with treatment, you know, those dynamic risk
23 factors can change, which is why people who go into the
24 treatment program can learn. They can learn to manage their
25 behaviors and they can get, they can get out.

1 Let's talk about the Static-99R and the Static-2002R
2 and briefly remember the scores she gave him. Seven on the
3 Static-99R and an eight on the Static-2002R.

4 Now, these are assessments that are used in her
5 profession. It's the most accurate approach to assessing
6 sexual recidivism, the risk to reoffend. And they are both
7 in the well above average category, the highest category.
8 The average sex offender scores a two on the Static-99R.
9 The average sex offender scores a three on the 2002R. Mr.
10 Owens is well above that.

11 And then you take a -- the dynamic risk factors she
12 considered. Remember she said there were 12 that were
13 research based and support -- supported in the literature
14 that are linked, directly linked, to sexual reoffending and
15 that he had seven of them and I won't go through each one of
16 them with you but I will summarize kind of what they say.
17 And these risk factors, the dynamic risk factors she talked
18 about, show that his sexual urges are intense, that he's
19 engaged in a -- repeated violent sexual acts, that he has
20 interest in sexually deviant behavior, that his
21 relationships are marked with conflict, that he is
22 impulsive, he has difficulty recognizing problems, and he
23 has issues with rules and supervision.

24 So, in Doctor Gehle's expert opinion Mr. Owens meets
25 the commitment criteria. Taking everything together, I

220

1 believe, based on Doctor Gehle's experience, and her
2 thoroughness she took in performing this evaluation, that
3 should leave you convinced that he suffers from a mental
4 abnormality that makes him likely to engage in acts of
5 sexual violence if he's not confined for long term control,
6 care, and treatment.

7 I do want to comment on one thing that Mr. Owens said,
8 and we talked at length about this, and that was about the
9 fact that he didn't take the Court ordered sexual offender
10 treatment.

11 Now, remember what Doctor Gehle said. It's worse --
12 it's actually a -- makes you at a higher risk to reoffend if
13 you start sexual offender treatment and stop it then if you
14 never had it at all. If you remember she said that
15 yesterday. And Mr. Owens started it and he didn't complete
16 it. He said, if I heard him correctly, basically that it
17 was inconvenient for his work, that the meetings weren't at
18 a time that was convenient for work.

19 So, I ask you if he's -- he said he would take it if it
20 was mandated this time.

21 what happens if his work interferes this time?

22 He doesn't believe he has a risk and I don't think
23 that's -- to me, that's not something anybody can say. We
24 can't say we're at zero risk. I mean zero risk is, is hard
25 to say to do anything. He doesn't think he needs sexual

1 offender treatment because he doesn't think he has a
2 problem.

3 Ladies and gentlemen, again, thank you. I'm not gonna
4 go, like I said, into much detail. You guys have been here.
5 You've listened to the evidence and I believe, as you were
6 listening to that evidence, the answer became clear of what
7 your verdict should be and I ask you to return a verdict of
8 yes, Mr. Owens is a sexually violent predator.

9 I thank you for your time.

10 THE COURT: Mr. Thompson.

11 MR. THOMPSON: Please the Court, Your Honor.

12 THE COURT: Yes, sir.

13 MR. THOMPSON: Mr. Runyan.

14 Good afternoon, ladies and gentlemen.

15 As I told you yesterday, I'm a pacer. I'm not use to
16 standing behind a podium. So, I may not be speaking as well
17 from here as I would if I were in front of you walking back
18 and forth and I usually don't use notes. That's another
19 problem with a podium. I've got notes here now.

20 But let's, let's go back and listen at everything that
21 you've heard yesterday and today. There's no denying, that
22 prior to 2006, Mr. Owens, for lack of a better word, was an
23 SOB you wouldn't want in your neighborhood for what he did.

24 Okay. He committed those crimes. He committed a
25 number of those crimes. He went to prison. He paid the

222

1 price for it. We're not here today to punish him for what
2 he's done.

3 Now, there's been a lot of talk about his past history.
4 Most of what's -- you've heard in testimony has been his
5 past history.

6 We're not here to punish him for that today. What
7 we're here today to do is decide whether or not he has a
8 sexual conviction, which he does. So you don't have to
9 worry about that. He does. He's got at least two of them.
10 That would -- and whether or not he has a mental abnormality
11 or a personality disorder that might cause him to likely
12 reoffend in the future.

13 All right. We can rule out one of those issues also.
14 He has no personality disorder. The doctor testified to
15 that. It doesn't exist.

16 So what we're -- number one is does he have a mental
17 abnormality, and, secondly, would that mental abnormality be
18 likely to cause him to reoffend in the future. That's what
19 your question is here today. That's what you're to
20 determine.

21 Now, Doctor Gehle testified, and a lot of her testimony
22 was based on his past record, and what he's done, and that's
23 what she's looked at and that's what -- a lot of what she's
24 reviewed. Those records -- and you've heard in testimony
25 they're all 2006 and prior. There's nothing since 2006 that

1 would be against him whatsoever. In fact, what's happened
2 since 2006 would be in his favor.

3 He's had no disciplinaries whatsoever in the Department
4 of Corrections. Hadn't gotten in a bit of trouble and you
5 heard testimony there's alcohol, there's drugs, there's even
6 women available in the Department of Corrections, some of
7 the guards. He's had no issues since 2006.

8 He got away from the alcohol. He had a huge alcohol
9 and drug problem prior to that. He got away from it. I say
10 he got away from it. It was there. He didn't use it.

11 The -- Doctor Gehle testified, you know, the past is
12 related to the future and that people tend to be repetitive,
13 and, yes, that was his case back in the nineties and up till
14 2005. He was repetitive in what he did. He used drugs. He
15 used alcohol. He abused women. He went to prison more than
16 once for his crimes.

17 But we look at this and we see all these old records
18 that the doctors looked at, and let me point -- and I'm not
19 gonna go back through everything. Let me point out a couple
20 things.

21 She said he had 12 offenses. She had a hard time
22 coming up with them today. She finally threw kidnapping in
23 as one to make it 12, 12 sex offenses is what she said. She
24 said that one of them, the '90 -- I believe it's in '99 he
25 was convicted of -- he was charged with criminal sexual

224

1 conduct second degree and ABHAN, and the record showed that
2 he was convicted of ABHAN. But the records also show he was
3 convicted in Magistrate's Court, which is a 30 day sentence.
4 He testified that it was simple assault that he pled to.

5 There was the issue of probation violations. She
6 testified that he had been convicted twice and I can
7 understand where she got that misconception. But I don't
8 understand this. She testified, when he was sentenced, he
9 was sentenced to six years on one and six years consecutive
10 on the other. There's nothing to support that and she
11 couldn't find it today when I asked her about that.

12 I'm re -- I'm saying this -- I'm not, I'm not sitting
13 here trying to say that, that Doctor Gehle's lying or trying
14 to make things up or whatever. But what I am telling you is
15 those records are old. Those records are not totally
16 complete and even she admitted that, you know, she, she
17 could of made a, a mistake in interpreting those records,
18 that sometimes they're hard to figure out what they say.

19 But let's, let's go back. That's all old. She deals
20 with the Static-99 and the Static 2002, which are tools to
21 determine recidivism, and the Static-99 was 10 questions.
22 The only question on there that dealt with the current
23 timeframe was question number one, how old are you. All the
24 other nine questions dealt with what happened prior to 2006.

25 The Static-2002, 14 questions. One question dealt with

1 the current time, how old are you. The other 13 dealt with
2 what happened prior to 2006.

3 Now, on the Static-99 she, as, as, as Mr. Runyan told
4 you, Mr. Owens scored a seven and he scored an eight on the
5 static-2002 and the average is a two on both -- on the 99
6 and the three on the 2002. Doctor Gehle testified that, on
7 the Static-99, which these are an actuarial. Take this big
8 group of people, throw them in the pot, and see what comes
9 out the other end.

10 well, in a five year period, on the -- based on the
11 questions on the Static-99, 27.7 percent of the people re --
12 recidivate (phonetic). That means that 72.3 percent do not
13 within that five year period.

14 Are we treating everybody?

15 Are we treating the 72 percent that they're not going
16 to?

17 On the static-2002, it shows that 34.3 percent have a
18 recidivism rate within five years.

19 well, what does that mean?

20 That means that 65.7 percent of them don't. So,
21 two-thirds of the people are not reoffending.

22 Are we gonna throw everybody into treatment simply
23 because an actuarial table says well, they might and that's
24 what the State's looking at now?

25 They're looking at actuarial tables, cause if go to

226

1 these -- they call those static risk factors because they
2 wouldn't change. Then she says we've got these dynamic risk
3 factors.

4 well, when we look at these dynamic risk factors,
5 everything she -- she picks 7 out of the 12, guess what?

6 All seven of those apply to 2006 and before too.
7 There's nothing that deals with him today. Everything
8 that's been testified to deals with the past and how it
9 might apply to the future.

10 She says he had sexual preoccupation. That was two --
11 prior to 2006. There's been no evidence of that since then.

12 Sexualized violence, again prior to 2006. No evidence
13 since then.

14 Multiple paraphilias and this one I'm, I'm kind of
15 questioning because the, the two multiple -- the two
16 paraphilias that she said he had were the -- and I can't
17 remember the, the word and how to pronounce it biflasia
18 (phonetic) whatever it was, which was the, the, the abuse,
19 and telephone scatologia, scatologia.

20 But then in her testimony at another point she said
21 there wasn't enough evidence to diagnose him with the
22 telephone scatologia.

23 well, if there's not evidence to diagnose him for --
24 with it, how are you using it to say he's got multiple
25 paraphilias when there's only one other one?

1 A lack of emotionally intimate relationships with
2 adults. There's probably a lot of people that have a lack
3 of emotionally intimate relationships with adults.

4 I asked her. I said well, what if I'm, you know, what
5 if I'm single and have never had a girlfriend, I've never
6 had a relationship, does that make me a sexual predator?

7 And while she kind of said no, she didn't really give a
8 direct answer on that and I've -- if y'all heard things
9 different from the way I'm saying them to you, you go with
10 what you heard and what you remember.

11 Life-style impulsiveness. What if I go out and spend a
12 ton of money was my example.

13 Well, her answer was that could be a problem in your
14 life if I spent a ton of money I don't have. Lots of people
15 do that.

16 Does that make you a sexually violent predator?

17 Poor problem solving. God, there's a ton of people
18 that have poor problem solving.

19 And then resistance to rules and supervision. Prior to
20 2006 he had a resistant to rules and supervision.

21 But how do we know that doesn't exist now?

22 Because he's in -- since 2006 he's been incarcerated
23 and he's not had one disciplinary. He's abided by the
24 rules. He's respected supervision. There's been no issue
25 whatsoever since 2006.

228

1 So, all these dynamic risk factors, you might as well
2 call them static too because they don't imply, in his
3 case -- the evidence in his case only applies from 2000 --
4 prior to 2006. Not today.

5 The -- she keeps using the word and kept using the word
6 likely and I understand that. She -- we can't get inside
7 his head and, and dissect him and say oh, well, this part of
8 the brain said he's gonna do this. So, I understand that,
9 you know, this is not an exact science.

10 What they're doing is they're trying to use the
11 actuarial and the -- and psychology to try to determine
12 whether or not they think there might be something gonna
13 happen. Likely. Not guaranteed cause I use -- I asked her.
14 I said can you guarantee and she said no.

15 Well, why -- I asked her about some other tests that
16 could be run, and there were a number of them I asked her
17 about. I asked her about the hair psychopathy checklist and
18 she said she did not use that because there was no
19 indication he was a psychopath.

20 Okay. That's a reasonable answer.

21 I asked about the Personality Assessment Inventory, the
22 PAI. She said she couldn't give this because of the
23 pandemic. So, there's a test she didn't use.

24 Okay. I asked about the Conners' Continuous
25 Performance Test. Well, she didn't do that either but she

1 said that, you know, there was no evidence of ADHD or
2 anything like that. So, that's the reason she didn't do
3 that.

4 Okay. That's a reasonable answer to that one.

5 Okay. I asked about the Multiphasic Sex Inventory.
6 She said she didn't agree with the validity of it. Other
7 doctors use it. Other psychiatrist, other psychologists,
8 they use it. She didn't use it just cause she doesn't agree
9 with it.

10 I asked about the Abel Assessment for Sexual Interest.
11 She didn't use this test either. Other doctors use it but
12 she didn't.

13 And I asked about the penile plethysmograph. That's
14 the one where they strap the ring to your -- the man's
15 penis. They show him pictures, voices, and they see if
16 there's any reaction. She don't -- doesn't use that one
17 either cause she doesn't believe in the reliability of it.
18 But lots of other doctors use it and it's used in Court
19 some.

20 In other words, there were three tests that she didn't
21 use that deal with -- would of dealt with today, the current
22 situation that Mr. Owens is in. In other words, it would
23 show his sexual interest or his sexual arousal in the
24 current timeframe, not in the past, but those tests weren't
25 used because she doesn't want to.

230

1 You have to be convinced beyond a reasonable doubt that
2 Mr. Owens has a mental abnormality that is likely to cause
3 him to reoffend in the future in order to have him sent to
4 treatment and it's gonna be your call.

5 I would submit to you that, given the fact that
6 everything that was dealt with and all this testing was
7 basically the past, 2006 and earlier, and the test that
8 could have been run to show his current situation were not
9 done, I would suggest to you that the State has not proven
10 to you, beyond a reasonable doubt. In other words that you
11 should not be firmly convinced that Mr. Owens suffers from a
12 mental abnormality that is likely to cause him to reoffend
13 in the future, just look at the Static-99 and the
14 Static-2002. Most of those are not likely to reoffend. The
15 numbers are in favor of not reoffending and as opposed to
16 reoffending.

17 Ladies and gentlemen, I'm gonna sit down here in just a
18 second. The, the thing I want to leave with you is
19 obviously there is no exact procedure in, in this type
20 assessment. I was looking for the notes I made. There they
21 are. When asked if -- why she didn't do these tests and
22 all, and I think it was Mr. Runyan that asked her, her
23 response was that, in doing these testing, they're not bound
24 by any protocol. In other words, what you want to do.
25 There's no standard for doing it. There's no protocol.

1 Maybe you could get a hundred psychiatrists and get a
2 hundred different opinions. I don't know. But there's no
3 standard way of doing it. It's however that doctor wants to
4 do it, and, in this case, she used everything in the past
5 and the tests that would, would be effective as of today
6 weren't used.

7 It's a very important case for Mr. Owens. He has been
8 in prison since 2006. Well, actually 2005. He was, he was
9 there for a year before he went to Court and was tried.
10 We're not here to punish him. He's, he's paid his
11 punishment. He's done it. That's over with.

12 We're here to decide today whether he's gonna go into
13 treatment or whether he's gonna go home.

14 Are you firmly convinced that he suffers from a mental
15 abnormality that will likely cause him to reoffend in the
16 future?

17 If you are, you check off on that verdict form and you
18 send him to treatment. But if you're not firmly convinced,
19 and I submit to you the evidence should not do that, if
20 you're not firmly convinced, then you check off on that
21 verdict form that he can go home. He doesn't need
22 treatment.

23 Thank you.

24 THE COURT: Mr. Runyan.

25 MR. RUNYAN: Yes, ma'am.

232

1 May it please the Court?

2 THE COURT: Yes, sir.

3 MR. RUNYAN: Jury briefly.

4 THE COURT: Reply.

5 MR. RUNYAN: Ladies and gentlemen, I just want to
6 address a few things that Mr. Thompson said, and then I'll
7 let you get on doing the business that you came here to do
8 and that's to answer the question of whether or not Mr.
9 Owens is a sexually violent predator.

10 He's right. We're not here to punish Mr. Owens. I
11 don't think any of you feel that way. I think it's been
12 said several times to you about the need to, you know,
13 understand that we're not here to punish him. We are here
14 to determine whether he needs to be -- treatment and that's
15 an important question because he hasn't had any treatment.
16 And when he was told by the Court to take treatment because
17 they believed he had some issues, he didn't take it and he
18 doesn't believe he needs it.

19 I believe his history suggests that he does. It's
20 gonna be up to you to give him the treatment that he so
21 desperately needs.

22 Again, we keep talking about, you know, nothing now,
23 all in the past. But, remember, this condition is chronic.
24 If he had it then he has it now. They don't change. They
25 don't change without treatment. He needs that treatment in

1 order to be able to manage this disorder.

2 Now, Mr. Thompson wanted to talk, you know, about the
3 dynamic risk factors and one in particular he talked about
4 was the multiple paraphilias. And if you'll remember,
5 Doctor Gehle, Gehle told you there's a difference between
6 paraphilias and paraphilic disorders.

7 You remember that?

8 A paraphilic interest might be something like you just
9 like -- you're sexually aroused at people's feet or she said
10 I -- she -- thinks she said any -- you could be aroused to
11 almost anything. And if you have a consenting partner,
12 there's nothing wrong with that. It's a paraphilic
13 interest. And then there's paraphilic disorders and that's
14 when you act out on that. You act out on your thing with
15 non-consenting people.

16 Okay. So when she was talking about the multiple
17 paraphilias, the dynamic risk factor's not multiple
18 paraphilic disorders. It's multiple paraphilias and she
19 gave you evidence that he suffers from obviously, obviously
20 a paraphilic disorder, which is biastophilia, that's arousal
21 to nonconsensual sex, and she also offered you evidence that
22 he suffered -- he had characteristics that he suffered from
23 telephone scatologia and that's, you know, being sexually
24 aroused to making obscene phonecalls, that he had that
25 paraphilic interest. That's why the dynamic risk or factors

234

1 apply to him.

2 And, again, Mr. Thompson talks about this -- these
3 dynamic risk factors like they apply to everyday people.
4 But the dynamic risk factors -- and, yes, of course, poor
5 problem solving and lifestyle impulsiveness and, you know,
6 even sexual preoccupation could apply to someone normally
7 out in the general community.

8 But what Doctor Gehle is talking about, and what she
9 testified to is these dynamic risk factors are empirically
10 supported, they're research based to sexual reoffending.
11 In, in other words, a person must be a sexually violent --
12 not a sexually violent predator but the person must have
13 been convicted of a sexual offense. They must be a sex
14 offender. I don't think Mr. Thompson is a sex offender.
15 So, I don't think that dynamic risk factors apply to him in
16 the same way.

17 These dynamic risk factors are specific to people who
18 have committed a sex offense and are at risk to reoffend and
19 that's what Mr. Owens is. You remember she testified yes,
20 he is a sexual offender. So, that's why these dynamic risk
21 factors apply to him and there was some talk about, you
22 know, 60 percent of the people on the Static-99 on -- don't
23 go on to reoffend, 70 percent of the people on the Static
24 2002R, or maybe it's vice versa, don't go on to reoffend.
25 But I think you understand the premise.

1 what I want you to remember is 30 percent, 30 percent,
2 basically 27.7 and 34.2 I think it was on the static-2002R,
3 I mean are you willing to take those risks?

4 It's one thing to say 60 percent people don't reoffend.
5 It's another thing to say, say would you put your loved one
6 with someone who has a 30 percent chance at reoffending.

7 You know, would you do that?

8 would you put your wife, or your daughter, or your
9 spouse?

10 I mean you know---

11 MR. THOMPSON: Your Honor, I'm gonna object to this.

12 THE COURT: Come up.

13 (Whereupon, a bench conference was held out of the
14 hearing of the jury at this time.)

15 THE COURT: All right. That is sustained.

16 Move forward, sir.

17 MR. RUNYAN: Yes, ma'am.

18 So, when we're talking about the statics and this --
19 these, these breaks to reoffend, I do want you to remember
20 one thing that Doctor Gehle said, and that was the
21 underreporting risk. Remember she said that 30 to 40
22 percent of people who commit sexual crimes, those victims
23 don't report. That means 70 percent of crimes -- sexual
24 crimes go unreported.

25 So, when you're talking about these 60 percent of

236

1 people who, in the Static, you know, scored the same as Mr.
2 Owens but don't go on to reoffend, you have to consider that
3 they don't get caught, okay, because sexual crimes are
4 the -- one of the most underreported crimes that there are.
5 So, remember that when you're thinking about this.

6 And, finally, the -- this idea of all these tests. I
7 think Doctor Gehle gave you, and I think Mr. Thompson
8 explained them to you pretty well, Doctor Gehle's answers, I
9 think she gave reasonable answers to why she didn't use the
10 test. She's an expert in forensic psychology. She works
11 for the South Carolina Department of Mental Health and she's
12 done this over 209 times and she has a protocol for what she
13 does.

14 The fact that she thinks a test is unreliable, think
15 about that, she doesn't give a test, the PPG, for example,
16 because she thinks it's unreliable.

17 would you want her to give an opinion based on a test
18 that she felt was unreliable?

19 Same thing with the Abel, the Abel assessment I think
20 she talked about. She, she said that was controversial.
21 Sometimes it's admitted in Court. Sometimes it's not
22 admitted in Court.

23 would you want her to use a test when she says --
24 thinks it's unreliable in giving her, her expert opinion?

25 I don't think so.

1 But finally, ladies and gentlemen, again, even Doctor
2 Gehle herself can't say with any certainty and I asked her
3 the question. Remember is that your job -- is it your job
4 to say Mr. Owens will commit a sexual -- a sexually violent
5 offense and she said no, and it's not, and that's not
6 required by the statute.

7 The statute's required that the mental abnormality or
8 personality disorder makes a person likely to commit an act
9 of sexual violence if not confined and likely's defined and
10 the judge is going to tell you what likely means, which I
11 think she's going to tell you that likely is defined as
12 the -- their propensity to commit these acts is of such a
13 degree that it poses to a -- a menace to society and I think
14 the answer is yes, Mr. Owens does pose a menace to society
15 and he needs, desperately needs treatment for his chronic
16 condition, and I ask that you return a verdict of yes.

17 Thank you.

18 THE COURT: Thank you, Mr. Runyan.

19 Okay. You-all have heard the closing arguments of
20 counsel and now it is my responsibility to charge you-all on
21 the law, and I think I'm actually going to come down and
22 I'll stand at the podium as well.

23 If you-all want to stand up for just a minute and
24 stretch, that's fine.

25 I anticipate that this will take 15 to 20 minutes.

238

1 Okay. After we do this, you-all are going to retire to
2 your jury room and then the evidence and the verdict form
3 are gonna be brought back there to you, okay, and you won't
4 begin your deliberations though until you are instructed to
5 do so by the bailiff.

6 All right. So why don't y'all have a seat.

7 As I explained to you-all when we were at the
8 auditorium and we were beginning to make our jury selection
9 in this matter, the State has brought this action. It is
10 under the Sexually Violent Predator Act and it is pursuant
11 to Section 44-48-10 of the South Carolina Code of Laws known
12 as the Sexually Violent Predator Act.

13 In this action the State is seeking to have the
14 Respondent, and that would be Jeffery Scott Owens, civilly
15 committed in a secure facility for long term control, care,
16 and treatment under the supervision of the South Carolina
17 Department of Mental Health.

18 The State alleges that Mr. Owens is a sexually violent
19 predator as defined in Section 44-48-30 of the South
20 Carolina Code of Laws and suffers from a mental abnormality
21 or personality disorder that makes him likely to engage in
22 acts of sexual violence if not confined in a secure facility
23 for long term control, care, and treatment although Mr.
24 Owens has previously been convicted of an offense classified
25 as a sexually violent offense and has satisfied the sentence

1 imposed for that conviction.

2 This is not a criminal proceeding wherein the State is
3 seeking incarceration as a punishment for any criminal
4 offense but rather is a civil proceeding wherein the State
5 is seeking an involuntary commitment under the supervision
6 of the Department of Mental Health for care, control, and
7 treatment until such time as Mr. Owens mental abnormality or
8 personality disorder has so changed that he is safe to be
9 released from commitment.

10 Now, understand that Mr. Owens denies that he is a
11 sexually violent predator as defined by State Law. He
12 denies that he suffers from any mental condition that makes
13 him likely to engage in acts of sexual violence in the
14 future and it is because they do not agree to that fact that
15 a jury, you-all, is needed to make the determination as to
16 whether or not he is a sexually violent predator as defined
17 by State Law based upon its consideration of the evidence
18 presented during the trial and the law that is applicable as
19 the Court will provide.

20 Now, the Sexually Violent Predator Act states as
21 follows:

22 Section 44-48-30 of the South Carolina Code of Laws
23 defines a sexually violent predator as a person who, one,
24 has been convicted of a sexually violent offense, and, two,
25 suffers from a mental abnormality or personality disorder

240

1 that makes the person likely to engage in acts of sexual
2 violence if not confined in a secure facility for long term
3 control, care, and treatment.

4 Because the State has made the allegation, the burden
5 of proof is, therefore, on the State to prove to each of
6 you, beyond a reasonable doubt, that Mr. Owens is a sexually
7 violent predator. If the State fails in that burden, Mr.
8 Owens will be released from consignment (sic) as he has
9 served any sentence imposed as a result of his conviction
10 for any crimes designated and classified as a sexually
11 violent offense under Section 44-48-30 of the South Carolina
12 Code of Laws.

13 Now, you-all are the judge of the facts and credibility
14 of the witnesses. Under the Constitution and laws of South
15 Carolina, you are the sole finders of fact in this case.
16 You are also the judges of the credibility and believability
17 of the witnesses who have testified.

18 In passing upon their credibility, you may take into
19 consideration many things such as what was the manner and
20 appearance of the witness who testified, was he or she
21 straightforward or was he or she hesitant or evasive in
22 answering, was the testimony of the witness consistent or
23 inconsistent with that witness own testimony or with other
24 testimony or other evidence in the case, how did the witness
25 come to know the facts to which he or she has testified to,

1 and what was his or her ability to know these facts and
2 accurately recollect as to what he or she has previously
3 perceived, is there some reason a witness would want to give
4 testimony which would help or hurt one side or the other.
5 In other words, was the witness biased or prejudiced or have
6 some personal interest in the outcome and was the testimony
7 of a witness strengthened or weakened by other testimony or
8 evidence.

9 You, the jury, may believe as much or as little of each
10 witnesses testimony as you think is proper. You may believe
11 the testimony of a single witness against that of many
12 witnesses or just the opposite. You may believe part of a
13 witnesses testimony and disbelieve the rest, and, of course,
14 you do not determine the truth merely by counting the number
15 of witnesses presented by each side.

16 The fact that testimony is not controverted does not
17 mean you must accept it as true and undisputed. You still
18 must gauge the credibility of the witness to determine the
19 believability or truth of the facts offered through his or
20 her testimony. Keep in mind that, throughout this process,
21 you have but one objective, to render a fair and impartial
22 decision based upon the evidence presented and the
23 applicable law provided by the Court.

24 Now, in this case, you did hear expert witness
25 testimony. You may consider testimony provided during the

242

1 trial by someone who was called and qualified to testify as
2 an expert witness in the field of psychiatry or -- and/or
3 psychology and knowledgeable in the identification and
4 diagnosis of mental conditions. Although lay witnesses are
5 generally limited to testify only to facts within their own
6 personal knowledge, experience, or perception, and are not
7 allowed to give opinions regarding any matter, certain
8 witnesses who have special education, training, and
9 experience in relation to a particular subject matter may be
10 considered an expert in that field. And, when qualified as
11 an expert, may give testimony in the form of an opinion as
12 it relates to the facts of the matter which is the subject
13 of the case. Their conclusions and opinions are evidence to
14 be considered by the jury along with all of the other
15 testimony and evidence in arriving at a decision in the
16 case.

17 Now, if you find the opinions of an expert witness are
18 not based upon sufficient education, training, experience,
19 or skill, you may reject the opinions in its entirety or in
20 part just like the jury may do with any other witness who
21 has testified in the trial. Where there is a conflict in
22 expert testimony, just like with any other testimony, the
23 jury must determine that which is the most credible and
24 believable based upon the jury's consideration of the
25 relative qualifications of the experts and their

1 consideration of the relevant facts relating to the case.

2 Now, the same Constitution and law which makes you the
3 finders of facts and evidence as I have discussed with you
4 makes me, as the Judge, the sole and only instructor in the
5 law. You must accept as correct the law which I charge and
6 apply, and apply it to the evidence as you find it and reach
7 your verdict.

8 If you should make an error in the law as I instruct it
9 to you, there's another time and another place and another
10 court in which that error can be considered and if
11 necessarily corrected. But, for the purpose of this case
12 today, you must accept the law as I charge it, and, in that
13 regard, I tell you that neither you nor I should be
14 concerned about what we think the law ought to be but only
15 concern ourselves with or concern yourselves with what I
16 charge you the law to, in fact, be.

17 Now, we're going to talk now about the burden of proof.
18 Because the attorney general has made the accusation, the
19 State has the burden of proving that Mr., Mr. Owens to be a
20 sexually violent predator to your satisfaction beyond a
21 reasonable doubt. Proof beyond a reasonable doubt does not
22 mean the State must prove the fact beyond all doubt or
23 beyond any possible doubt but it does require the State to
24 prove it beyond a reasonable doubt.

25 The term reasonable doubt should be given its plain and

244

1 ordinary meaning. A reasonable doubt is the kind of doubt
2 that would cause a reasonable person to hesitate to act upon
3 the information provided. The Respondent is not entitled to
4 any reasonable doubt that arises from the evidence or lack
5 of evidence in a case. And if, upon any factual issue
6 essential to, to the ultimate determination, you have a
7 reasonable doubt as to how that issue should be resolved, it
8 would be your duty to resolve that reasonable doubt in favor
9 of the Respondent.

10 Proof beyond a reasonable doubt is proof that leaves
11 you firmly convinced, based upon the law and evidence, that
12 the Defendant is a sexually violent predator as defined by
13 statute. There are very few things in this world that we
14 know with absolute certainty and the law does not require
15 proof that overcomes every possible doubt.

16 If, based on your consideration of the evidence and
17 application of the law, you are firmly convinced that the
18 Defendant is a sexually violent predator, you must make that
19 finding. If, on the other hand, you think there is a real
20 possibility that the defendant is not a sexually violent
21 predator, you must give him the benefit of the doubt and
22 find that he is not a sexually violent predator.

23 Now, in order for the Respondent to be found to be a
24 sexually violent predator, it is necessary that the evidence
25 in this case has established, to your satisfaction beyond a

1 reasonable doubt, that the Respondent has been convicted of
2 a sexually violent offense. That would be number one.

3 Section 44-48-30 of the South Carolina Code of Laws
4 provides that the crimes of criminal sexual conduct in the
5 second degree and criminal sexual conduct in the third
6 degree are crimes designated and classified as a sex -- as
7 sexually violent offenses. And, two, the Respondent suffers
8 from a mental abnormality or personality disorder that makes
9 him likely to engage in acts of sexual violence if not
10 confined in a secure facility for long term control, care,
11 and treatment.

12 In order for you to better understand the elements
13 which must be proved in order for the Defendant to be
14 declared to, I'm sorry, to be declared to be a sexually
15 violent predator, I will provide you with definitions of
16 terms provided for in this statute.

17 The term mental abnormality or personality disorder
18 means a mental condition affecting the emotional or
19 volitional capacity that predisposes a person to engage in
20 acts of sexual violence and causes the person serious
21 difficulty in controlling behavior. Mental disorders do not
22 include merely deviate behaviors that conflict with
23 prevailing societal standards. Not all persons who commit
24 sexually violent offenses are diagnosed as suffering from a
25 mental disorder, and not all persons with a mental disorder

246

1 are predisposed to commit, to commit sexually violent
2 offenses, or have serious difficulty in controlling
3 behavior.

4 The State must prove that the Respondent suffers from a
5 mental condition which he can not sufficiently control
6 rendering him likely to commit acts of sexual violence
7 without the structure, treatment, control, and care provided
8 by a secure facility under the supervision of the Department
9 of Mental Health. Likely to engage in acts of sexual
10 violence means the person's propensity to commit acts of
11 sexual violence is of such a degree of significance as to
12 pose a menace to the health and safety of others so that he
13 is dangerous to others.

14 Therefore, as I have stated, the burden of proof is on
15 the State to prove to your satisfaction beyond a reasonable
16 doubt that, number one, the Respondent has been convicted of
17 a sexually violent offense and also, two, that he thought --
18 he suffers from a mental abnormality or personality disorder
19 that makes him likely to engage in acts of sexual violence
20 if not confined in a secure facility for long term control,
21 care, and treatment.

22 If the State satisfies you beyond a reasonable doubt
23 the existence of each of these two elements, it is entitled
24 to a finding that the Respondent is a sexually violent
25 predator. If the State fails to meet that burden of proof

1 as to one or both of those elements, and, therefore, you
2 have a reasonable doubt as to whether the Respondent is a
3 sexually violent predator, then he is entitled to a finding
4 that he is not a sexually violent predator.

5 Now, with regard to your verdict, okay, there are two
6 possible verdicts which you may find in this case.

7 Okay. On the verdict form, there are two lines, okay,
8 and the verdict form reads has the Petitioner, the State of
9 South Carolina, proved beyond a reasonable doubt Jeffery
10 Scott Owens is a sexually violent predator under the South
11 Carolina Sexually Violent Predator Act.

12 Question. Then, we, the jury, unanimously answer the
13 questions as follows:

14 Number one is yes, Jeffery Scott Owens is a sexually
15 violent predator, or, no, Jeffery Scott Owens is not a
16 sexually violent predator, foreperson, and the date.

17 Okay. That is where the foreperson will sign and put
18 the date.

19 Now, there is no significance whatsoever to the order
20 in which these possible verdicts are stated. It's simply
21 that one must be first and one must be second.

22 Okay. Now, all 12 of you must agree on your verdict.
23 Your verdict can not be based on sympathy, passion,
24 prejudice, emotion, or any other consideration not based
25 upon the law and evidence in this case.

248

1 Now, Mr. Foreman, when the jury agrees on the verdict,
2 you will indicate the unanimous decision on the verdict
3 form, you will sign your name as the foreperson, and you
4 will notify the bailiff that you have reached a decision.

5 Now, I'm not going to give you the verdict form yet but
6 it will be brought to you.

7 All right. I am now going to allow you to retire to
8 the jury room. Do not begin your deliberations until you
9 are instructed by the clerk or the bailiff to do so. There
10 are some matters which must be discussed with the attorneys
11 before you begin your deliberation.

12 All right. And so with---

13 THE BAILIFF: All rise.

14 THE COURT: -- with that, into the jury assembly room.

15 THE BAILIFF: Yes, ma'am.

16 THE COURT: Okay.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: Thank you.

20 Any objections to the charge on the law by the
21 Petitioner?

22 MR. RUNYAN: No objections, Your Honor.

23 THE COURT: Any objections from the Respondent?

24 MR. THOMPSON: No, ma'am.

25 THE COURT: Okay. Counsel, if you-all will now make

1 sure that all of the exhibits, there should be three State's
2 Exhibits, are here. I am going to hand the verdict form to
3 Mr. James.

4 Make sure they have a pen.

5 Okay. All right.

6 MR. RUNYAN: Yes, ma'am.

7 THE COURT: Thank you. If you'll take those. Please
8 instruct them to begin their deliberations.

9 Okay. And the alternate is already part of the jury.
10 So, the alternate does not need to come out.

11 Okay?

12 THE BAILIFF: Yes, ma'am.

13 THE COURT: Hey, Pam, before we break, and I know
14 everybody really wants to --

15 THE COURT REPORTER: Yes, ma'am.

16 THE COURT: -- I just need to put two things on the
17 record---

18 THE COURT REPORTER: Sure.

19 THE COURT: ---regarding the objections during the
20 trial. There were two which must be a record.

21 At today at 11:35AM, there was an objection by the
22 Petitioner during the cross-examination of Doctor Gehle
23 which was being conducted by Mr. Thompson. I sustained that
24 objection as being outside her area of expertise. I think
25 the subject matter was community supervision versus

250

1 probation.

2 MR. THOMPSON: Correct.

3 THE COURT: Okay. The second objection was at 3:18PM
4 today during the reply closing of Mr. Runyan. Mr. Thompson
5 objected to Mr. Runyan's statement that the 30 percent would
6 include your family members, your daughter, your wives. I
7 sustained that objection on the basis of -- Mr. Thompson
8 stated that it was prejudicial to the jury. I, I believe
9 that it, it was eliciting passion and emotion from them as
10 well --

11 MR. THOMPSON: And that's what I meant.

12 THE COURT: -- and, and, and, and resultingly
13 prejudicial.

14 MR. THOMPSON: Right.

15 THE COURT: So, thank you. That would be the, the
16 record on the objections.

17 Okay. All right. So we'll be at ease. Don't go far.
18 I think I have both of your cell numbers though.

19 MR. THOMPSON: My cell phone is in the car. I don't
20 bring it in.

21 THE COURT: Okay. Well --.

22 MR. RUNYAN: I'll stay here. I'll be right here.

23 THE COURT: Really don't go far.

24 Okay?

25 MR. THOMPSON: I'm gonna stay in the courtroom.

1 How about that, Judge?

2 THE COURT: Okay.

3 (WHEREUPON, the jury began deliberations at 3:43PM and
4 returned with a question at 4:15PM.)

5 THE COURT: why don't y'all come on up and I can at
6 least show y'all the question and you can start putting your
7 brilliant minds to work.

8 (WHEREUPON, a bench conference was held at this time.)

9 THE COURT: Okay. Counsel and Respondent, we have
10 received a note. It's actually a question from the
11 foreperson of the jury which states how long is long term,
12 question mark, signed the foreperson. Dated July the
13 20th, 2021. I received this note at approximately
14 4:00 o'clock PM.

15 I have discussed this with counsel and would ask, here
16 at the bench, would ask how they would propose that I
17 respond to this question.

18 MR. RUNYAN: well, Your Honor, the, the State would
19 propose that you respond to the question in a manner that
20 says they have all the evidence and testimony, that we can't
21 answer the question, that they have everything they can rely
22 on in the evidence and testimony they heard. The question
23 how long is long term can't be answered, you know, based on,
24 on any timeframe cause if, if he were to get committed, it
25 would be based on his treatment.

252

1 MR. THOMPSON: The only thing I would, I would add to
2 what Mr. Runyan just said, I might suggest that they rethink
3 the testimony they've heard, that if they've heard anything,
4 rely on that. If they haven't, then it, it won't be coming
5 in. We, we can't answer their question. It can only be
6 answered by what testimony they've heard.

7 MR. RUNYAN: I would agree with that.

8 THE COURT: And, and the law that I charge them.

9 MR. RUNYAN: That you charged.

10 MR. THOMPSON: That you charged them.

11 THE COURT: Okay. Then -- and that is my thought that
12 that is how I will answer it.

13 okay.

14 MR. THOMPSON: Okay.

15 THE COURT: So, I need for the entire jury to come back
16 in please. Be at ease until they come in and all rise when
17 the jury enters the room.

18 THE BAILIFF: All rise.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: Please be seated.

22 Okay. Mr. Foreman, and members of the jury, I have
23 received your question from the bailiff and that is how long
24 is long term.

25 Is that correct?

1 THE FOREMAN: Yes, ma'am.

2 THE COURT: That's the question.

3 Okay. And that is signed by our bailiff -- I mean our
4 bailiff, our head, our foreperson, Mr. Smith, and dated
5 today, July 20th, 2021.

6 So, I have already put this on the record with the
7 lawyers prior to your coming back, all right, and I can not
8 give you any more information than you have already been
9 provided.

10 All right. I know that term was used in the trial and
11 the term was used in the charge on the law, and I am not
12 certain as to what you're focusing on or if it's all of it,
13 and I believe that counsel further wanted me to supplement
14 my response by saying that you should reflect on the
15 testimony and the charge as given to look for any additional
16 information. However, the information that you have
17 received in the charges, the charge on the law, and then you
18 also would base your decision on any testimony from the
19 witness stand.

20 All right. Okay. And so I'm gonna mark this as
21 Court's Exhibit No. 2.

22 All right.

23 (WHEREUPON, the note from the jury was marked as
24 Court's Exhibit No. 2 for identification purposes only at
25 this time.)

254

1 THE COURT: And I ask that you-all return to the jury
2 room.

3 THE BAILIFF: All rise.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 THE COURT: Okay. Thank you-all.

7 Mr. Runyan, Mr. Thompson, you-all may -- your parties
8 would be at ease.

9 All right?

10 (WHEREUPON, the jury began deliberations again at
11 4:18PM and returned with a verdict at 4:48PM.)

12 THE COURT: Okay. And, counsel, can y'all come up for
13 one moment?

14 Not in jury -- we're calling you jury two but --
15 fortunately, and jury one or trial two and trial one.

16 Can counsel in trial one come up?

17 (WHEREUPON, a bench conferenced was held at this time.)

18 THE COURT: Okay. Counsel, I have been informed that
19 there is a verdict in the action 20-419 in the Matter of the
20 Care and Treatment of Jeffery Scott Owens.

21 Is there anything before I have the jury return from
22 the Petitioner?

23 MR. RUNYAN: Nothing from the Petitioner, Your Honor.

24 THE COURT: From the Respondent?

25 MR. THOMPSON: No, ma'am.

1 THE COURT: Okay. Thank you.

2 And so if you will instruct the jury to come in.

3 All rise. Oh, I'm sorry. They're not out there.

4 THE BAILIFF: Ben's going to get them.

5 THE COURT: Okay. It's across the -- just be at ease
6 for just a moment.

7 Okay?

8 THE BAILIFF: All rise.

9 (WHEREUPON, the following takes place within the
10 presence of the jury.)

11 THE COURT: Okay.

12 THE BAILIFF: Be seated.

13 THE COURT: Please be seated.

14 Okay. Mr. Foreman, and members of the jury, sir, have
15 you-all reached a verdict?

16 THE FOREMAN: Yes, ma'am.

17 THE COURT: Has it been reduced to writing?

18 THE FOREMAN: Yes, ma'am.

19 THE COURT: Is it unanimous?

20 THE FOREMAN: Yes, ma'am.

21 THE COURT: If you'll please hand the verdict form to
22 the bailiff.

23 (WHEREUPON, the foreman complies.)

24 THE COURT: Okay. I now ask that our clerk publish,
25 publish the verdict.

256

1 THE CLERK: In the State of South Carolina, County of
2 Spartanburg, in the Court of Common Pleas, Seventh Judicial
3 Circuit, Case Number 2020-CP-42-0419, in the Matter of the
4 Care and Treatment of Jeffery Scott Owens, has the
5 Petitioner, the State of South Carolina, proved beyond a
6 reasonable doubt Jeffery Scott Owens is a sexually violent
7 predator under the South Carolina Sexually Violent Predator
8 Act, we, the jury, unanimously answer the question as
9 follows:

10 Yes, Jeffery Scott Owens is a sexually violent
11 predator. Signed by our foreperson, today, July 20th, 2021.

12 Ladies and gentlemen of jury, is this your verdict and
13 still say it -- still your verdict?

14 (WHEREUPON, all jurors nod affirmatively.)

15 THE FOREMAN: Yes.

16 THE JUROR: Okay. So say you all.

17 THE COURT: Okay. They have to answer out loud.

18 THE JUROR: Oh, we got to answer?

19 THE COURT: Yes.

20 (WHEREUPON, all jurors answer in the affirmatively.)

21 THE COURT: Yes.

22 All right. Thank you.

23 Okay. Anything else from the jury before I release
24 them from the Petitioner?

25 MR. RUNYAN: Nothing, Your Honor.

1 THE COURT: From the Respondent?

2 MR. THOMPSON: No, ma'am.

3 THE COURT: All right. Thank you.

4 (WHEREUPON, the jury was dismissed at this time.)

5 THE COURT: Please be seated.

6 Madam Clerk, did you give the verdict form to --?

7 THE CLERK: Yeah.

8 THE COURT: Okay. You've got it to be filed.

9 THE CLERK: Yes, ma'am.

10 THE COURT: All right. Thank you.

11 And so are there any motions from the State, from the
12 Petitioner?

13 MR. RUNYAN: No motions from the Petitioner, Your
14 Honor. I just need to have the Order of Commitment signed
15 by you.

16 THE COURT: Yes, sir.

17 Mr. Thompson, any motions -- any motions, sir?

18 MR. THOMPSON: Yes, ma'am.

19 Your Honor, we would move for a new trial based on our
20 objection during counsel's closing argument that was
21 improper, could of played to the emotions of the jury, and
22 would have been prejudicial to Mr. Owens. His comments
23 regarding --

24 THE COURT: Yes, sir.

25 MR. THOMPSON: -- the jury.

258

1 THE COURT: Yes, sir, I, I understand. The, the
2 objection that I did sustain, yes, sir.

3 Sir, would you like an opportunity -- would you like 10
4 days to make your motion in writing or you want me to take
5 that up right now?

6 MR. THOMPSON: I, I -- it won't change from what I've
7 just said, Judge. So --.

8 THE COURT: Any response?

9 MR. RUNYAN: Your Honor, I think, you know, the, the
10 comments that I said at the time I don't think the jury
11 would -- was prejudicial to the jury. I think it was, it
12 was, it the -- the objection was made timely and I don't
13 think it really prejudiced the jury. It might of been error
14 but I think it was harmless error if we get right down to
15 it. Your objection was sustained and I moved on rapidly
16 from, from that.

17 THE COURT: Anything else?

18 MR. THOMPSON: No, sir. No, ma'am.

19 THE COURT: Okay. Thank you.

20 Sir, I respectfully deny the motion at this time.

21 Mr. Thompson, have you had an opportunity to review the
22 Order that Mr. Runyan is referring to?

23 MR. THOMPSON: I have, Your Honor. It's a standard
24 Order.

25 THE COURT: Okay. Sir, if, if you will provide that?

1 MR. RUNYAN: Your Honor, just to note, originally I
2 thought Judge Cole was suppose to do this. That was not
3 changed at the bottom signature line.

4 THE COURT: Yes, sir, I'll, with counsel's consent, I
5 will revise that in handwritten form if, if that is
6 acceptable.

7 MR. THOMPSON: That's fine.

8 MR. RUNYAN: Yes, Your Honor.

9 THE COURT: Okay. Let the record reflect that I have
10 signed an Order of Commitment at 4:59PM on July the
11 20th of 2021 and this will be recorded with the clerk,
12 and, Maribel, can I have a copy of that as well for my
13 records?

14 MR. RUNYAN: Thank you, Your Honor.

15 THE COURT: Thank you.

16 Okay. Mr. Owens, sir, and, and your family members, I
17 do wish you the very best in the future. That will conclude
18 the hearing.

19 Thank you, counsel, for your efficient efforts in, in
20 getting this matter concluded as you said you would in a day
21 and half to two days.

22 Thank you.

23 MR. RUNYAN: Thank you, Your Honor.

24

25 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
 STATE VS.
Jeffery Scott Owens
 AKA:
 Race: W Sex: M Age: 35
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED] Box 81 Way Ct.
 City, State, Zip Campbell, SC
 DL# [REDACTED] SID# [REDACTED]

INDICTMENT/CASE#: 02 -GS- 42 - 3379
 A/W#: DIRECT INDICTMENT
 Date of Offense: March 2, 2001
 S.C. Code §: 16-3-653
 CDR Code #: 0 / 1 / 1 / 6 / 1 / 1
☐ CASE RESTORED
 SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: Criminal Sexual Conduct 3d degree (0-10 YRS)
 in violation of §16-3-654 of the S.C. Code of Laws, bearing CDR Code # 0 / 1 / 1 / 6 / 2
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury
 The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State
 ATTEST:

[Signature]
 Solicitor

[Signature]
 Defendant

[Signature]
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 6 days/months/years or ☐ under the Youthful Offender Act not to exceed 10 years
 and/or to pay a fine of \$ [REDACTED]; provided that upon the service of 12 days/months/years and/or payment
 of \$ [REDACTED]; plus costs and assessments as applicable*; the balance is suspended with probation for 5
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§ 35.13 (Public Def/Prob)	\$500
§73.3, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$
TOTAL	\$

PTUP _____

days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: No Contact Victims -- Mrs. Howell &

Ms. Heaton.

Sexual Offender Registry.

☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation

PRESIDING JUDGE

Judge Code: 1 / 1 / 3 / 12

Sentence Date: 7/12/04

Maureen Kitchens By: Maureen Smith
 Clerk of Court/ Deputy Clerk

Court Reporter: Maureen Smith

WITNESSES

Richard White

Spartanburg County Sheriff's Dept.

POB 771

2. REPORTED BY
Spartanburg, SC 29304-0771

3. CARD FILED

4. INDEXED

5. CHECKED WARDEN

6. CHECKED SIGNATURE

7. CHECKED AND

8. CHECKED MADE

ARREST WARRANT NUMBER
8. TRAFFIC VIOLATIONS COPY
Direct Indictment (G703504)

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 7-02-02

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.
02-GS-42-3379

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 08 2002

TERM

THE STATE
vs.

JEFFERY SCOTT OWENS

Indictment for

CRIMINAL SEXUAL CONDUCT,
SECOND DEGREE

SC Code: 16-3-653

CDR Code: 161

Class FEL/C

SOUTH CAROLINA)
SPARTANBURG)

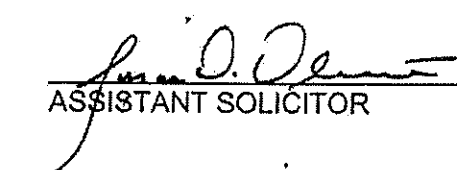
INDICTMENT

At a Court of General Sessions, convened on March 2, 2001, the
Grand Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT, SECOND DEGREE

That Jeffery Scott Owens did in Spartanburg County on or about March 2, 2001, commit a sexual battery, to wit: Sexual intercourse upon the body of Sarah Kay Henson without her consent. Such battery was accomplished by aggravated coercion, in violation of §16-3-653, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

263

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

AKA: Jeffrey Scott Gilens
 Race: W Sex: M Age: 40
 DOB: [REDACTED] SS#: [REDACTED]
 Address: 302 Elder Dr.
 City, State, Zip: Camden, SC 29222
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 65 GS 42 4018
 A/W#: 14931131
 Date of Offense: 05/13/05
 S.C. Code §: 16-2-65
 CDR Code #: 0 1 1 6 1 1
☐ CASE RESTORED
☒ SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: CSA and COA 24yr

in violation of § 16-2-653 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 6 1 1

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State. Alford

ATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 410 DAYS

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$ 35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>
TOTAL		\$ <u>128.75</u>

[Signature] Clerk of Court/ Deputy Clerk
 Court Reporter: [Signature]

PTUP

 days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]

Judge Code: 2 1 1 1 3 10

Sentence Date: 6-27-06

WITNESSES

S. Calhoun

Spartanburg County Sheriff's Department

1. RETURNED TO SENDER

2. RETURNED TO SENDER

3. ONE FILED

4. INDEXED

5. CHECKED FOR VIOLATIONS

6. CHECKED FOR VIOLATIONS

7. ASSESSED BY JURY

ARREST WARRANT NUMBER

H-937131

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 10-27-05

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

05-GS-42-4618

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

TERM

THE STATE

VS.

JEFFREY SCOTT OWENS

Indictment for

CRIMINAL SEXUAL CONDUCT,
FIRST DEGREE

SC Code: 16-3-652

CDR Code: 0160

Class: FEL-A (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2005 NOV -1 PM 1:26
MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on OCT 27 2005 the Grand
Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

That Jeffrey Scott Owens did in Spartanburg County on or about
May 13, 2005, engage in a sexual battery upon the victim, Beatrice
Moss, and such sexual battery was accomplished by the use of
aggravated force, and/or the victim was also the victim of forcible
confinement or kidnapping, all in violation of §16-3-652, CODE OF
LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case
made and provided.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

County of
STATE

VS

AKA:

Race:

Sex:

DOB:

SSN:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT#:

-GS-

C/W#:

Name of Original Offense:

Conviction S.C. Code §:

Conviction CDR Code #:

Date of Original Offense:

Original Sentence:

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 07.12.04 in the Court of General Sessions of Spartanburg County as set forth in the attached warrant or citation dated 07.14.05. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 6, 7, 9, 10

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 6 months/years, the remainder of the original sentence, and/or pay \$_____.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$_____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☒ Additional Conditions ordered by the Court: Consecutive to 05-GS-42-4618

- ☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

- ☒ The defendant has previously served 12 months/years on this sentence.
(split sentence time and/or prior partial revocation time)

This 27th day of June, 2006
Spartanburg, SC.

Presiding Judge

Edward Miller 4th Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this 27th day of June, 2006, at Spartanburg, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	CASE #: 2020-CP-42-00419
	)	
IN THE MATTER OF THE	)	
CARE AND TREATMENT OF	)	ORDER OF COMMITMENT
JEFFREY SCOTT OWENS,	)	
	)	
<u>RESPONDENT.</u>	)	

The trial of this case was held in the Spartanburg County Court of Common Pleas the week of July 19, 2021. A jury of citizens from Spartanburg County heard this case pursuant to a request for a jury trial filed by the State. Christopher S. Runyan from the Attorney General's Office represented the State and Don A. Thompson, Esquire, represented the Respondent. The jury having heard the presentation of the evidence made the following findings of fact pursuant to S. C. Code Ann. Sections 44-48-90 and 44-48-100:

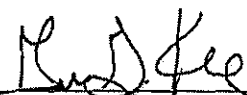
The State has proven beyond a reasonable doubt that Respondent, Jeffrey Scott Owens is a sexually violent predator as that term is defined in S. C. Code Ann. Section 44-48-30.

NOW, THEREFORE, IT IS ORDERED THAT:

(a) Respondent, Jeffrey Scott Owens is committed to the South Carolina Department of Mental Health for his long-term control, care and treatment;

(b) Respondent, Jeffrey Scott Owens is to continue to be detained at the Spartanburg County Detention Center, and then transported to the secure facility of the Department of Mental Health. The Detention Center or the Sheriff's Department is to transport Respondent on such scheduled date as is coordinated with the Department of Mental Health.

AND IT IS SO ORDERED.


 J. DERHAM COLE Grace G. Knie
 Judge
 Seventh Judicial Circuit
 Court of Common Pleas

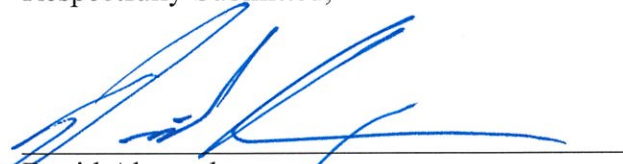
July 20th, 2021
 Spartanburg, South Carolina

FILED
 2021 JUL 21 AM 8:32
 CLERK OF COURT
 SPARTANBURG COUNTY
 AMY W. COX

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

RECEIVED

Oct 05 2022

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of October, 2022.