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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable R. Lawton McIntosh, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF TYRONE MAURICE MOORE, A/K/A
TYRONE MOORE,

APPELLANT.

APPELLATE CASE NO. 2022-000547

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF COMMON PLEAS
2020-CP-08-02684

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) April 18, 2022 - Vol 1 of 2

Tyrone Maurice Moore)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable R. Lawton McIntosh, Judge

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

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Attorney for the State

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Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

Jury Strike Sheet

State v. Tyrone Maurice Moore

2020-CP-08-02684

April 18, 2022

Jury No.	Name	Race	Gender	Jury No.
198	Paul Trespicio	A	M	1
57	Olympia Ellington	B	F	2
185	Brian Sloan	W	M	Def. Strike
49	Crystal Dickerson	W	F	Plt. Strike
176	Lori Roy	W	F	3
195	Jennifer Sweat	W	F	4
193	Richard Stickley	W	M	5
28	Thomas Byrne	W	M	Plt. Strike
174	Deborah Rose	W	F	6
88	Madison Hogue	W	F	7
93	Leonard Hunter	W	M	Def. Strike
199	Theresa Valeriano	W	F	8
62	Teresa Freir	W	F	9
37	Robert Comer	W	M	Plt. Strike
143	Destiny Mills	W	F	10
6	Ada Alongi	W	F	Def. Strike
81	Jeffery Hardiman	W	M	11
184	Krista Sims	W	F	Def. Strike

1	8	Borras Arocho	H	F	12
2	113	John Kilcoyne	W	M	Plt. Strike
3	215	Phillip Willis	W	M	Plt. Strike
4	5	Paulette Albright	B	F	Alt. No. 1
5	13	Alan Bates	W	M	Def. Strike
6	17	Emilia Brack	W	F	Plt. Strike
7	133	Luisa Martinez	M	F	Def. Strike
8	103	Fredrica Johnson	B	F	Alt. No. 2
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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-1	Sentencing Sheet	62	104
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1 THE COURT: Good morning. Please be seated.
2 Good morning. All right. Ladies and gentlemen, my name
3 is Lawton McIntosh. I'm the resident circuit court
4 judge from Anderson. It's my pleasure to be with you
5 this week during a term of common pleas, which is civil
6 court. I think, Madam Clerk, we have one case on the
7 docket; is that right?

8 THE CLERK: Yes, sir.

9 THE COURT: And so if you're selected
10 to serve, then we'll have probably a two-to-three-day
11 trial. If you're not, you'll get credit for being here
12 and can't be made to come back for three years.

13 All right. Ladies and gentlemen, usually
14 on Mondays when I -- I go all over South Carolina
15 and try cases, and I look out, it's a little unusual.
16 I usually see people in the courtroom, but I have
17 a split screen here, but I see faces of people who
18 really don't want to be here, and I understand that,
19 and I think lawyers understand that. But we want
20 to thank each and every one of you for your willingness
21 to be here.

22 I think it was Winston Churchill who said
23 that there's no higher service that a citizen can do
24 for its country during peacetime than to sit on a jury.
25 We understand the inconvenience that it is for you.

1 We'll do our best to minimize the inconvenience to you
2 this week. As I told you earlier, we have one trial,
3 so it's a good week for you to be here. But if you're
4 selected, maybe it will make it even an educational
5 experience for you, if you're selected to serve.

6 Ladies and gentlemen, driving in here this
7 morning, I remember back in 1986 was the last time
8 I walked to -- was this courthouse here in 1986?

9 THE CLERK: Yes, sir.

10 THE COURT: That's what I thought.
11 I clerked for a judge named Luke Brown out of Beaufort,
12 South Carolina, and it's been over 40 years. So it kind
13 of brings back a little bit of memories to be here
14 today. It's my pleasure to be here this week.

15 Today, I will go over with you questions
16 that are designed by statute to determine whether or not
17 you're qualified to sit on a jury. And also I'll go
18 over questions that are designed by statute to determine
19 whether or not you can claim an exemption from serving
20 this week.

21 If anybody -- can everybody who's remote
22 hear me okay? All right. If you're remote or here
23 in the courtroom, if you do not hear me, raise your
24 hand or speak up because it's vitally important that
25 we get accurate and truthful information from you

1 and you understand what I'm asking and what I'm getting
2 in response.

3 Now the first question, as I told you,
4 has to do with qualifications, and the first of those
5 is this -- oh, well, let me say this. If you don't want
6 to stand up and give the information in open court,
7 that's okay. Make a mental note of the process -- make
8 a mental note that you're supposed to give a response.
9 And at the end of this process, whether you're here
10 in the courtroom or remote, we'll let you come here
11 to the courtroom and give us the information in a more
12 confidential setting.

13 On the other hand, if you don't mind giving
14 the information in open court, give us your juror number
15 first and your name, like you've been doing, and then
16 give us your response to the question being asked.
17 All right.

18 The first qualification question is this:
19 Is there any member of the jury panel who is not a
20 citizen of the United States? If so, would you please
21 stand. Next question. Is there any member of the jury
22 panel who is not a resident and citizen of Berkeley
23 County, South Carolina? If so, would you please stand.

24 Ladies and gentlemen, is there any member
25 of the jury panel who's unable to read, write, speak

1 or understand the English language? If so, would
2 you please stand. What's your jury number?

3 THE JUROR: 97.

4 THE COURT: 97?

5 THE JUROR: Yeah.

6 THE COURT: I'm going to ask at the end
7 of this process, you come speak with me, then we'll --
8 not now, but at the end. I'll bring you up here
9 in a little bit, okay? All right. Anyone else?

10 Ladies and gentlemen, is there any member
11 of the jury panel who is unable because of a physical
12 or intellectual disability from rendering efficient jury
13 service this week, if you were selected to serve?

14 And by efficient jury service, what you'll
15 need to be able to do is sit, stand, or some other
16 reasonable accommodation, listen to the law as I will
17 give it to you, the opening statements by the attorneys,
18 the testimony and exhibits that will be introduced
19 during the course of the trial, the closing attorneys
20 -- the closing arguments, the charge on the law,
21 and then engage in meaningful deliberations at the
22 end of the trial.

23 But if there's anyone who because
24 of intellectual or physical infirmities is not able
25 to render efficient jury service, and you don't mind

1 standing, would you please do so. All right.

2 Ladies and gentlemen, has any member
3 of the jury panel been convicted by a guilty plea
4 or a trial in a state or federal court of record for
5 a crime punishable by more than, by more than, one year,
6 and your civil rights have not been restored by pardon
7 or amnesty?

8 And by more than one year, I mean that
9 you could have received a sentence in excess of a year,
10 regardless of the sentence you may have actually
11 received. If that applies to you and you don't mind
12 standing, would you please do so. All right, sir,
13 what is your jury number?

14 THE JUROR: 207.

15 THE COURT: 207?

16 THE JUROR: Yes, sir.

17 THE COURT: Mr. White?

18 THE JUROR: Yes.

19 THE COURT: What were you charged with?

20 THE JUROR: Drug trafficking.

21 THE COURT: Well, that would exclude you.

22 All right, Mr. White, I'm going to go ahead and excuse
23 you from service this week. Our clerk is going to send
24 you a big check in the mail. Don't spend it all in one
25 place, okay?

1 THE JUROR: Yes, sir.

2 THE COURT: All right. Take care.

3 Thank you for coming.

4 THE CLERK: We have a response in the jury
5 panel room.

6 THE COURT: Okay. What's your jury number?

7 THE JUROR: 126.

8 THE COURT: 126. You're Lozoria?

9 THE JUROR: Yes, sir.

10 THE COURT: Okay. What were you charged
11 with?

12 THE JUROR: A pending DUI, not guilty but
13 pending.

14 THE COURT: You were found guilty -- you
15 were deemed ---

16 THE JUROR: No, pending.

17 THE COURT: Oh, pending. Okay. Well,
18 if it's pending -- first of all, it's a DUI first?

19 THE JUROR: Yes, sir.

20 THE COURT: Okay. And it's pending.

21 That wouldn't affect you. You're okay. Go have a seat.

22 Anyone else? Ladies and gentlemen, is there any member
23 of the jury panel that is a clerk or deputy clerk of
24 court, a constable, sheriff, or other commissioned law
25 enforcement officer, probate judge, county commissioner,

1 magistrate or other county officer, or employed within
2 the walls of any courthouse? If so, would you please
3 stand.

4 Ladies and gentlemen, has any member
5 of the jury panel served in circuit court, as opposed
6 to city court, magistrate court or federal court,
7 during this calendar year, i.e., 2022? If you served
8 in circuit court in 2022, you can't serve again in 2022.
9 If that applies to you, would you please stand.

10 Ladies and gentlemen, has any member of the
11 jury panel served as a member of the Berkeley County
12 Grand Jury during the past several years? If so, would
13 you please stand. All right. Ladies and gentlemen,
14 those -- that concludes the questions with regard to
15 your qualification. Remember that if you did not stand
16 but needed to, you can come up here at the end of the
17 process when I give you an opportunity.

18 We'll now move over to exemptions from
19 jury service. The first exemption is for those of you
20 who may be 65 years or older. Anyone who's 65 years
21 or older has the right to say I do not want to serve
22 in circuit court this week. However, before any of you
23 who may fit that description exercise your exemption,
24 let me urge you to stay with us. If you've made it to
25 65 or more years in this world, you could be an addition

1 to any jury that you may sit on.

2 But with that being said, if you're 65 years
3 or older and you do not want to serve, that's your
4 absolute right. If that applies to you, and you wish
5 to be excused, would you please stand. Very good.

6 Another exemption has to do with prior jury
7 service. In the qualification section, you were
8 questioned as to whether or not you served in 2022
9 because you can't serve twice in a year. In South
10 Carolina, you can only be required to serve in circuit
11 court, as opposed to magistrate court, city court
12 or federal court, once every three calendar years.

13 So this question wants to know whether
14 or not you served in circuit court in the year 2020
15 or 2021. If you served in 2020 or 2021 in circuit
16 court, you have a right to say I don't want to serve
17 again in 2022. If that applies to you, and you wish
18 to be excused, would you please stand. All right.

19 Ladies and gentlemen, anyone who has served
20 as grand jurors anywhere in the state of South Carolina
21 within the last five calendar years has a right to
22 be exempt from jury service this week. If that applies
23 to you, and you wish to be exempt, would you please
24 stand. All right.

25 Ladies and gentlemen, the next exemption

1 is for those of you who may have young children.
2 There are actually four subparts of which -- all
3 of which must apply before you could exercise your
4 exemption from jury service.

5 However, if you have a small child
6 or children under the age of seven, and you have
7 legal custody of your child or children, and you
8 are the primary caretaker of your child or children,
9 and you are unable to make suitable arrangements
10 for their care if you're selected to serve this week,
11 you may be excused from jury service. If all four
12 of those subparts apply to you, and you wish to be
13 excused, would you please stand.

14 THE JUROR: They ---

15 THE COURT: Hang on, hang on, hang on.
16 What's your juror -- stand up, stand up, stand up.

17 THE JUROR: Okay.

18 THE COURT: What is your jury number?

19 THE JUROR: 35.

20 THE COURT: 75?

21 THE JUROR: No, 35.

22 THE COURT: 35, okay. You're Ms. Cleveland?

23 THE JUROR: Yes, sir.

24 THE COURT: Okay.

25 THE JUROR: Well, they don't have school

1 today, but my neighbor is watching them, but she has
2 to be at work at 12 because ---

3 THE COURT: I'll tell you what, why don't
4 you come talk to me at the end of this process.

5 THE JUROR: Okay.

6 THE COURT: Is that okay?

7 THE JUROR: Yes, sir.

8 THE COURT: Okay. Thank you, Ms. Cleveland.
9 Yes, ma'am, what's your jury number?

10 THE JUROR: 137.

11 THE COURT: 137? You're Ms. McLemore?

12 THE JUROR: Yes, sir.

13 THE COURT: Okay.

14 THE JUROR: I have guardianship over my
15 three grandchildren ---

16 THE COURT: Tell you what, why don't you
17 come talk to me as well, okay, at the end of this
18 process. Thank you. Anyone else?

19 THE CLERK: We have a response in the jury
20 panel room.

21 THE COURT: Okay. What is your jury number,
22 please?

23 THE JUROR: I'm number 60.

24 THE COURT: 60?

25 THE JUROR: Yes.

1 THE COURT: You're Ms. Foye?

2 THE JUROR: Yes.

3 THE COURT: Okay, Ms. Foye. Do you ---

4 THE JUROR: I have -- I'm sorry.

5 THE COURT: Go ahead.

6 THE JUROR: I have a four and a
7 five-year-old, and I'm their primary parent.

8 THE COURT: And ---

9 THE JUROR: Yeah, I don't have any other
10 arrangements for somebody to keep them.

11 THE COURT: Okay. Ms. Foye, do you wish
12 to be excused?

13 THE JUROR: Yes.

14 THE COURT: All right. Ms. Foye, I'm going
15 to excuse you from jury service. Thank you for coming
16 today.

17 THE JUROR: Thank you.

18 THE COURT: All right. Ladies and
19 gentlemen, the next exemption would be those of you
20 who may be working at an educational institution
21 or going to school full time at an educational
22 institution. This applies whether or not it's a public,
23 private, or technical school. The only difference
24 with this exemption is you will not be excused from
25 jury service, you'll just be transferred to another

1 term of court that will not interfere with your work
2 or your studies at an educational institution.

3 Therefore, if we have any full-time
4 students, teachers, crossing guards, bus drivers,
5 or anyone who studies or works at an educational
6 institution, whether it be public, private or technical,
7 who wishes to be transferred to another term of court,
8 would you please stand.

9 Ladies and gentlemen, is there any member
10 of the jury panel who is employed with the Department
11 of Corrections at a penitentiary who wishes to be
12 excused from jury service? If so, would you please
13 stand. All right.

14 Ladies and gentlemen, is there any juror
15 who performs services for a business, commercial,
16 or agriculture enterprise whose services are so
17 essential to the operation of that enterprise that
18 if you were required to serve this week on jury duty
19 that business would have to shut its doors and not
20 operate while you're performing your duties as a juror?
21 If that applies to you, and you wish to be excused,
22 would you please stand. All right.

23 Finally, ladies and gentlemen, are there
24 -- is there any juror who's a primary caretaker
25 of a severely disabled person who's unable to care

1 for himself or herself and cannot be left alone
2 or unattended, or is the primary caretaker of a person
3 age 65 years or older? If that applies to you, and you
4 wish to be excused, would you please stand. All right.

5 Ladies and gentlemen, that concluded the
6 questions that has to do with your exemption from jury
7 service. It may be that you're not sure as to whether
8 or not you're qualified, it may be that you have
9 questions as to whether or not you're exempt, or you
10 would like for me to entertain a transfer request,
11 or if I asked you to come speak to me at the end of this
12 process.

13 Would anyone remotely or here in the
14 courtroom that would like to talk to me, would you line
15 up there at the bar and come forward from there.

16 THE BAILIFF: Juror number 97.

17 THE COURT: Thank you, sir. I'm going
18 to excuse you from jury service, okay? You're
19 Mr. Izquierdo? Thank you. You're excused.
20 Does he need to do anything? No? Go back.

21 THE BAILIFF: Juror number 35.

22 THE COURT: Thank you. You're
23 Ms. Antoinette Cleveland?

24 THE JUROR: Yes. My kids is home; I've
25 got three kids. It's teachers' workday; they don't have

1 no school. My neighbor is watching them, but she has
2 to be at work at 12.

3 THE COURT: Okay. How old are your
4 children?

5 THE JUROR: 9, 11 and 10.

6 THE COURT: They've got to go to school
7 tomorrow?

8 THE JUROR: Yes.

9 THE COURT: So when do they get out of
10 school?

11 THE JUROR: All is different times. One get
12 out at two; two of them get out at 2:45.

13 THE COURT: Who picks them up?

14 THE JUROR: I do because I'm a stay at
15 home ---

16 THE COURT: Y'all have any problem excusing
17 her?

18 MR. FALK: No problem.

19 THE COURT: Okay. I'm going to let you go.

20 THE JUROR: Okay.

21 THE COURT: Even though you don't quite meet
22 the bill, I'm going to let you go. You take care.

23 THE JUROR: Thank you.

24 THE COURT: Thank you.

25 THE BAILIFF: Juror 137.

1 THE COURT: Thank you, sir. That's
2 McLemore.

3 MR. FALK: 137?

4 THE COURT: 137. You're 137, Ms. McLemore?

5 THE JUROR: Yes, sir.

6 THE COURT: Okay, Ms. McLemore. I couldn't
7 hear what you were saying.

8 THE JUROR: Oh, I'm sorry.

9 THE COURT: That's okay.

10 THE JUROR: I have a four-year-old,
11 an eight-year-old and a 12-year-old and a 13-year-old
12 at home that I have guardian over. I don't have
13 legal custody over them, haven't gone to court yet.
14 But I pick them up from school, and I have to be
15 the one to pick them up.

16 THE COURT: And at what time is that?

17 THE JUROR: I pick up -- the eight-year-old
18 and the 11-year-old, I pick up at two o'clock.
19 The four-year-old, I pick up at ---

20 THE COURT: I'm going to let her get out
21 of here, unless y'all have a problem with that.

22 MR. RUNYAN: No, sir.

23 THE COURT: All right.

24 THE JUROR: Sorry. Thank you very much.

25 THE COURT: Yes, ma'am. That's 137.

1 THE BAILIFF: Juror 138.

2 THE COURT: 148?

3 THE BAILIFF: 138.

4 THE COURT: 138. I don't see a 138.

5 THE BAILIFF: 188.

6 THE COURT: 188? Come here. What is your
7 juror number? What's your name? Ms. Smith?

8 THE JUROR: My name is Judith Smith.

9 THE COURT: You're Judith B. Smith?

10 THE JUROR: Um-hum.

11 THE COURT: Okay, that is 188. Okay,
12 Ms. Smith.

13 THE JUROR: This is my problem is I don't
14 speak English, so English very little bit.

15 THE COURT: Do you work here?

16 THE JUROR: Yes, I work in Goose Creek.

17 THE COURT: I can't -- would you drop your
18 mask so I can hear you. Okay. Where do you work?

19 THE JUROR: I work in Goose Creek.

20 THE COURT: Where?

21 THE JUROR: Goose Creek.

22 THE COURT: Okay. What job do you do?

23 THE JUROR: I work in hotel for supervisor
24 for two years.

25 THE COURT: Okay. I'm thinking about

1 letting Ms. Smith go, if that's okay.

2 MR. RUNYAN: That's okay with me.

3 MR. FALK: No objection.

4 THE COURT: Okay. Ms. Smith, I'm going
5 to let you go. Thank you. Take care.

6 THE JUROR: That's it?

7 THE COURT: Yes, you're good.

8 THE JUROR: Thank you.

9 THE BAILIFF: Juror 133.

10 THE COURT: You're Ms. Martinez?

11 THE JUROR: I am.

12 THE COURT: Okay.

13 THE JUROR: Just for clarification ---

14 THE COURT: Come up here and speak so we can
15 hear you.

16 THE JUROR: Just for clarification on the
17 criminal conviction, back in 1998, it was 24 years old,
18 I pled guilty to a CDV with my sister.

19 THE COURT: CDV?

20 THE JUROR: Yeah.

21 THE COURT: That was in magistrate court?

22 THE JUROR: Yes, sir.

23 THE COURT: Yeah, that wouldn't get you ---

24 THE JUROR: I just wanted to make sure.

25 I couldn't remember.

1 THE COURT: All right. Thank you.

2 THE BAILIFF: Juror 165.

3 THE COURT: Mr. Paczynski. You're 155?

4 THE JUROR: 165.

5 THE COURT: 165. You're Mr. Rawls?

6 THE JUROR: Um-hum.

7 THE COURT: Okay.

8 THE JUROR: 20, 25 years ago, I was
9 convicted for failure to stop for a blue light.

10 THE COURT: Failure to stop for a blue light
11 is zero to three, so I'm going to excuse you. Did you
12 ever get that expunged or ---

13 THE JUROR: No.

14 THE COURT: --- get pardoned? I'm going to
15 -- Mr. Rawls, I'm going to excuse you from jury service.
16 Thank you.

17 THE JUROR: Thank you.

18 THE COURT: All right. Anyone else?

19 THE BAILIFF: 195.

20 THE COURT: Hey, what's your number?

21 THE JUROR: 195.

22 THE COURT: 195. You're Ms. Sweat?

23 THE JUROR: Yes, sir.

24 THE COURT: Okay.

25 THE JUROR: I work for a small office with

1 only four employees. Nobody in there can do my job.

2 THE COURT: I know. I'm going to let you
3 stick around though. That's -- my ex-wife used to be
4 a surgeon, but she had to get -- shut her practice.
5 But, you know, you will have to stick around.

6 THE JUROR: Okay. That's fine. Thank you.

7 THE BAILIFF: Juror 63.

8 THE COURT: 63. Mr. Fuchs?

9 THE JUROR: Yes, sir. So a couple of years
10 ago, I was arrested for PWID, and I did plead guilty.

11 THE COURT: PWID?

12 THE JUROR: Yes, sir, for PWID, but I did
13 go through PTI and got my record expunged.

14 MR. FALK: I didn't think you pled if you
15 did PTI.

16 THE COURT: PWID what? Controlled, or was
17 it meth?

18 THE JUROR: No, it was ---

19 THE COURT: Weed?

20 THE JUROR: Yeah.

21 THE COURT: Okay. So you can get five years
22 for that.

23 THE JUROR: I can't find a mug shot
24 or anything. I don't think there's anything.

25 MR. FALK: What county?

1 THE JUROR: It should have been Charleston,
2 I think.

3 THE COURT: Do you have access to it?

4 MR. FALK: I could get the court records
5 on that.

6 THE COURT: Okay. We're going to check.
7 Stick around.

8 THE JUROR: Yes, sir.

9 THE COURT: If it got expunged, you're okay.

10 THE JUROR: Okay.

11 THE BAILIFF: Juror 51.

12 THE COURT: Mr. Dillon.

13 THE JUROR: I don't have transportation.
14 I had to -- just to get here this morning. Yeah,
15 I live, like, 40 minutes away in Hanahan.

16 THE COURT: What do you do?

17 THE JUROR: I work for a moving company.

18 THE COURT: Sir?

19 THE JUROR: I work for a moving company.

20 THE COURT: A moving company?

21 THE JUROR: Yeah.

22 THE COURT: How do you get to work?

23 THE JUROR: I get picked up from my friend
24 every day. He's the crew leader.

25 THE COURT: What number are you?

1 THE JUROR: 51.

2 THE COURT: Y'all, I'll let him go.

3 THE JUROR: Thank you, Judge.

4 THE COURT: Take care. Anyone else?

5 Otherwise, other than the ones we're going to check,
6 everybody else is qualified. All right. Ladies
7 and gentlemen, in just a -- I'm going to take a break
8 in just a few minutes and speak to the lawyers back
9 in my chambers to get a little more information.
10 I just got here yesterday. I don't know a whole lot
11 about what we're trying this week.

12 So, as I told you, we only have one trial,
13 so if you're not selected, if you don't get -- you'll
14 be free to go for the rest of the week. One thing
15 though, if you are selected, please do not bring your
16 cell phones with you to court. Leave them in your car
17 or leave them at home, or any other type of device that
18 is capable of recording or going off during the
19 proceedings.

20 I can tell you all the time we will have --
21 some of the most inappropriate times during a trial,
22 we'll have a phone go off, and it really is just
23 disruptive, as well as this lady to my right, sitting
24 below me, is the only person who's allowed by state law
25 to record the proceedings, so do not bring anything with

1 you to the courthouse.

2 Also, if you happen to know anybody involved
3 in these proceedings; witnesses, attorneys, whatever,
4 it's okay to nod and recognize them, but don't engage
5 in any conversation because if the other side sees that,
6 they may think there's inappropriate communications
7 going on between one side of the case or the other.

8 That being done, I'm going to take about
9 a ten-minute break. I'm going to ask the attorneys
10 to come back with me and talk to me in my chambers right
11 quick. If you'll be back in the witness room -- I mean,
12 the courtroom at 11:15, please, we'll go with jury
13 selection then.

14 (Recess taken.)

15 (Back on the record.)

16 THE COURT: Please be seated. Sir, what
17 is your jury number?

18 THE JUROR: 63.

19 THE COURT: Okay. You are good to go.

20 THE JUROR: Thank you, sir.

21 THE COURT: All right.

22 MR. FALK: Judge, may I approach?

23 (Off-the-record conversation held at sidebar.)

24 (Back on the record.)

25 THE COURT: Juror number 116. Hey, how are

1 you doing? Now you're Mr. Stanley Kramer?

2 THE JUROR: Yes.

3 THE COURT: One thing, Mr. Kramer, I heard
4 you say that you were unemployed. So, I'm going to let
5 you go out -- go out and find you some work, okay?
6 Use this time to go out. I'll excuse you, okay?

7 THE JUROR: All right.

8 THE COURT: Thank you, Mr. Kramer.

9 THE JUROR: Thank you.

10 THE COURT: All right. Ladies and
11 gentlemen, we're about to begin jury selection. Can you
12 hear me now? All right. We're about to begin jury
13 selection in the case of the matter in the care and
14 treatment of Tyrone Maurice Moore, a/k/a, Tyrone Moore.
15 I have a series of questions that I will be asking
16 related to this case. Where is Mr. Moore?

17 MR. FALK: He's dressed, and he should
18 be in the back.

19 THE COURT: Okay. Can we bring Mr. Moore
20 in?

21 (Pause.)

22 THE COURT: All right. Mr. Falk, are you
23 ready?

24 MR. FALK: We are, Your Honor.

25 THE COURT: All right. Mr. Moore, Tyrone

1 Maurice Moore, would you please stand up and drop
2 your mask? Okay. If you would walk over here in front
3 of the court reporter, please, sir, so they could get
4 you at the remote. There you go. All right, thank you,
5 Mr. Moore.

6 All right. Ladies and gentlemen, if you
7 need to respond, I'm going to ask that you stand up.
8 If you really want to speak with me in a confidential
9 setting, I'll let you. But these questions aren't
10 so personal that you should need to do that. So if
11 you need to answer, then stand up immediately and give
12 me the jury number and your response.

13 First question is, is any member of the jury
14 panel related by blood or marriage to Tyrone Maurice
15 Moore who just stood before you? If so, would you
16 please stand. Next question. Does any member of the
17 jury panel have a close personal or social relationship
18 with Tyrone Maurice Moore? If so, would you please
19 stand.

20 All right. Ladies and gentlemen,
21 the following are potential witnesses who may testify
22 in this trial. The first is Dr. Marie E. Gehle from
23 the Department of Mental Health. Also, Lonnie Palmer
24 and Eduardo Curry. Ladies and gentlemen, has any
25 member of the jury panel ever been related by blood

1 or marriage, or are you currently related by blood
2 or marriage, to any of these potential witnesses?
3 If so, would you please stand.

4 Has any member of the jury panel ever had
5 a close personal or social relationship, or do you
6 currently have a close personal or social relationship,
7 with any of these potential witnesses? If so, would
8 you please stand. All right. Mr. Falk, would you stand
9 up and identify yourself and your law firm, please, sir?

10 MR. FALK: Hi, I'm Jim Falk. I have a law
11 firm, Falk Law Firm. It's in downtown Charleston.

12 THE COURT: Do you have any partners in that
13 firm?

14 MR. FALK: No, by myself.

15 THE COURT: All right. Thank you. And,
16 Mr. Runyan, would you do the same, please?

17 MR. RUNYAN: Yes, Your Honor. Chris Runyan.
18 I'm an assistant attorney general. I work in the South
19 Carolina Office of the Attorney General in Columbia,
20 South Carolina.

21 THE COURT: Thank you, sir. All right.
22 Ladies and gentlemen, has any member of the jury panel
23 ever been related by -- I mean, been represented by
24 either one of these attorneys, or any member of the
25 South Carolina Attorney General's Office, presently

1 or in the past? If so, would you please stand.

2 Has any member of the jury panel ever been
3 related by blood or marriage, or have you ever had
4 a close personal or social relationship, with either one
5 of these attorneys or any attorney employed by the South
6 Carolina Attorney General's Office? If so, would you
7 please stand. All right.

8 Ladies and gentlemen, this case is about
9 the matter in the care and treatment, it's a civil
10 commitment case, for, I guess, Mr. Tyrone Maurice Moore.
11 Has anyone from the jury panel ever read, heard or seen
12 anything about this case prior to coming to court today?
13 If so, would you please stand.

14 And as a followup to that, has any member
15 of the jury panel formed or expressed an opinion about
16 any matter involving the case in the matter of the care
17 and treatment of Tyrone Maurice Moore prior to coming
18 to court today? If so, would you please stand.

19 Ladies and gentlemen, is any member
20 of the jury panel aware of any bias or prejudice
21 they may harbor for or against the State in this matter,
22 or against the Respondent in this matter, or their
23 attorneys? If so, would you please stand.

24 Ladies and gentlemen, does any member of the
25 jury panel know of any reason whatsoever why you should

1 not be selected to serve in the trial of this matter
2 with particular emphasis being placed upon your ability
3 to be fair and impartial to both the State of South
4 Carolina and to Mr. Tyrone Maurice Moore? If you know
5 of any reason whatsoever why you should not be selected,
6 would you please stand. All right.

7 Ladies and gentlemen, does any member
8 of the jury panel know anything about the sexual
9 offense that Tyrone Maurice Moore was convicted of?
10 If so, would you please stand. All right.

11 Ladies and gentlemen, this case involves
12 an action by the State to commit Tyrone Maurice Moore
13 for treatment. Would the fact that Tyrone Maurice Moore
14 has been convicted of a sexual offense and has committed
15 -- has completed his criminal sentence related to that
16 conviction prevent you from being able to be a fair
17 and impartial juror in the trial of this matter?
18 If so, would you please stand.

19 Ladies and gentlemen, has any member
20 of the jury panel, or any member of your immediate
21 family or close personal friends, ever been the victim
22 of a sexual assault? If so, would you please stand.
23 Okay. Let's start over here. What is your jury number?

24 THE JUROR: 28, Judge.

25 THE COURT: 28. And I'm not going to ask

1 anybody about any details about it. I just want to know
2 would that history prevent you from being fair and
3 impartial to both sides in this case if you're selected
4 to serve as a juror?

5 THE JUROR: I don't think so, Judge.

6 THE COURT: You've got to tell me better
7 than that. You've got to know you can or you know
8 you can't.

9 THE JUROR: Yes, I can.

10 THE COURT: Okay. Thank you. And, Counsel,
11 that's number 28, Mr. Byrne. And if any one of you want
12 any additional voir dire, just let me know. Otherwise,
13 I'm assuming you don't, okay? All right, sir,
14 thank you. Sir, what's your jury number?

15 THE JUROR: 166.

16 THE COURT: 166?

17 THE JUROR: Yes, sir.

18 THE COURT: You're Mr. Reger?

19 THE JUROR: Yes, sir.

20 THE COURT: All right. Now again
21 my question to you is, would that history prevent
22 you from being able to give both sides of this case
23 a fair and impartial trial?

24 THE JUROR: No, sir.

25 THE COURT: Thank you, sir. What's your

1 jury number?

2 THE JUROR: 66.

3 THE COURT: 66?

4 THE JUROR: Yes, sir.

5 THE COURT: You're Ms. Garofalo?

6 THE JUROR: Yes, sir.

7 THE COURT: Okay. And I'll butcher your
8 name before it's over with, I'm sure.

9 THE JUROR: It's okay. Me too.

10 THE COURT: But my question to you is this:
11 Would that prevent you from being able to give both
12 sides of this case a fair and impartial trial?

13 THE JUROR: (Shakes head.)

14 THE COURT: You've got to give me a verbal
15 response.

16 THE JUROR: No, sir.

17 THE COURT: Thank you, Ms. Garofalo.

18 Ms. Martinez, you are number ---

19 THE JUROR: 133, Your Honor.

20 THE COURT: What is it?

21 THE JUROR: 133, Your Honor.

22 THE COURT: 133. Same question.

23 Would that history prevent you from being able
24 to be fair and impartial to both sides of this case?

25 THE JUROR: No, Your Honor.

1 THE COURT: Okay. Thank you. In the back.

2 THE JUROR: Juror 190; one, nine, zero.

3 THE COURT: One, nine, zero. You're
4 Ms. Smolinski?

5 THE JUROR: Yes, sir.

6 THE COURT: Okay. Again, would that history
7 prevent you from being fair and impartial to both sides
8 of this case?

9 THE JUROR: No, sir.

10 THE COURT: Thank you, ma'am. Yes, sir,
11 what's your jury number?

12 THE JUROR: One, five, nine.

13 THE COURT: One, five, nine. Mr. Perez?

14 THE JUROR: Yes, sir.

15 THE COURT: Okay. And would that history
16 prevent you from being fair and impartial to both sides?

17 THE JUROR: No.

18 THE COURT: Okay. Thank you, Mr. Perez.
19 Yes, sir, what's your jury number?

20 THE JUROR: 99.

21 THE COURT: 99. You are Mr. Jenkins?

22 THE JUROR: Yes, I am.

23 THE COURT: And, Mr. Jenkins, again would
24 that history prevent you from being -- giving both sides
25 of this case a fair and impartial trial?

1 THE JUROR: Yes, it would.

2 THE COURT: It would? All right. So,
3 Mr. Jenkins, I'm going to excuse you from the trial
4 of this matter. If you'll just -- actually, you're free
5 to go. Thank you. All right. Let's go to the remote.
6 I'm going to look at the lady on the left side of my
7 screen with the white sweater on.

8 THE BAILIFF: Juror number 158.

9 THE COURT: Well, actually, it's not
10 a white sweater. It's -- okay. There you go.
11 What's your jury ---

12 THE JUROR: Juror 6.

13 THE COURT: What is it?

14 THE JUROR: Juror 6.

15 THE COURT: 36? Six. All right, you're
16 Ms. Alongi?

17 THE JUROR: Yes, sir.

18 THE COURT: Okay. And, Ms. Alongi,
19 would that history prevent you from giving both sides
20 a fair and impartial trial?

21 THE JUROR: No, sir.

22 THE COURT: Thank you, ma'am. You may be
23 seated.

24 THE BAILIFF: Juror 14.

25 THE COURT: Ms. Billman?

1 THE JUROR: Yes, sir.

2 THE COURT: Okay. And would that history
3 prevent you from giving both sides a fair and impartial
4 trial?

5 THE JUROR: No, sir.

6 THE COURT: Thank you, ma'am. You may be
7 seated.

8 THE JUROR: 126.

9 THE COURT: 166?

10 THE JUROR: 126.

11 THE COURT: 126. Mr. Lozoria?

12 THE JUROR: Yes, sir.

13 THE COURT: Okay. Mr. Lozoria, would that
14 history prevent you from giving both sides of this case
15 a fair and impartial trial?

16 THE JUROR: Yes, sir.

17 THE COURT: It would? All right. I'm going
18 to excuse you, Mr. Lozoria, from the trial of this
19 matter. And what is your jury number?

20 THE JUROR: 148.

21 THE COURT: You're Ms. Moore?

22 THE JUROR: Yes, sir.

23 THE COURT: And, Ms. Moore, would that
24 prevent you from giving both sides of this case a fair
25 and impartial trial?

1 THE JUROR: Yes, sir.

2 THE COURT: It would impact your ability
3 to do so?

4 THE JUROR: Yes, it would.

5 THE COURT: All right. I'm going to excuse
6 you, Ms. Moore. That's number 148. Has any member
7 of the jury panel --- oh, I'm sorry. Yes, sir.
8 What's your jury number?

9 THE JUROR: 213, sir. Robert Williams.

10 THE COURT: All right. Mr. Williams,
11 would that experience prevent you from giving both sides
12 a fair and impartial trial?

13 THE JUROR: I do believe it would, sir.

14 THE COURT: All right. You're not just
15 saying that to get out of jury service, are you,
16 Mr. Williams?

17 THE JUROR: No, sir.

18 THE COURT: All right.

19 THE JUROR: This is a personal thing.

20 THE COURT: All right. I'm going to excuse
21 you, Mr. Williams. Thank you, sir.

22 THE JUROR: I'm happy to serve whenever
23 you need me.

24 THE COURT: All right. Thank you.
25 What's your jury number?

1 THE JUROR: 78.

2 THE COURT: 78? You're Ms. Hair?

3 THE JUROR: Yes, sir.

4 THE COURT: And, Ms. Hair, would that
5 prevent you from being fair and impartial to both sides
6 of this case?

7 THE JUROR: Yes, sir.

8 THE COURT: All right. You're not just
9 trying to get out of jury service, are you?

10 THE JUROR: No, sir.

11 THE COURT: All right. Thank you, Ms. Hair.
12 I'm going to excuse you.

13 THE JUROR: Thank you.

14 THE COURT: All right. Have we done
15 everybody in the remote facility?

16 THE CLERK: Yes, Your Honor.

17 THE COURT: Thank you. Has any member
18 of the jury panel, or any member of their immediate
19 family, been charged with or convicted of a sexual
20 offense? If so, would you please stand. Does any
21 member of the jury panel have any training ---

22 THE BAILIFF: There's one, Judge.

23 THE COURT: Okay. Yes, ma'am, what's your
24 jury number?

25 THE JUROR: 26.

1 THE COURT: 126?

2 THE JUROR: 26. I have gray hair, and my
3 ears don't work very well. You're Ms. Buchi ---

4 THE JUROR: Buchicchio.

5 THE COURT: Thank you. I'm sorry. Now,
6 I'm not going to ask you anything about it, but would
7 that prevent you from being able to give both sides
8 a fair and impartial trial?

9 THE JUROR: Yes, sir.

10 THE COURT: It would? All right.
11 I'm going to excuse you from jury service. All right.
12 Next question. Does any member of the jury panel have
13 any training or experience in the field of psychiatry,
14 psychology, or law? If so, would you please stand.
15 All right, sir. You're number 28?

16 THE JUROR: Yes, sir.

17 THE COURT: And in what area are you ---

18 THE JUROR: I have a bachelor's degree
19 in psychology.

20 THE COURT: In psychology. All right, sir.
21 I'm not going to ask you any followup questions.
22 Thank you. Has any member of the jury panel, are you
23 currently or have you formerly, worked in the field
24 of psychiatry, psychology, or in the law? If so, would
25 you please stand.

1 Has any member of the jury panel been
2 involved in a prison ministry, prison outreach program,
3 or other program involving contact with incarcerated
4 persons? If so, would you please stand. Yes, sir,
5 what is your jury number?

6 THE JUROR: 215.

7 THE COURT: Sir?

8 THE JUROR: 215.

9 THE COURT: 215. You're Mr. Willis?

10 THE JUROR: Yes, sir.

11 THE COURT: All right, sir. Mr. Willis,
12 would that experience prevent you from giving both sides
13 of this case a fair and impartial trial?

14 THE JUROR: No, sir.

15 THE COURT: Thank you, Mr. Willis. Anybody
16 remotely? Has any member of the jury panel, or any
17 member of your immediate family, ever been the subject
18 of a civil commitment proceeding, or been voluntarily
19 or involuntarily civilly committed? If so, would you
20 please stand. Okay.

21 Is there any member of the jury panel
22 who's related by blood or marriage to another member
23 of the jury panel? If so, would you please stand.

24 Ladies and gentlemen, is any member
25 of the jury panel familiar with the Full Word Ministries

1 in North Charleston? If so, would you please stand.
2 Is any member of the jury panel familiar with Christian
3 Praise and Worship Ministry or the Reformed House of God
4 Church? If so, would you please stand.

5 Has any member of the jury panel, or any
6 member of their immediate family, ever been assaulted
7 by an authority figure, such as a priest, teacher,
8 guardian, elder, sports coach or a pastor? If so,
9 would you please stand. And you are juror number 133?

10 THE JUROR: Yes, sir.

11 THE COURT: And would that history prevent
12 you from being fair and impartial to both sides of this
13 case?

14 THE JUROR: I don't believe so, Your Honor.

15 THE COURT: Ma'am?

16 THE JUROR: No, sir.

17 THE COURT: Okay. Thank you so much.

18 Has any member of the jury panel ever searched the
19 sex offender registry? If so, would you please stand.

20 THE CLERK: We have a response in the jury
21 panel room.

22 THE COURT: Okay. Would you have them come
23 forward, please?

24 THE JUROR: Juror number 14.

25 THE COURT: Juror number what?

1 THE JUROR: 14.

2 THE COURT: 14. Okay. You're Ms. Billman?

3 THE JUROR: Yes, sir.

4 THE COURT: And how long ago was it that
5 you searched the sex offender registry?

6 THE JUROR: About six months ago.

7 THE COURT: Okay. All right. I don't
8 have any followup questions, unless the State or defense
9 does to that.

10 MR. RUNYAN: Nothing from the State,
11 Your Honor.

12 MR. FALK: No, Your Honor.

13 THE COURT: All right. Thank you, ma'am.
14 You may be seated.

15 THE JUROR: Thank you.

16 THE BAILIFF: Judge, we have one who needs
17 you to repeat the question.

18 THE COURT: Asked me to repeat the question?

19 THE BAILIFF: She heard it.

20 THE COURT: Okay. Oh, you heard it? Okay.

21 THE CLERK: We have more responses in the
22 jury panel room.

23 THE COURT: Thank you, ma'am. Yes, what's
24 your jury number?

25 THE JUROR: Juror 132.

1 THE COURT: You're Ms. Manning?

2 THE JUROR: Yes.

3 THE COURT: Okay. And, Ms. Manning,
4 would that prevent you from giving both sides of this
5 case a fair and impartial trial?

6 THE JUROR: No, sir.

7 THE COURT: And how long ago was it that
8 you searched the sex offender registry?

9 THE JUROR: Last week.

10 THE COURT: Last week. Okay. Thank you,
11 ma'am. You may be seated.

12 THE JUROR: Juror 68.

13 THE COURT: 68. You're Ms. Gary?

14 THE JUROR: Yes.

15 THE COURT: And how long has it been since
16 you searched the sex offender registry?

17 THE JUROR: Approximately a year.

18 THE COURT: Okay. And -- all right.

19 No further questions. You may be seated, Ms. Gary.

20 THE CLERK: One more response, Your Honor.

21 THE COURT: Thank you, ma'am.

22 THE JUROR: Juror number 198.

23 THE COURT: Okay. Mr. Trespicio?

24 THE JUROR: Yes, sir.

25 THE COURT: All right. How long ago was

1 it that you searched the sex offender registry?

2 THE JUROR: About a year ago, part of my
3 job.

4 THE COURT: Okay. Thank you. You may be
5 seated.

6 THE JUROR: All right.

7 THE COURT: All right. Ladies and
8 gentlemen, has any member of the jury panel ever worked
9 for, or have been in any way connected with the
10 following: Court-appointed advocacy program, such
11 as CASA, a social service agency, a guardian ad litem
12 program, a foster care program, or any other entity,
13 either private or governmental, that investigates
14 or counsel victims of rape or sexual assault? If so,
15 would you please stand.

16 THE CLERK: Would you repeat that question,
17 Your Honor?

18 THE COURT: I will. Has any member of the
19 jury panel ever worked for, or in any way been connected
20 with the following: One, a court-appointed advocacy
21 program, such as CASA, C-A-S-A, a social services
22 agency, a guardian ad litem program, a foster care
23 program, or any entity, whether public or private,
24 that investigates, counsels -- or counsel victims
25 of rape or sexual assault? If so, would you stand.

1 THE CLERK: I have a response in the jury
2 panel room.

3 THE COURT: Okay. And you're Ms. Manning?

4 THE JUROR: Yes, sir.

5 THE COURT: What's your jury number again?

6 THE JUROR: 132.

7 THE COURT: 132. Ms. Manning, you work
8 for one of these agencies?

9 THE JUROR: I work for the Department
10 of Veteran's Affairs.

11 THE COURT: Veteran's Affairs?

12 THE JUROR: Yes, sir.

13 THE COURT: And do you counsel
14 or investigate people who are alleged victims of rape
15 or of a sexual assault?

16 THE JUROR: Counsel.

17 THE COURT: Ma'am?

18 THE JUROR: Counsel.

19 THE COURT: You counsel. Okay. Well, would
20 the fact that you engage in that activity prevent you
21 from giving both sides of this case a fair and impartial
22 trial?

23 THE JUROR: No, sir.

24 THE COURT: All right. Thank you.

25 Ms. Manning. You may be seated. All right. Ladies and

1 gentlemen, any members of the jury panel, or any members
2 of their immediate family, associated with or members
3 of any groups or victim's rights groups, or any criminal
4 or law enforcement organizations, such as Neighborhood
5 Watch Group, Citizens Against Violent Crimes, People
6 Against Rape, Rape Crisis Hotline, Darkness to Light,
7 or anything of that nature? If so, would you please
8 stand.

9 THE CLERK: I have a response in the jury
10 panel room.

11 THE COURT: Okay. Come forward, please.

12 THE JUROR: Juror number 14.

13 THE COURT: Okay. And which one of those
14 groups are you a part of or a member of?

15 THE JUROR: Darkness to Light, through work.

16 THE COURT: Okay. And would that prevent
17 you from giving both sides of this case a fair and
18 impartial trial?

19 THE JUROR: No, sir.

20 THE COURT: All right. Thank you, ma'am.
21 All right. Does any member of the jury panel, or any
22 member of their immediate family, work with any law
23 enforcement agency, either on the county, city, state
24 or federal level? If so, would you please stand.

25 THE CLERK: I have a response in the jury

1 panel room.

2 THE COURT: Thank you, ma'am. All right,
3 Ms. Manning, you're popular today.

4 THE JUROR: My wife is a police officer
5 for the City of Charleston.

6 THE COURT: And you're jury number 132?

7 THE JUROR: Yes, sir.

8 THE COURT: And would that prevent you
9 from giving both sides of this case a fair and impartial
10 trial?

11 THE JUROR: No, sir.

12 THE COURT: Thank you, Ms. Manning. You may
13 be seated. What is your jury number?

14 THE JUROR: 50.

15 THE COURT: 50? You're Mr. Dill?

16 THE JUROR: Yes.

17 THE COURT: Okay. And where --

18 THE JUROR: My brother is a deputy detective
19 in Kershaw County.

20 THE COURT: Okay. And would that prevent
21 you from giving both sides of this case a fair and
22 impartial trial?

23 THE JUROR: No, sir.

24 THE COURT: Thank you, sir. Yes, ma'am.

25 THE JUROR: 64.

1 THE COURT: 64. Ms. Gallant.

2 THE JUROR: Yes. My husband is retired,
3 Charleston County Sheriff's Department Detention Center.

4 THE COURT: And would that prevent you from
5 giving both sides of this case a fair and impartial
6 trial?

7 THE JUROR: No.

8 THE COURT: Thank you, Ms. Gallant.
9 Is it Gillant or Gallant?

10 THE JUROR: Gallant.

11 THE COURT: My best friend's name
12 is Gallant, so I have -- it's interesting. Okay.

13 THE JUROR: Okay.

14 THE COURT: All right, in the blue shirt,
15 what's your jury number?

16 THE JUROR: 10.

17 THE COURT: 10. You're Auclair?

18 THE JUROR: Yes, sir.

19 THE COURT: Okay.

20 THE JUROR: My father is a retired police
21 officer.

22 THE COURT: Would that prevent you from
23 giving both sides of this case a fair and impartial
24 trial?

25 THE JUROR: No, sir.

1 THE COURT: Okay. Thank you, ma'am.

2 All right, sir.

3 THE JUROR: 185.

4 THE COURT: What is it?

5 THE JUROR: 185.

6 THE COURT: 185. You're Mr. Sloan?

7 THE JUROR: Yes, sir.

8 THE COURT: Okay, sir. Who's ---

9 THE JUROR: My brother.

10 THE COURT: Your brother?

11 THE JUROR: Yes, sir.

12 THE COURT: Is he currently or formerly?

13 Current. Would that prevent you from giving both sides
14 of this case a fair and impartial trial?

15 THE JUROR: No, sir.

16 THE COURT: Thank you, Mr. Sloan.

17 Yes, ma'am.

18 THE JUROR: Your Honor, could you repeat
19 the question, please?

20 THE COURT: I'll be glad to. Does any
21 member of the jury panel, or any member of their
22 immediate family, work for or with any law enforcement
23 agency, either on a city, county, state or federal
24 level? Okay. All right. What is your jury number
25 again? I got -- I should know it.

1 THE JUROR: Juror number 14, Kelly Billman.

2 THE COURT: Okay. Would that prevent you
3 from giving both sides of this case a fair and impartial
4 trial?

5 THE JUROR: No, sir.

6 THE COURT: Okay. Who is involved in law
7 enforcement?

8 THE JUROR: Me.

9 THE COURT: You?

10 THE JUROR: No, I work for the school
11 district.

12 THE COURT: Okay.

13 THE JUROR: Berkeley County.

14 THE COURT: Okay. I got you. Thank you,
15 ma'am.

16 THE JUROR: You're welcome, sir.

17 THE COURT: Does any member of the jury
18 panel, or any member of their immediate family, work
19 as an emergency medical technician, volunteer fireman,
20 or any occupation that could be described as a first
21 responder? If so, would you please stand. Does any
22 member of the jury panel personally know, or have you
23 had recent communication, with a member of the
24 Charleston or Berkeley County Solicitor's Office?
25 If so, would you please stand.

1 THE JUROR: Would you repeat that question?

2 THE COURT: Yes, sir. Does any member of
3 the jury panel, or any member of their immediate family,
4 personally know, or have you had recent communication
5 with a member of the Charleston or Berkeley County
6 Solicitor's Office? If so, would you please stand.
7 All right, did you get that?

8 THE JUROR: Yes, thank you.

9 THE COURT: All right. Thank you.
10 What is your jury number?

11 THE JUROR: 143.

12 THE COURT: 143.

13 THE JUROR: Yes, sir.

14 THE COURT: Okay. You're Ms. Mills?

15 THE JUROR: Yeah.

16 THE COURT: Okay. And you had
17 a conversation or somebody in your family has?

18 THE JUROR: My best friend works in the
19 solicitor's office.

20 THE COURT: Your best friend does?

21 THE JUROR: Um-hum.

22 THE COURT: Well, would that prevent you
23 from giving both sides of this case a fair and impartial
24 trial?

25 THE JUROR: No, sir.

1 THE COURT: Okay. Are they a solicitor,
2 or do they work in some administrative capacity?

3 THE JUROR: Administrator.

4 THE COURT: Okay. Thank you, ma'am.

5 All right. Does any member of the jury panel personally
6 know, or have you had recent communications, with the
7 South Carolina Attorney General's Office? If so, would
8 you please stand. All right.

9 Ladies and gentlemen, that concludes the
10 voir dire on this case. Back in that day, before --
11 do you have any additional voir dire, Mr. Falk?

12 MR. FALK: Yes, Your Honor. May I approach?

13 THE COURT: Yes, sir.

14 (Off-the-record conversation held at sidebar.)

15 (Back on the record.)

16 THE COURT: We'll take about a five-minute
17 break. We'll be back here in just about five minutes.

18 (Recess taken.)

19 (Back on the record.)

20 THE COURT: All right. Do we have everybody
21 back remotely?

22 THE CLERK: Yes, Your Honor.

23 THE COURT: We do?

24 THE CLERK: Yes, sir.

25 THE COURT: All right. Number one --

1 first, juror number 66, would you please stand.

2 And, Ms. Garofalo, you said you misunderstood
3 a question.

4 THE JUROR: I kind of went blank when
5 you ---

6 THE COURT: But you had sent word up here
7 that you felt like you could not be fair and impartial
8 in this case?

9 THE JUROR: I know. No, I incorrectly
10 answered that, yes.

11 THE COURT: I'm going to excuse you from the
12 trial of this matter, okay? Thank you for being candid.
13 That's juror number 66. All right. Ladies and
14 gentlemen, I want to go back and follow up on a question
15 I asked earlier, and this is a follow up to this
16 question.

17 The question was have you, or any member
18 of your immediate family, ever been assaulted by
19 an authority figure, such as a priest, teacher,
20 guardian, elder, sports coach -- let me do it again.
21 Thank you..

22 All right. Ladies and gentlemen, I'm going
23 to follow up to a question that I asked earlier,
24 and the question is this: Have you, or any member
25 of your immediate family, ever been assaulted by

1 an authority figure, such as a priest, teacher,
2 guardian, elder, sports coach or pastor?

3 All right. If the facts of this case
4 involves a pastor who allegedly molested any of his
5 parishioners, would that cause you to be -- unable
6 to be fair and impartial to both sides of this case?
7 If so, would you please stand. All right.

8 Any additional voir dire from the State?

9 MR. RUNYAN: Nothing further from the State,
10 Your Honor.

11 THE COURT: From the defense?

12 MR. FALK: No, Your Honor. Thank you.

13 THE COURT: All right. Thank you.

14 All right, ladies and gentlemen, back before I had gray
15 hair when we were picking a jury, we had somebody
16 who couldn't read. We had a little spindle, they'd come
17 here and pull out your names, and then you would be
18 selected in a fair and impartial manner that way.

19 Now we have computers. So what I'm going
20 to do is let these attorneys study the jury list based
21 on what you previously submitted, and what you said --
22 stated this morning. Y'all need, what, about 15
23 minutes, does that sound right?

24 MR. FALK: Please.

25 THE COURT: All right. After 15 minutes,

1 we're going to bring you back in here. You're welcome
2 to stay in here; you're welcome to be out in the
3 hallway. Don't leave. Twelve -- in 15, I'm going
4 to come back in here, and we'll begin jury selection
5 in just a few minutes, 12 to 15, ladies and gentlemen.

6 (Recess taken.)

7 (Back on the record.)

8 THE COURT: Please be seated. All right.
9 Gentlemen, there's four and four, right?

10 MR. FALK: Yes, sir.

11 MR. RUNYAN: That's correct, Your Honor.

12 THE COURT: You will pick for your primary
13 jury 1 through 20, using the left-sided numbers.
14 All right, Madam Clerk.

15 THE CLERK: Yes, sir.

16 THE COURT: And we have two alternates.

17 MR. RUNYAN: Ready, Your Honor?

18 THE COURT: Yes, sir.

19 THE CLERK: Gentlemen, let's begin our
20 strikes, beginning with the Plaintiff. The Plaintiff
21 strikes?

22 MR. RUNYAN: State would strike juror number
23 14.

24 THE CLERK: Plaintiff strikes number 14.
25 Defendant strikes?

1 MR. FALK: Respondent strikes number 16.

2 THE COURT: 16?

3 MR. FALK: 16.

4 THE CLERK: Defendant strikes number 16.

5 Plaintiff strikes?

6 MR. RUNYAN: State would strike number --
7 juror number 20.

8 THE CLERK: Plaintiff strikes number 20.

9 Defendant strikes?

10 MR. FALK: Respondent strikes number 3.

11 THE CLERK: Defendant strikes number 3.

12 Plaintiff strikes?

13 MR. RUNYAN: State would strike juror
14 number 4.

15 THE CLERK: Plaintiff strikes number 4.

16 Defendant strikes?

17 MR. FALK: Respondent strikes 18.

18 THE COURT: What was that number?

19 MR. FALK: 18.

20 THE COURT: Thank you.

21 THE CLERK: Defendant strikes number 18.

22 Plaintiff strikes?

23 MR. RUNYAN: State would strike juror
24 number 8.

25 THE CLERK: Plaintiff strikes number 8.

1 Defendant strikes?

2 MR. FALK: Number 11.

3 THE CLERK: Defendant strikes number 11.

4 And for our first alternative, using numbers 21 through
5 23, Plaintiff strikes?

6 MR. RUNYAN: State strikes 21.

7 THE CLERK: Plaintiff strikes number 21.

8 Defendant strikes?

9 MR. FALK: 23.

10 THE CLERK: Defendant strikes number 23.

11 And our second alternate, using numbers 24 through 26,
12 Plaintiff strikes?

13 MR. RUNYAN: State strikes juror 24.

14 THE CLERK: Plaintiff strikes number 24.

15 Defendant strikes?

16 MR. FALK: 25.

17 THE CLERK: Defendant strikes number 25.

18 Let's check our strikes, please. Plaintiff strikes
19 number 4, number 8, number 14, number 20. And our first
20 alternate, number 21, and our second alternate, number
21 24; is that correct?

22 MR. RUNYAN: That's correct.

23 THE CLERK: Thank you. The Defendant
24 strikes number 3, number 11, number 16, number 18.
25 And our first alternate, number 23, and our second

1 alternate, number 25; is that correct?

2 MR. FALK: That's correct.

3 THE CLERK: Thank you. Ladies and gentlemen
4 of the jury, when I call your name, please come forward
5 to serve as a juror, and bring all of your personal
6 items.

7 Juror number 198, Paul Trespicio; juror
8 number 57, Olympia Ellington; juror number 176, Lori
9 Roy; juror number 195, Jennifer Sweat; juror number 193,
10 Richard Stickley; juror number 174, Deborah Rose;
11 juror number 88, Madison Hogue; jury number 199,
12 Theresa Valeriano. I know I pronounced it wrong,
13 and I'm sorry. Juror number 62, Teresa Freir;
14 juror number 143, Destiny Mills; juror number 81,
15 Jeffery Hardiman; juror number 8, Borrás Arocho.
16 Our first alternate, juror number 5, Paulette Albright.
17 Our second alternate, juror number 103, Fredrica
18 Johnson.

19 THE COURT: While they're coming,
20 any motions directed to the jury selection process
21 on behalf of the State?

22 MR. RUNYAN: Nothing from the State,
23 Your Honor.

24 THE COURT: From the defense -- from the
25 Respondent?

1 MR. FALK: Nothing from the Respondent,
2 Your Honor.

3 THE COURT: Thank you. All right.
4 Who are my alternates, raise your hands? You and you?
5 Okay. Do you have a normal place? Usually, I keep them
6 on the far right.

7 THE CLERK: We keep them on the far left.

8 THE COURT: You keep them on the far left.

9 THE CLERK: Yes, sir.

10 THE COURT: See what happens when you cross
11 the mid-state, they flop sides. Anyway, alternates,
12 I'm going to ask the jury to go back in a few minutes
13 and pick a foreperson. The foreperson will be someone
14 who is in charge of deliberations at the end of the case
15 when you're told to begin your deliberations.

16 Also, the foreperson will be in charge
17 with communicating with the Court, if there's a need
18 to communicate with me. Our alternates cannot serve
19 as the foreperson; they certainly can vote for it.
20 Doesn't have to be unanimous but by a simple majority.

21 Once you select a foreperson, I'm going
22 to ask the foreperson to write his or her name down,
23 along with their jury number, on a piece of paper.
24 And then tally your jurors to see if anyone would like
25 to have pad and pen to take notes with during the course

1 of this trial. If anyone does, just write the number
2 of jurors who do, six or eight or ten, and then we'll
3 receive you back here in the courtroom.

4 Then, we'll break for lunch, and then
5 we'll come back with opening statements this afternoon.
6 But if you would go back with the bailiffs now, pick
7 a foreperson. As soon as you get that, let us know,
8 okay? All right. Would you take them to the jury room,
9 please?

10 (Jury exits the courtroom at 12:30 p.m.)

11 THE COURT: All right. I can look
12 at the rest of you out there and see the looks
13 of disappointment in your eyes from not having been
14 selected in the trial of this matter. Let me say this
15 to you seriously. I want to thank you again, and those
16 who are remotely appearing, for your willingness to come
17 here and to serve.

18 I know it's a disruption in your daily
19 lives, but without people like you willing to do their
20 civic duty, the rule of law becomes nonexistent because
21 we need jurors to sit down and make a determination
22 to factual issues in criminal case and civil cases.
23 So without you, we don't have a rule of law. Thank you
24 for your willingness to serve. You're excused for the
25 remainder of the week. Take care.

1 (Remainder of jury panel exists courtroom at 12:37 p.m.)

2 THE COURT: All right, guys. We'll see you
3 back at two o'clock.

4 (Recess taken.)

5 (Back on the record.)

6 (State's Exhibits 1 through 6 were marked for
7 identification.)

8 THE COURT: Mr. Runyan, are you ready
9 to bring the jury in?

10 MR. RUNYAN: Yes, Your Honor.

11 THE COURT: Mr. Falk, are you ready?
12 Would you bring the jury in.

13 (Jury enters the courtroom at 2:00 p.m.)

14 THE COURT: Are you our forelady?

15 THE FORELADY: Yes, Your Honor.

16 THE COURT: Okay. What's your juror number?

17 THE FORELADY: 199.

18 THE COURT: Got it. There you go.
19 Thank you. If you'll just use that seat each time
20 we come in.

21 THE FORELADY: Yes, sir.

22 THE COURT: And you alternates down
23 there, if y'all use those seats to help me keep up.
24 Madam Clerk, are you ready to swear the jury?

25 THE CLERK: Yes, Your Honor. Ladies

1 and gentlemen of the jury, please stand and raise
2 your right hands to be sworn.

3 (Whereupon, the jury panel was duly sworn.)

4 THE CLERK: Thank you. Please be seated.

5 THE COURT: All right. Madam Forelady,
6 ladies and gentlemen of the jury, as I told you earlier,
7 this is the case of -- in the matter of the care
8 and treatment of Tyrone Maurice Moore, a/k/a, Tyrone
9 Moore. This is the civil commitment proceedings
10 against Mr. Moore by the state of South Carolina under
11 the Sexually Violent Predator Act. I'm going to let
12 the attorneys tell you more about that.

13 This is a civil case; it's not a criminal
14 case. But the burden is beyond a reasonable doubt,
15 which is a criminal standard of proof, and I'm going
16 to tell you more about that in just a few minutes.

17 Now, ladies and gentlemen, I don't know
18 if you've ever been involved with a trial, whether
19 it would be civil, whether it would be criminal,
20 but I suspect that each and every one of you have
21 watched on TV something that purports to be a trial.

22 Let me quickly dispel any preconceived
23 notions that you may have. Trials are not like you
24 see on TV. They don't just resolve themselves within
25 five minutes. They're often very slow; they're very

1 methodical; and they're very deliberate. They're also
2 a fundamental part of our democracy.

3 Now, ladies and gentlemen, these attorneys
4 when they're sworn in, like all attorneys, they take
5 an oath to zealously represent their clients before
6 the Court in any matter in which they appear, and you
7 expect them to do that in this case.

8 But they're also officers of the court,
9 which means you expect them to be professional,
10 confident and ethical in their dealings with one another
11 and their dealings with me and any witnesses that
12 appears before them in this court.

13 Now you have just taken an oath where you
14 swore or affirmed that you would try to reach a just and
15 fair verdict, which means that the Court, the parties,
16 the attorneys have a right to expect of you that you
17 will be fair, that you will be impartial, and that you
18 will follow the instructions from the Court throughout
19 these proceedings.

20 Now what I tell you now is not the law
21 that you will apply. These are basically a roadmap
22 or instructions so you kind of understand where you
23 are and what you're doing. At the end of the case,
24 I will give you instructions on the law that you
25 will apply to the facts as you find them to be.

1 Now at the end -- beginning of the case,
2 I asked the forelady to check to see if anybody wanted
3 to take notes. Does anybody want to take notes? Raise
4 your hand. Would you hand out those pads and pens?

5 (Pause.)

6 THE COURT: Madam Forelady, you're looking
7 for a pad yourself?

8 THE FORELADY: I'm getting one.

9 THE COURT: Okay, great. All right. While
10 they're getting here, y'all don't need to be taking
11 notes now anyway. First about notes, let me warn
12 you that part of what your job is in finding the facts
13 is to determine the credibility or believability of
14 the testimony. You have a right to believe all or part
15 or none of any witness' testimony that comes before you.

16 In making this determination, there's
17 a lot of factors that I will give to you in the case,
18 but one of them is what is their demeanor while they're
19 on the witness stand testifying. If you get so
20 engrossed in taking your notes that you miss somebody's
21 subtle reactions to a question or a point, you may
22 miss something that's indicative to you of truthfulness
23 or lack of truthfulness.

24 And also, Madam Forelady, just because
25 something may appear in one of your juror's notes

1 doesn't mean that it trumps somebody's memory on
2 that factor issue. Some people are better note takers;
3 some people are better listeners. That's why they're
4 called deliberations. You'll just have to hash them
5 out, okay?

6 Now, ladies and gentlemen, you are,
7 in the vernacular of attorneys, the sole judges
8 of what the facts are and any inferences from the facts
9 as you find them to be. No one has the right to invade
10 your providence of finding the facts in this case,
11 what your verdict is going to be. The lawyers don't,
12 I don't, no one does.

13 And you are to determine what the facts
14 are from the testimony and evidence that you hear
15 from this witness stand, any exhibits that I allow
16 into evidence, and potentially if there's any
17 stipulation by the attorneys that would be something
18 you would have to accept. But you may not be influenced
19 by anything you see outside of court, okay? I want you
20 to make your determination from what you hear and see
21 from this witness stand according to the law as I give
22 it to you.

23 Now if I seem to do anything during this
24 trial that indicates to you supposedly how you were
25 to find the facts, I'm going to ask you, but I'm also

1 going to instruct you, to disregard it. Our
2 constitution does not allow any judge to have
3 an opinion, or to state an opinion, about the facts
4 of the case, and I don't have one. That's you and
5 you alone who will determine what the facts are.

6 Now the same law that makes you the sole
7 judges of the facts, makes me the sole judge of the law.
8 You have to accept it as I give it to you. You may not
9 be concerned with what you think it should be or what
10 you would like it to be, but only what it is as I give
11 it to you.

12 It would be a dereliction of your duties
13 as jurors to apply anything but the law as I give
14 it to you. I will tell you that if I'm wrong, there's
15 a Court of Appeals, there's a Supreme Court that
16 will quickly correct any legal errors that I make.
17 But for purposes of this trial, you have to accept
18 the law as I give it to you.

19 Now from this point forward, I don't want
20 you to talk with anybody about this case. I know you
21 probably have spouses or significant others or good
22 friends or children. They're probably curious to see
23 what the case is about. Just tell them at the end
24 of the case I'll be glad to talk to you about it to my
25 heart's desire, but you can't do it during the trial.

1 And you can't talk to one another about
2 this case during the trial. A lot of times during
3 a break, say there's an objection and I rule on it,
4 let you stay in here during the breaks, oh, did you
5 see that objection? Did you see what the judge ruled?
6 You can't talk about the case, even amongst yourselves.
7 At the end of the day, I will tell you in no uncertain
8 terms, now you're to begin your deliberations.

9 And the reasons we don't want you talking
10 about the case, first, with anybody else, we don't
11 know what kind of information they're giving to you.
12 But if you talk amongst yourselves, you may come
13 to a pre-conclusion that's not warranted based on
14 all the testimony and the evidence. So you need to hear
15 all the testimony, hear all the law, then you begin your
16 deliberations at the end of the day.

17 Also, I don't think it would be a problem,
18 but you're not to read, hear or see anything about
19 the case during the course of this trial. So if there
20 happens to be any media about it, don't watch it, don't
21 listen to it, don't read it. Also -- and I'm giving
22 you my don't speech right now.

23 You're not allowed to engage in what
24 is called independent jury research. You can't look
25 up an issue that you hear about in this case, or issues

1 you think would be helpful or look up anything about
2 any participants in the case. After it's over with,
3 you have a right to do all you want to in that regard,
4 but not until the case is over with.

5 Now in each case, there are five phases.
6 The State will make an opening statement. The defense
7 does not have to, but they may make an opening statement
8 as well. After opening statements, the State has
9 the burden of proving this case. They'll present
10 their evidence. The defense has a right to then answer
11 that with their presentation of the evidence, in which
12 the State has a right to reply to it.

13 After the presentation of the evidence,
14 you go to the third phase, which would be the closing
15 arguments by the attorneys. I will then charge you on
16 the law. And then the fifth phase, you're told to begin
17 your deliberations. I tell you that so you'll know
18 where you are throughout the course of these
19 proceedings.

20 Now lawyers have an ethical duty to object
21 any time they see improper evidence being proffered
22 or a procedure being followed. I assume that will
23 happen in this case as well. Suffice it to say, ladies
24 and gentlemen, that's just the process. The fact that
25 there's an objection, or the fact that I let you stay

1 in here and see my ruling on that objection, is not
2 and shall not be the subject of your deliberations,
3 Madam Forelady. That's just the process that it goes
4 through in all trials.

5 Now, as I told you at the beginning,
6 this is a civil case. But even though it's a civil
7 case, the State has the burden of proving that this
8 Respondent is a sexually violent predator by proof
9 beyond a reasonable doubt, which is a criminal standard.
10 Now let me give you that standard so you'll know what
11 it is through the course of this trial.

12 This is the definition of reasonable doubt.
13 A reasonable doubt is the kind of doubt that would cause
14 a reasonable, sincere and conscientious person to
15 hesitate to act in an important matter in their own
16 affairs. Now the State has the burden of proving that
17 the Defendant is a sexually violent predator by proof
18 beyond a reasonable doubt.

19 If you've ever been involved in other civil
20 cases, generally, the burden of proof is by the greater
21 weight or the preponderance of the evidence. In this
22 case, it's much stronger. It is the criminal standard
23 of proof beyond a reasonable doubt. Proof beyond
24 a reasonable doubt is proof that leaves you firmly
25 convinced that the Defendant is a sexually violent

1 predator.

2 Now, ladies and gentlemen, that being said,
3 there are very few things in this world that we know
4 with absolute certainty. And in this case, the law does
5 not require the State to overcome every possible doubt
6 that may occur in this case. At the end of the day,
7 when you're told to begin your deliberations, if you
8 are firmly convinced that the Defendant is a sexually
9 violent predator, it will be your duty to find him
10 as such.

11 If you think there's a real possibility
12 that he is not a sexually violent predator, you must
13 give him the benefit of the doubt and find he is not
14 a sexually violent predator. With that being said,
15 Mr. Runyan, any exceptions or additions from the State
16 to my opening remarks?

17 MR. RUNYAN: No, Your Honor.

18 THE COURT: Mr. Falk?

19 MR. FALK: No, Your Honor.

20 THE COURT: All right. Opening statements,
21 Mr. Runyan.

22 MR. RUNYAN: May it please the Court.

23 THE COURT: Yes, sir.

24 MR. RUNYAN: It's okay if I just turn this
25 around? That's okay?

1 THE CLERK: Sure.

2 MR. RUNYAN: Good afternoon, ladies and
3 gentlemen. My name is Chris Runyan. I introduced
4 myself to you earlier this morning. I'm the assistant
5 attorney general, and I work for the South Carolina
6 Attorney General's Office.

7 I do want to thank you, and we thanked you
8 already, and you're probably going to be thanked a lot
9 today and throughout this week for your service because,
10 as the judge told you, you have an important role in
11 our American judicial system, and that's to be the fact
12 finder.

13 It's the 12 of you who will come together
14 today and tomorrow and listen to the evidence and
15 determine what the facts are in this case. Nobody else
16 can do it for you. The 12 of you will come together
17 with one voice, and you'll answer the dispute in
18 question. That's a very important role in our society
19 because it allows us to, you know, resolve conflicts
20 peacefully. So we thank you for your service.

21 Now, like I said, I work for the attorney
22 general's office, and you may be wondering why the
23 attorney general's office is here in Berkeley County
24 today. Well, it's pretty simple. Back in 1998,
25 roughly, I guess, 24 years ago now, the lawmakers

1 in Columbia, they passed a law. It's called
2 the Sexually Violent Predator Act.

3 When they passed that law, they simply wrote
4 in that the agency that will work these cases on behalf
5 of the State is the attorney general's office. That's
6 why I'm here and not a local attorney. Now the State
7 is seeking the civil commitment of Mr. Tyrone Moore,
8 who you met this morning.

9 And we've talked a lot about sexually
10 violent predator. You've heard that word thrown around
11 here this morning and this afternoon, but you might
12 be wondering now what is a sexually violent predator.
13 Well, when the lawmakers passed that law, they really
14 had two things in mind. One, that there's individuals
15 in this state who suffer from a mental abnormality,
16 a personality disorder that makes them likely to engage
17 in acts of sexual violence.

18 And the second thing they had in mind
19 is those individuals who suffer from a mental
20 abnormality or personality disorder, need treatment.
21 And that treatment needs to come in a secure facility
22 for the protection of the community. And the State
23 contends that Mr. Moore is one of those individuals.

24 So, I'm going to stop here, and I'm going
25 to apologize to you very briefly. And I'm going

1 to apologize to you because when you got your jury
2 summons, probably two or three weeks ago, you were
3 called to civil court.

4 And what people think about normally when
5 they think of civil court is they think of a car wreck,
6 two people got in an accident, somebody is trying to
7 figure out who's to blame, or maybe, you know, a slip
8 and fall case, somebody who's at Food Lion, and they
9 slipped, and they're looking for money or compensation
10 for their injuries.

11 That's the kind of thing that one thinks
12 about when they're talking about a civil case.
13 I'm going to bet that no one probably thought sexually
14 violent predator when they walked through the doors.

15 So the reason I'm apologizing to you is
16 because some of the things you're going to hear today
17 are going to be disturbing, some of the details that
18 you're going to have to listen to. The crimes that
19 Mr. Moore committed, you know, you may not like him,
20 you may be upset with him, but you have to set that
21 aside.

22 The reason the 12 of you were chosen
23 is because I think we believe you can put your emotions
24 aside, and you can look at what you have to do here,
25 and what we have to prove, and what we have to show

1 you. You have to set those emotions aside, and you
2 have to listen to those details that you may not like
3 to listen to because they are -- that's the information
4 that you're going to determine whether or not Mr. Moore
5 is a sexually violent predator, so it's important that
6 you listen to those.

7 There's another reason why it's important
8 for you, and you have to remember that Mr. Moore has
9 already had criminal proceedings. He's already been
10 convicted of the crime; he's already gone to prison.
11 That's not what we're here for. We're not here
12 to punish Mr. Moore for any crimes he committed
13 in the past. What we're here to do is determine whether
14 or not he has a mental abnormality or personality
15 disorder that he needs treatment for to protect the
16 community.

17 Now what must we prove to you? What exactly
18 is a sexually violent predator? And really it's kind
19 of -- the way that the statute reads is that we have
20 to show beyond a reasonable doubt that Mr. Moore has
21 been convicted of at least one sexually violent offense,
22 and that he has a mental abnormality or personality
23 disorder that makes him likely to engage in the act
24 of sexual violence, if he's not confined to long-term
25 control, care and treatment.

1 Now we need to break that down really
2 because it really breaks down to about three different
3 things. It reads as two, but it really breaks down
4 to three things we have to show. The first thing
5 is, has he been convicted of a sexually violent offense?
6 And the statute lists out there's about 16 different
7 offenses that are, by statute, sexually violent
8 offenses.

9 And Mr. Moore -- and you're going to see
10 evidence that's going to show you that Mr. Moore has
11 been convicted of not one, but five different sexually
12 violent offenses. You're going to see in 1989
13 conviction for lewd act against a child, two counts
14 of criminal sexual conduct in the first degree in 1991,
15 and two counts of lewd act against a minor in 2009.
16 I don't think that's seriously going to be contested,
17 but it is our burden to prove that to you.

18 The second and third things we have to
19 show you is whether or not he has a mental abnormality
20 or personality disorder; that's number two. And number
21 three, does that mental abnormality or personality
22 disorder make him likely to engage in acts of sexual
23 violence if he's not confined for long-term control,
24 care and treatment.

25 And on that point, we need the help of

1 the mental health community, so you're going to hear
2 testimony from Dr. Marie Gehle, who is a forensic
3 psychologist, and she works for the Department of Mental
4 Health, and she was appointed by the court to do an
5 evaluation of Mr. Moore.

6 You're going to hear her testimony. She's
7 going to testify to you that Mr. Moore does, in fact,
8 suffer from a mental abnormality, pedophilic disorder.
9 Now she's going to explain to you what a pedophilic
10 disorder is, she's going to tell you what the criteria
11 is for someone to meet that, she's going to tell you how
12 Mr. Moore meets that criteria. She's going to -- you'll
13 need to listen to what she has to say to you about that.

14 On that third thing, it's kind of the risk
15 to re-offend. Is he likely to engage in acts of sexual
16 violence? And Dr. Gehle is going to testify to you
17 about how she does risk assessments, what she looks
18 at, what a comprehensive evaluation is, consists
19 of a records review and interview with Mr. Moore,
20 talk to him about his life.

21 And she performs these tools that she uses.
22 They're called actuarial measures, and she'll explain
23 to you what those are and how they -- she uses them
24 to assess risks, and how she combines them with
25 the other risk assessment measures that she uses.

1 And she's going to tell you, I believe,
2 that, yes, Mr. Moore is a sexually violent predator
3 who suffers from a mental abnormality, and he is likely
4 to commit acts of sexual violence in the future, if he's
5 not confined for long-term control, care and treatment.

6 Now after you hear her testimony, it's going
7 to be up to you to determine, you know, how
8 comprehensive her evaluation was, whether you believe
9 her or not. That's going to be up for you to determine,
10 how thorough she was.

11 Now the judge has told you that's what
12 we have to prove to you, those kind of two or three
13 things. The judge is going to explain to you how
14 we have to prove it to you, what is our burden of proof.
15 And as he told you, our burden of proof is beyond
16 a reasonable doubt. And I want you to know that the
17 State does not shy away from that burden, we don't hide
18 from that burden. We believe the evidence you're going
19 to hear is going to leave you firmly convinced that
20 Mr. Moore is a sexually violent predator.

21 So what do I want you to do? The law
22 is not a first career for me. I spent 20 years
23 in telecom building cellular towers and putting fibers
24 in the ground. This is a -- we'll just say I came to
25 the law at a mature age. But I've known a construction

1 foreman that used to tell me always ask for what you
2 want. And I've kind of done that throughout my life
3 and throughout my career, and I'm asking the same thing
4 today.

5 What do I want from you? It's pretty
6 simple. I just want you to listen to the evidence.
7 I want you to listen to all the evidence, not just
8 the State's evidence. I want you to listen to whatever
9 evidence that Mr. Moore provides to you. And I believe
10 when you listen to that evidence it's going to become
11 clear that the verdict you should render in this case
12 is, yes, Mr. Moore is a sexually violent predator.
13 I thank you for your time.

14 THE COURT: Mr. Falk, do you wish to have
15 an opening statement?

16 MR. FALK: Yes, Your Honor, just briefly.
17 May it please the Court.

18 THE COURT: Yes, sir.

19 MR. FALK: Ladies and gentlemen, I'm going
20 to really have more to say at the end of this trial.
21 I've just got a couple of really brief remarks.
22 But again, I want to thank you for being here.
23 And, you know, I could appreciate what Mr. Runyan said,
24 this is probably not the kind of case that you were
25 expecting, and it's going to have some details that

1 are going to be troubling.

2 But I also want you to remember that y'all
3 gave an oath that you're going to be fair, and that's
4 really going to be the hardest thing. It can be very
5 easy to sort of have your judgment maybe be clouded
6 by some of the stuff that we're going to hear testified
7 to today. But, you know, the issue here is not --
8 whether or not my client has committed crimes that
9 deserve punishment because he's committed crimes that
10 deserve punishment, and he's been punished.

11 The question is today about whether or not
12 he's done with that and whether or not today, you know,
13 April 18th, it's okay for him to go home, be back with
14 his family, or whether or not he needs to go someplace
15 for treatment in a secure facility, which means
16 someplace where he can't come and go as he pleases,
17 and where he's going to go to this facility and not
18 know when he's going to be able to leave this facility,
19 so there's a lot at stake here.

20 You know, that's what we call -- his liberty
21 is at stake here, where he's going to go tonight
22 or whenever this trial is over, tomorrow night,
23 whatever. Where he's going to go after that is going
24 to be the decision that y'all are going to make, whether
25 or not he's going to be able to go back with his family

1 or whether or not he's going to have to go someplace
2 else, in a secure facility.

3 You know, when we ask those questions
4 at the beginning, our whole job there, my job there,
5 Mr. Runyan's job there, would be while we're asking
6 those questions at the beginning, we're just trying
7 to get people who we thought could be fair. And I think
8 that we put a lot of faith in that you all could be
9 fair here. And, you know, but I really -- my client
10 is really putting a tremendous amount of faith in
11 y'all's promise to keep your oath to be fair in this
12 case.

13 And, you know, the thing that -- I kind
14 of appreciate those handful of people, maybe about
15 a dozen people, who stood up in this courtroom and said
16 they didn't think they could be fair, and I kind
17 of admire somebody for being that -- sometimes
18 we all think, you know, as Americans, whatever,
19 that we can be fair, we can listen. We're fair people.
20 When somebody stands up and says, well, I think I can
21 be fair, I respect that decision. So, I'm hoping that,
22 you know, you all are going to be able to be fair
23 in this case.

24 And what fair is really is going to be
25 listening to what Mr. Runyan says, don't make any

1 judgments until you've heard the end. You're going
2 to hear from Mr. -- you're going to hear from my client.
3 He's going to testify at the end because it's going
4 to be you all's decision, not necessarily the State's
5 witness' decision, as to whether or not he's a sexually
6 violent predator.

7 And again, the State needs to prove
8 that he suffers from some type of mental abnormality
9 or personality disorder that makes him likely,
10 not whether or not he's committed crimes in the past.
11 That's what you all have to focus on, and that's really
12 your decision, not anybody else's decision. And I hope
13 that again you all will -- we're probably going
14 to be done some time tomorrow. It's going to be kind
15 of a quick trial, but it's going to have a tremendous
16 amount of impact on my client and what my client can
17 do for the rest of his life.

18 So again, I just -- I will have more
19 to say at the end. I thank you for being here today.
20 Thank you.

21 THE COURT: Madam Forelady, did you get
22 your pad? Did you ever get your notepad?

23 THE FORELADY: I'm sorry?

24 THE COURT: Did you get your -- you did.
25 Okay. All right. Call your first witness, please.

1 MR. RUNYAN: Yes, Your Honor. The State
2 would call Dr. Marie Gehle.

3 DR. MARIE GEHLE was called as a witness,
4 being duly sworn, was examined and testified as follows:

5 THE CLERK: Thank you. Please be seated.
6 State your full name for the record, and please spell
7 your last name.

8 THE WITNESS: Marie Gehle, G-E-H-L-E.

9 DIRECT EXAMINATION

10 BY MR. RUNYAN:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. Dr. Gehle, this is about how far as I could
14 stand back here, but I'm going to stand back here.
15 I'm not yelling at you, but if I can hear you then
16 this jury back here should be able to hear your answer,
17 so. Could you tell us by whom you are employed
18 and in what capacity?

19 A. I work for the South Carolina Department
20 of Mental Health in the forensic evaluation service,
21 and I'm chief psychologist there.

22 Q. Now in order to be employed as a chief
23 psychologist at the Department of Mental Health,
24 are you required to have a certain education
25 or background or experience?

1 A. To be a psychologist, and I'm a licensed
2 psychologist, the Department has different requirements.
3 But in order to do evaluations for the court, you need
4 to be a doctoral level psychologist and be licensed
5 to practice in clinical psychology.

6 Q. Where did you receive an undergraduate degree
7 from?

8 A. Ohio Northern University in Ada, Ohio.

9 Q. And what degree did you obtain?

10 A. I got a BA in psychology.

11 Q. Did you do any graduate work?

12 A. Yes.

13 Q. What did you do?

14 A. I went to Xavier University in Cincinnati, Ohio.
15 I got a master's in clinical psychology and then
16 a doctorate in clinical psychology.

17 Q. Now as part of your -- did you do any
18 post-doctoral things, such as internships or
19 fellowships?

20 A. And so we're required to do an internship before
21 you complete your doctorate. I did that in Washington
22 State, their sexually violent predator program,
23 and as part of their forensic evaluation services
24 in the state. Then, I did a post-doctoral fellowship
25 at East Central Regional Hospital in Augusta, Georgia.

1 That's a forensic hospital, and I did evaluations
2 of people in pretrial capacities. So we did evaluations
3 of competency to stand trial and not guilty by reason
4 of insanity.

5 Q. What, if any, lectures, training, seminars,
6 other presentations have you given as a part of your
7 job?

8 A. Well, I'm also on the faculty at the University
9 of South Carolina Medical School in their psychiatry
10 department. So as part of that, I give lectures,
11 three every single year, to the psychiatry fellows
12 who are training to become forensic psychiatrists.

13 I give a lecture on sex offender treatment,
14 on sexually violent predator evaluations, and on
15 violence risk assessments. And then I do some other,
16 you know, trainings with them throughout the year,
17 and I do trainings with our post-doctoral fellows
18 in psychology at the Department of Mental Health.

19 Q. Are you a member of any professional
20 organizations?

21 A. I'm a member of the -- what we call APLS.
22 It's -- I'm going to have to remember what that
23 is. It's basically psychology in the law, society.
24 So it's psychologists who do legal work.

25 Q. Now, I think you testified earlier, but are

1 you required to have a license to practice psychology?

2 A. Yes.

3 Q. And do you have a license?

4 A. Yes.

5 Q. Where is that?

6 A. I have a license to practice in South Carolina
7 and in Georgia.

8 Q. About how long have you been licensed?

9 A. I was licensed in 2010.

10 Q. In both states?

11 A. Yes.

12 Q. So could you tell us what your job duties are?

13 A. My job duties almost solely are doing
14 pre-commitment evaluations of sexually violent
15 predators, so doing the type of evaluations that I did
16 in this case.

17 Q. So what is psychology?

18 A. Psychology is the study of human behavior.

19 Q. Now how does that differ from -- tell us,
20 what is forensic psychology?

21 A. Forensic psychology is a subspecialty of clinical
22 psychology. Clinical psychology is using the principles
23 of psychology to address mental health problems.
24 And we do things like testing and treatment with people
25 with mental health problems, behavioral problems

1 or serious mental illness. Forensic psychology is using
2 those concepts from clinical psychology and applying
3 it to questions in the legal system.

4 Q. Does your work as a forensic psychologist
5 allow you to conduct forensic psychological evaluations
6 of individuals?

7 A. Yes.

8 Q. And, approximately, total in your career all the
9 types of evaluations you did, how many total evaluations
10 have you done?

11 A. It's a big question. I've done hundreds
12 and hundreds of evaluations of various types.

13 Q. Okay. But what types of evaluations do you do?

14 A. Currently, all I do is sexually violent predator
15 evaluations, and I almost solely do pre-commitment,
16 so the determination as to whether somebody meets
17 criteria of a sexually violent predator. On occasion,
18 I do evaluations of people who have been committed
19 as a sexually violent predator. I'll do an evaluation
20 periodically of those, if my workload allows.

21 Q. And what other types of evaluations have you done
22 in your career?

23 A. I've done general psychological evaluations
24 with adults and children. I have done risk assessments,
25 competency to stand trial evaluations, criminal

1 responsibility evaluations, things like that.

2 Q. Now how long have you worked with sex offenders?

3 A. I first worked with sex offenders when
4 I completed my bachelor's degree in 2000. I was a case
5 manager in a community mental health center before
6 I went to graduate school, and there I had a special
7 caseload of children, so minors, who had committed
8 sexual offenses. So that was when I started that work.

9 And then it was really in the pre-doctoral
10 internship in 2006 to 2007 that I worked a lot with
11 sex offenders. And then it's been for almost all
12 of the years in between then. Definitely since 2009,
13 I've worked with sex offenders.

14 Q. Now specifically when we're talking about these
15 SVP treatment evaluations that you do -- you primarily
16 do now, how many of those have you performed --
17 evaluations have you performed in your role?

18 A. It's over 200; it's between 225 and 250.

19 Q. Now have you ever been qualified as an expert
20 in the field of forensic psychology in South Carolina
21 Circuit Courts in SVP proceedings?

22 A. Yes.

23 Q. How many times?

24 A. It's well over 100 times.

25 Q. And that's specific to sexually violent predator

1 proceedings?

2 A. That is in this type of case, yes.

3 MR. RUNYAN: Your Honor, at this time I move
4 for Dr. Gehle to be recognized as an expert in forensic
5 psychology and forensic sex offender evaluations.

6 MR. FALK: No objection.

7 THE COURT: All right. Ladies and
8 gentlemen, normally a witness is not allowed to give
9 their opinion. They can testify what they saw, they
10 heard, they smelled, they felt. But if a person,
11 because of their education or their experience
12 or a combination of the two, becomes an expert
13 in an area that may be helpful to you, the jury, upon
14 qualification, they are allowed to give their opinions.

15 In this case, it's stipulated that Dr. Gehle
16 is an expert in the field of forensic psychology
17 and diagnosis of sexually violent predators, she'll
18 be allowed to give opinion in that area and explain
19 her opinion and the reasons for it. I will tell you
20 an expert testimony is just like any other testimony
21 you'll hear in this case. You may accept it; you may
22 reject it, or give it as much weight as you think
23 it deserves. Mr. Runyan.

24 MR. RUNYAN: Thank you, Your Honor.

25 BY MR. RUNYAN:

1 Q. Dr. Gehle, what type of evaluation did you
2 conduct in this case?

3 A. It's what we call a pre-commitment evaluation,
4 so it's prior to the commitment of an individual.

5 Q. And how were you approached to conduct this
6 evaluation?

7 A. I was appointed by the court. That's the way
8 that the law was set up, that the Department of Mental
9 Health would do these evaluations. And then there are
10 a few psychologists with the Department of Mental Health
11 who are qualified to do these evaluations. It came to
12 our office, and then it was assigned by my supervisor.

13 Q. So you weren't hired by the state of South --
14 by the attorney general's office to conduct this
15 evaluation?

16 A. No.

17 Q. You were paid a direct fee?

18 A. No.

19 Q. So who determines -- who determines how your
20 called as a witness?

21 A. Well, I'm a neutral party when I'm appointed.
22 So, I do my evaluation, and I give my opinion,
23 regardless of which side it helps or hurts, and then
24 I'm called by the side that my opinion helps.

25 Q. So you've testified both for Respondents

1 and the State?

2 A. Yes.

3 Q. When you were ordered to do this evaluation,
4 what does the court ask you to do?

5 A. They ask me to give my opinions as to whether
6 Mr. Moore meets criteria as a sexually violent predator,
7 so whether he has a mental abnormality or a personality
8 disorder that makes him likely to commit acts of sexual
9 violence. In a kind of more understandable terms,
10 they want to know if there's a mental health explanation
11 and reason for his sexual offending history, and they
12 want to know if he is likely to go out in the community
13 and commit more sexually violent offenses.

14 Q. Now, Doctor, can you tell us what's your protocol
15 and what the steps are that you take when you're
16 conducting these types of evaluations?

17 A. So when I first get assigned a case, I read
18 through the materials that I receive. Those primarily
19 come from the attorney general's office and from the --
20 a group that does an initial screening of the people
21 who are referred for evaluation called the
22 multi-disciplinary team.

23 So those records will include things like police
24 reports, indictments, warrants, witness statements,
25 medical records in some cases, records from the

1 Department of Corrections. We'll do a check in our
2 mental health database to see if he's been to any
3 facility within the Department of Mental Health.

4 So, I'll take all that information, and I'll
5 read through it, and then I'll schedule an interview.
6 I'll interview the person. I will ask questions
7 all about their background, starting from the time they
8 were born to the time that they end up, you know, across
9 the table from me.

10 It includes things about their childhood, their
11 family, their behavior as a kid, their school history,
12 work history, mental health, substance use, medical,
13 sexual history, their relationship history. I'll get
14 an account of all of their legal history, so I can get
15 a perspective, their perspective. So, I'll ask them
16 about all the things that are in their criminal history.

17 I will ask about any treatment, how they view
18 their offenses now, what they think their risk is,
19 and then I'll ask about what their plans are if they
20 are released. I take all that information, and then
21 I write a report documenting, like, the basis for my
22 opinions, and I give the opinions.

23 Q. Now at the beginning of the evaluation,
24 was Mr. Moore informed about what you were doing?

25 A. Yes.

1 Q. Did he consent to participate?

2 A. Well, at the first meeting, he asked if he could
3 talk to his attorney before he consented to participate,
4 which is not a problem at all. He was very polite
5 about it, so that took some time to arrange that.
6 But after he had the opportunity to speak to his
7 attorney, then he agreed to participate in the
8 evaluation.

9 Q. Now, Doctor, as a part of that evaluation,
10 you said you do an interview; is that correct?

11 A. That's correct.

12 Q. Did you meet with Mr. Moore?

13 A. Yes.

14 Q. Is the man you met with in the courtroom today?

15 A. Yes.

16 Q. Could you identify him, please?

17 A. (Indicating.) Yes, he's sitting over there
18 in a white shirt and tie.

19 MR. RUNYAN: Your Honor, may the record
20 reflect that Dr. Gehle has identified Mr. Moore as
21 the individual she interviewed for this evaluation.

22 THE COURT: The record so reflects.

23 BY MR. RUNYAN:

24 Q. Doctor, how many occasions did you meet with
25 Mr. Moore?

1 A. I met with him on three occasions. The first
2 one I just reviewed what was happening, and then
3 he asked to talk to his attorney, and then I conducted
4 the interviews really on the second and third occasions.

5 Q. About how long did you interview him?

6 A. It was about ten and a half hours.

7 Q. And how did he present on the day of the
8 interview to you?

9 A. In all of the interviews, he was very similar
10 in his presentation. He was very polite, cooperative,
11 very likeable. His mental status was normal, so there
12 was nothing odd in the way that he spoke, in his memory.
13 He had really no problems with his mental health
14 presentation or his mental status. He presented very
15 normally.

16 Q. So in addition to meeting with Mr. Moore,
17 what information did you use to aid you in conducting
18 your evaluation?

19 A. I received a lot of information in terms
20 of investigative records, warrants -- arrest warrants,
21 criminal indictments, sentence sheets for the charges
22 that he was convicted of. I got information from
23 hospitals, at least on one victim. There were witness
24 statements, and then Mr. Moore provided me with some
25 certificates of things that he did in -- while he was

1 incarcerated. I also got records from the Department
2 of Corrections about his behavior and any health
3 problems that he had there.

4 Q. You consider or rely on the records you just
5 listed for us a moment ago and on your interview
6 in rendering your opinion in these types of cases?

7 A. Yes.

8 Q. On these things that you listed for us, are
9 the types of information that's typically and reasonably
10 relied on by experts in your field in doing these types
11 of evaluations?

12 A. Yes.

13 Q. Did you issue a report?

14 A. Yes.

15 Q. Do you have a copy with you?

16 A. Yes.

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

19 THE COURT: Yes.

20 BY MR. RUNYAN:

21 Q. Doctor, can you explain to us how an individual's
22 past sexual offending behavior relates to future sexual
23 offending behaviors?

24 A. Well, past behavior is the most predictive
25 of future behavior, so that's just a general psychology

1 principle that's been found to be true in numerous
2 research studies, that the past is the best predictor
3 of the future.

4 Q. Okay. Now why is it important to learn about
5 a person's personal history for these types of
6 evaluations?

7 A. Well, there's a lot of things that I'm looking
8 for. I'm looking for whether he has a mental
9 abnormality, whether he has a personality disorder,
10 and I'm looking for risk factors. So there are certain
11 things in a person's background that could indicate
12 the presence or absence of those things.

13 Q. So what is personal history?

14 A. Personal history, I usually just call it
15 background history, if we're talking about the same
16 thing.

17 Q. Yeah, background history.

18 A. Things like his family of origin, where he's
19 lived, his childhood history, his behavior as a kid,
20 his school history, work history, medical history,
21 mental health, substance use history, relationship
22 history, sexual history.

23 Q. Now as a part of your interview, you discussed
24 these background details with Mr. Moore?

25 A. Yes.

1 Q. And what, if any, conclusions did you make about
2 Mr. Moore's background or personal history that were
3 significant to you in rendering your opinion?

4 A. There were quite a few things. Primarily,
5 Mr. Moore talked about the importance of the church
6 in his life growing up and really throughout his life.
7 His grandfather, who was very important in his life,
8 was a bishop in a church in the area, and he oversaw
9 their church and oversaw churches, you know, a wide
10 network, from my understanding. The church -- so
11 the church was very important. That was where he
12 socialized; that was where he spent the majority
13 of his time.

14 In contrast, his mom had nine children by five
15 or six different men. He didn't know who his father
16 was. He had a lot of questions about who his father
17 was, but nobody would tell him, and he didn't learn
18 about that until he was about 15 years old, and that
19 was kept a secret from him just in general because
20 he learned that his father was actually somebody
21 he had already met, somebody he already knew.

22 He was a pastor in another church within that
23 church network, and he had an extramarital affair with
24 his mom, and that was how he came to be in the world.
25 So there was a lot of secret keeping in the family.

1 He also reported that he was sexually abused
2 by a cousin when he was a kid and said that this same
3 cousin was a good organ player, so everybody really
4 liked him. He was well-respected in the family,
5 and yet he was doing these things, you know, to him
6 privately.

7 So there was a big disconnect between how things
8 appeared and how they actually were. That really seemed
9 to bother him, and I think sets kind of a prime stage
10 for him to sexually offend.

11 Q. Was there anything else, any other conclusions
12 you made about his background history that was relevant
13 to you?

14 A. Well, he -- he had one juvenile charge for
15 truancy. He had -- he had, like, decent behavior.
16 He followed rules. He didn't have too many behavioral
17 problems, other than that truancy, which he also,
18 you know, hid from his family. So they didn't know
19 that this was such a problem, and he actually had to
20 go to juvenile court, be sent to the detention center
21 for a couple of weeks.

22 And it seemed, from his account, that his parents
23 really had no -- any idea that he was in trouble because
24 he was intercepting the notices and the phone calls that
25 were coming into the home about that. So he was doing

1 a lot of secret keeping with that.

2 He worked most of his jobs within the church.

3 He was a youth choir director; he did landscaping
4 at the church; he was into music, and that was things
5 that he did at the church. He also started his own
6 congregation. After he served two terms in prison,
7 he got out and started his own congregation. And those
8 things were important because all of his victims were
9 accessed through the church, either the church
10 that he was raised in or the church that he formed.

11 Q. Now, Doctor, as part of the evaluation,
12 you reviewed Mr. Moore's criminal history?

13 A. That's correct.

14 Q. So why is it important to look at criminal
15 history?

16 A. Well, that's really important for determining
17 whether he has a mental abnormality or a personality
18 disorder that's related to sexual offending. So, I'm --
19 I need to look for patterns of whether he has offended
20 a certain type of victim. Typically, that's like
21 a pre-pubescent child because that's a mental
22 abnormality.

23 I'm also looking at if he used force, coercion,
24 what kind of tactics he used in the offending.
25 That could mean a different type of mental abnormality,

1 and I'm looking for a wide variety of criminal offenses,
2 and the way that he views those could indicate something
3 like antisocial personality disorder.

4 So it's really important just to inform
5 whether he has a mental health problem that's related to
6 his offending, and then it's essential for determining
7 his risk to re-offend.

8 Q. What is important about, in what you just
9 mentioned about amending behavior or changing behavior?

10 A. Well, one thing I look at, I look at, like, what
11 kind of consequences have they had and what happened
12 afterwards. So did they go back and do the same thing
13 after they spent some time in prison? Did that big
14 consequence change their behavior? Or were they unable
15 to control their behavior and they continued? Because
16 that could speak to that impairment and that risk to
17 re-offend.

18 Q. Now in your review of Mr. Moore's total criminal
19 history, what did you find significant about his
20 non-sexual criminal history?

21 A. He really only had a sexual criminal history,
22 apart from that one thing that he reported as a juvenile
23 when he was sent to the detention center for truancy.
24 I didn't have records about that, so it was just his
25 self-report. Everything on his official criminal

1 history was related to sexual offending.

2 Q. Why is that important?

3 A. Well, it would indicate that he's likely not
4 going to be antisocial because in that you're going
5 to see a wider range of criminal offending, so that's
6 one of the biggest things. He's not having problems
7 that are coming to law enforcement's attention with
8 other types of things. He's probably living a more
9 stable lifestyle than some other offenders that I see.

10 Q. What's -- so he didn't have really any non-sexual
11 criminal history. Let's talk about his sexual criminal
12 history. As a part of the evaluation, you reviewed
13 Mr. Moore's sexual criminal history?

14 A. That's correct.

15 Q. Now based on your interview and your review
16 of his file at the time you interviewed him, had he been
17 convicted of any sexually violent offenses?

18 A. Yes.

19 Q. What -- could you just list those for us?

20 A. He was convicted of five. He was convicted of
21 a lewd act; he was convicted of two counts of criminal
22 sexual conduct with a minor; and then he was convicted
23 of another two counts of lewd act upon a minor.

24 Q. Did you talk to Mr. Moore about each of these
25 offenses?

1 A. Yes.

2 Q. And again why do you talk to him about the
3 offenses?

4 A. Well, I want to hear his take. I want to get
5 some insight into how he's thinking about the offenses,
6 how he's interpreting them, whether he's taking
7 responsibility, whether he's blaming, whether he admits,
8 denies, whether he admits to things, you know, other
9 than what was documented, things like that.

10 Q. Now did you review law enforcement reports,
11 court records concerning these offenses that you listed?

12 A. Yes.

13 Q. Are those the types of records that other experts
14 in your field typically and reasonably rely on in
15 rendering opinions in these types of evaluations?

16 A. Yes.

17 Q. Did you consider each of the offenses and the
18 underlying details as a part of the basis of your
19 opinion?

20 A. Yes.

21 Q. Doctor, can you tell us why it's necessary for
22 you to examine the underlying details behind the sexual
23 convictions?

24 A. Well, I have to look at the elements
25 or the dynamics of the offending to see if it is related

1 to a mental health problem. So, I'm looking at the age
2 of the victim, the gender of the victim, what type
3 of activities were involved, how often it happened,
4 sort of how things happened in a chronological order,
5 if things overlapped, things like that.

6 Q. Let's -- you listed his offenses for us.
7 Let's just turn to each of those and just -- we'll take
8 them chronologically.

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

11 THE COURT: Yes, sir. She needs some water.

12 MR. RUNYAN: I got one here.

13 THE WITNESS: Oh, thank you.

14 MR. RUNYAN: You can take that.

15 BY MR. RUNYAN:

16 Q. Doctor, do you recognize the documents that
17 I gave you?

18 A. Yes.

19 Q. Are they something that you reviewed in this
20 case?

21 A. Yes.

22 Q. Is there anything on those documents that would
23 indicate authenticity?

24 A. They're stamped by the clerk of court as a true
25 and accurate copy.

1 Q. Okay. Could you tell us what those are?

2 A. So there is -- I'll go in order. There is
3 an indictment for criminal sexual conduct with a minor
4 in the second degree and lewd act upon a minor.
5 And there is a sentence sheet for a conviction for lewd
6 act upon a minor.

7 MR. RUNYAN: Your Honor, I would ask that
8 what has been pre-marked State's Exhibit 1 be entered
9 into evidence.

10 THE COURT: Any objections?

11 MR. FALK: Approach briefly?

12 THE COURT: Yes, sir.

13 (Off-the-record conversation held at sidebar.)

14 (Back on the record.)

15 THE COURT: All right. Those will be
16 admitted. That's Exhibit No. 1?

17 MR. RUNYAN: Yes, sir.

18 (State's Exhibit No. 1 was admitted into evidence.)

19 BY MR. RUNYAN:

20 Q. Now, Doctor, you considered -- you said
21 you considered this 1989 lewd act upon a minor as one
22 of the sexual offenses?

23 A. Yes.

24 Q. Could you tell us what Mr. Moore was charged
25 with and what he was convicted of?

1 A. He was charged with criminal sexual conduct
2 with a minor in the second degree and lewd act upon
3 minor.

4 Q. What was the sentence of the court?

5 A. He was convicted of a lewd act upon a minor,
6 and he was sentenced to six years of prison, suspended
7 to 15 months in prison, and two years of probation.

8 Q. So, Doctor, what are the underlying details about
9 this conviction that was important to you in rendering
10 your opinion?

11 A. This victim was a female who was between 10
12 and 11 years old. The offenses happened over at least
13 a six-month period. Mr. Moore was about 20, 21 years
14 old at that time, and he had engaged in a variety
15 of sexual acts with her.

16 There was no indication of overt violence used
17 in the offending. It seemed like he, you know, treated
18 her more like a girlfriend. He traveled with her
19 to New York. I think that they stayed with some family
20 members, so he started the sexual abuse there in
21 a family member's house.

22 And then when they returned here, she ended
23 up moving into his house. I think he lived with some
24 family members at the time. She moved into his house
25 so that she could attend a certain school, and he was

1 within that school district, and the abuse continued
2 there.

3 Q. What is significant about his behavior and,
4 more importantly, what he said to you about these crimes
5 in rendering your opinion?

6 A. Well, for one, her age was very important.
7 He said that they engaged in fondling and oral sex for
8 a period of time. He also said that he started to think
9 that it was wrong to do that, and that he sought, like,
10 from his grandparents, from other people, that she leave
11 the house, which I took as indication that he was unable
12 to control himself if she remained in the house, so he
13 needed, like, outside help.

14 He was also still keeping that secret that
15 everything was fine, even though people were starting
16 to question what was going on. The way that the offense
17 even was discovered was a family member saw her leave
18 his bedroom and then saw blood on the sheets, so they
19 were questioning what was going on.

20 So people were suspicious, but he maintained,
21 you know, this veil that everything is okay, I'm not
22 doing anything wrong, and ultimately the offenses
23 stopped when she left the house.

24 Q. And that was in -- what year was that?

25 A. That was in -- he was convicted in June of 1988

1 -- I'm sorry. He was convicted -- he was charged
2 in June of 1988 and convicted in March of 1989.

3 Q. I'm sorry. When was the time he was offending?

4 A. It was around that time that he was charged,
5 but I think it went on for at least six months.

6 It was June 20th, 1987 to December 27th, 1987.

7 But it's apparent some of that stuff happened earlier
8 when he was in New York State. That's the stuff that
9 happened here in Charleston County.

10 Q. Okay. Thank you.

11 MR. RUNYAN: May I approach, Your Honor?

12 THE COURT: Sure.

13 BY MR. RUNYAN:

14 Q. Dr. Gehle, I've given you three separate
15 documents. Do you recognize these documents?

16 A. They look different than the ones that -- I think
17 they're the same things, but the copies look a little
18 bit different in terms of just the color, but, yes,
19 I recognize them.

20 Q. Now is there something -- are these something
21 that you reviewed in this case?

22 A. I reviewed copies of these.

23 Q. Okay. And what are those? I'm sorry. Is there
24 anything that indicate the authenticity of those
25 documents?

1 A. Yes, they're stamped by the clerk of court.

2 Q. Are they stamped as certified true copies?

3 A. Yes, they are.

4 Q. Okay. Please tell us what those are.

5 THE COURT: Do you mind going by exhibit
6 number for me, please?

7 THE WITNESS: Okay.

8 MR. RUNYAN: Yes, Your Honor. Well,
9 I'll just go ahead and ask that they be entered
10 as Exhibits 2, 3 and 4, State's 2, 3 and 4.

11 THE COURT: Any objection?

12 MR. FALK: No, Your Honor.

13 THE COURT: They're admitted.

14 (State's Exhibit Nos. 2 through 4 were admitted into
15 evidence.)

16 BY MR. RUNYAN:

17 Q. What is Exhibit 2?

18 A. Exhibit 2 is an indictment for criminal sexual
19 conduct with a minor in Charleston County for an offense
20 that happened between September 1987 and February 1989
21 and between December 1989 and December 1990, and it's
22 a sentence sheet associated with that indictment.

23 Q. Now could you tell us what Exhibit 3 is?

24 A. That's an indictment for criminal sexual conduct
25 with a minor for offenses that happened within that same

1 timeframe, between September 1987 and ending in December
2 1990, a short break in there, and it is a sentence sheet
3 for criminal sexual conduct with a minor.

4 Q. Okay.

5 A. So a conviction.

6 Q. Okay. And Exhibit 4. What's marked Exhibit 4,
7 can you tell us what that is?

8 A. It is an indictment for committing criminal
9 sexual conduct with a minor within 100 yards
10 of a childcare facility for offenses between December
11 1989 and December 28th, 1990.

12 Q. Now, Doctor, I've given you all three of those
13 together. Was he sentenced at the same time for all
14 three of these?

15 A. Yes.

16 Q. Okay. Let's talk about -- I guess we'll talk
17 about these three as a group.

18 A. Okay.

19 Q. You considered all of them?

20 A. Yes.

21 Q. Could you tell us what, for each, just as you've
22 identified, what the charge is and what he was sentenced
23 by the Court?

24 A. So Exhibit 2 is criminal sexual conduct with
25 a minor. He was sentenced to 20 years of incarceration,

1 suspended to 18 years of incarceration and four years
2 of probation. Exhibit 3 is a conviction for criminal
3 sexual conduct with a minor. He received the same
4 sentence. Summarize it like that?

5 Q. That's fine.

6 A. And then Exhibit 4 is a conviction for committing
7 criminal sexual conduct with a minor within 100 yards
8 of a childcare facility, and he was sentenced to eight
9 years of incarceration, and it looks like four years
10 of probation.

11 Q. Okay. So what are the underlying details about
12 these convictions that are important to you in rendering
13 your opinion?

14 A. These convictions all involve the same victim.
15 It was a female who -- it was Mr. Moore's cousin,
16 a female who was between six and nine years old,
17 with whom he had a sexual relationship for that period
18 of time, engaging in activities such as fondling, oral
19 sex and vaginal and anal sex. Those were the important
20 details.

21 Q. So what about his behavior and what he said
22 to you in the interview that was important in rendering
23 your opinion?

24 A. Well, his behavior is involving a very young girl
25 and going into, you know, pretty serious sexual activity

1 with a girl that age. Given her age, she was likely
2 pre-pubescent, so she was not showing any signs
3 of secondary sexual characteristics, which is indicative
4 of a mental illness, pedophilic disorder.

5 He offended this girl for, by his account,
6 over a year and a half. He said that they just did
7 things up to oral sex. He denied that he did -- that
8 he had sex with her. But he said that it went on for
9 about a year, a year and a half.

10 So this stuff would have been happening at
11 the same time as the first offense with the other girl.
12 It would have been happening after he got out of prison,
13 while he was on probation with that other offense.
14 So those things are important too. It's just -- it's --
15 that punishment is more recent. It should have more
16 weight at that time. That's how it typically works
17 for people, more recent punishment, people can still
18 be remembering them, a little trying, and he's not.

19 He also indicated that that girl started things
20 that -- he essentially put, like, the blame on her.
21 He said he knew she was sexually active. And when
22 she reported the offenses and went to the hospital,
23 she was diagnosed with chlamydia, a sexually transmitted
24 disease.

25 Q. Now what, if any, insight did he have into this

1 offend? I will ask -- what, if any, insight did he have
2 in controlling his behavior as an offender?

3 A. I think again he wanted other people to kind
4 of intervene to stop him. He said things like he knew
5 it was wrong, and he thought he should stop, but he
6 couldn't stop, so that's problematic.

7 Q. Why is that problematic?

8 A. It shows that he's lacking control over his
9 behavior, and that it's a strong sexual arousal.

10 Q. Was there anything else about these offenses
11 that was important to you in rendering your opinion?

12 A. One second please. I think those were the most
13 important details, apart from there was no clear
14 evidence that he was using, like, violence or force,
15 things like that, to accomplish the sex offenses,
16 although some of that stuff was used to try to keep
17 her from reporting that, to threaten her to not report
18 the abuse.

19 He admitted to fondling and performing oral sex
20 on her and simulating intercourse. So he said he wasn't
21 penetrating her, but he was going through the motions
22 of intercourse with her, with her body.

23 Q. Okay.

24 MR. RUNYAN: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. RUNYAN:

2 Q. Dr. Gehle, these exhibits have been premarked
3 5 and 6. So just for sake of being clear on what is 5,
4 do you recognize that document?

5 A. Yes.

6 Q. Is it something you reviewed for this case?

7 A. Yes.

8 Q. Does it have anything to indicate its
9 authenticity?

10 A. Yes, it's stamped by the clerk of court as a true
11 copy.

12 Q. Okay. Same for Exhibit 6, you have there.
13 Can you tell us is this something that you reviewed
14 in this case?

15 A. Yes, and it's also -- all copies are stamped.

16 Q. Okay. Would you tell us what Exhibit 5 is?

17 A. Exhibit 5 is an indictment for lewd act upon
18 a minor for an offense that occurred between January
19 2004 and September 2006, and it is a sentence sheet
20 for lewd act upon a minor for that offense.

21 Q. Okay. And what do you have for Exhibit 6?

22 A. Exhibit 6 is an indictment for lewd act upon
23 a minor for an offense that occurred between January
24 2004 and August 2006. I believe it's a different --
25 there are two different male victims in these offenses.

1 Then, it's also a sentence sheet for lewd act upon
2 a minor.

3 MR. RUNYAN: Your Honor, at this time,
4 I would ask -- I would request that what's been
5 premarked 5 and 6, State's 5 and 6, be entered into
6 evidence.

7 MR. FALK: No objection.

8 THE COURT: They're admitted.

9 (State's Exhibit Nos. 5 and 6 were admitted into
10 evidence.)

11 BY MR. RUNYAN:

12 Q. So, Doctor, can you tell us what -- taking
13 Exhibit 5, could you tell us what Mr. Moore was charged
14 with and what he was convicted of?

15 A. He was charged with lewd act upon a minor
16 and convicted of lewd act upon a minor.

17 Q. And what was the sentence of the Court?

18 A. He was sentenced to 15 years of incarceration.

19 Q. Now on Exhibit 6, let's just go ahead, could you
20 tell me on Exhibit 6 what he was convicted of -- charged
21 with and convicted of?

22 A. He was charged with lewd act upon a minor
23 and convicted of lewd act upon on minor.

24 Q. And what was the sentence of the Court for
25 that offense?

1 A. Fifteen years of incarceration.

2 Q. Anything special about the sentencing of these?
3 In other words, what's his total sentence?

4 A. Yes, I believe that -- it's not exactly marked --
5 no, it is marked down here. The sentences were actually
6 -- so the 15 years, they were marked to be consecutive,
7 meaning they would be back to back. They wouldn't
8 run at the same time, so he had in total 30 years
9 of incarceration.

10 Q. So now these -- what was important to you --
11 what details were important to you about these offenses
12 in rendering your opinion?

13 A. Okay. So these offenses were also two boys
14 who were minors, who he accessed through the church that
15 he started. And they reported that -- he essentially
16 sexually abused them. One boy was 12 to 13 years old,
17 and he manually stimulated that boy's penis until
18 he ejaculated. And the other was 11 years old,
19 and the boy woke up in the middle of Mr. Moore fondling
20 his penis.

21 Q. Now was this a guilty plea?

22 A. No.

23 Q. What was this?

24 A. He took these cases to trial.

25 Q. So was he convicted by a jury?

1 A. Yes.

2 Q. Okay. Did you have the ---

3 A. Transcript?

4 Q. No. Did you have -- do you have documents from
5 law enforcement?

6 A. Yes.

7 Q. Okay.

8 A. And I also read the trial transcript from that
9 case.

10 Q. Okay. Well, Doctor, what's important about
11 his -- Mr. Moore's criminal offense behavior and,
12 more importantly, what he told you about these offenses
13 in rendering your opinion?

14 A. He flatly denied committing these offenses.
15 He said that this was kind of retaliation by these boys
16 and their families for him trying to hold the parents
17 responsible for their children's behavior. They didn't
18 like that, and so they retaliated by accusing him
19 of sexual abuse. Said that the investigation against
20 him was biased, but he flatly denied committing these
21 offenses.

22 Q. Why is that important to your opinion?

23 A. Well, denials are not uncommon, so that part
24 is not important, per se. It's just unlikely that,
25 you know, that they didn't happen. He was convicted

1 by a jury, so I take it as a fact that they did happen.

2 Q. Was there anything in particular he told you
3 about where these boys -- where these offenses happened?

4 A. I think they were said to have happened at his
5 house.

6 Q. What, if anything, did Mr. Moore do -- did he
7 invite the boys over?

8 A. Mr. Moore had stepchildren, and he also had
9 two of his own children with his wife at the time,
10 so I think that kids were coming over sometimes.
11 I can't remember specifically. I have to find it
12 to see how -- why these kids came over.

13 I know that when that was -- when he got out
14 of prison, and he was starting this church, he told his
15 wife that we can absolutely not have any children over,
16 we don't have that kind of house, like, that's not stuff
17 that's going to happen, but kids started coming over.
18 He again told his wife, you know, we can't have this
19 kind of thing, but they were there. I think that from
20 the investigative reports he was inviting people to his
21 house, they were coming over.

22 Q. What does that speak to you about his insight?
23 Let's talk about the insight.

24 A. Yeah, I mean, insight in terms of -- I mean,
25 it could say a lot of different things. He's relying

1 on other people to kind of help him manage his behavior.
2 He's saying one thing and then doing another.
3 He's likely trying to hide what he's actually doing
4 by making it appear as something else, and he's not able
5 to be very direct with things, not having these kids
6 over and why. He indicated that it was more important
7 that kids not be coming over because he didn't want
8 to be falsely accused of something.

9 Q. That's -- those are all the sexual convictions
10 that you considered?

11 A. Yes.

12 Q. Okay. Let's move on, Doctor. That's your
13 records review on the sexual history. Let's talk about
14 other institutional behavior, misconduct, and things
15 of that nature. As a part of your evaluation, do you
16 look at institutional misconduct?

17 A. Yes.

18 Q. Why is that?

19 A. Well, it varies from person to person, something
20 that I look at in every case. I want to see if they
21 have trouble controlling their sexual behavior in prison
22 and, you know, what kind of things they're getting
23 in trouble for in prison, how often they get in trouble,
24 how infrequently.

25 Q. Did you review South Carolina Department

1 of Corrections records on Mr. Moore?

2 A. Yes.

3 Q. What, if anything, did you find significant about
4 his entire record at SCDC?

5 A. He only had three infractions that he was
6 convicted of, and none during the most recent time
7 he was in prison. They were all from a prior time
8 he was in prison, so it was not that significant
9 to my opinion.

10 Q. Did you discuss any courses he took in SCDC?

11 A. Yes. He said that he took sex offender treatment
12 in 1989 and that he took -- that he was in, like,
13 character-based housing in prison in his last period
14 of incarceration.

15 Q. What is character-based housing?

16 A. That's a program that provides a lot of education
17 and resources to individuals who have good behavior
18 in the institution. They can go and benefit from
19 different courses, different sort of therapeutic kind
20 of classes that they take trying to gain insight into
21 their offending, trying to improve their behavior.
22 Sometimes they're doing, like, taking care of animals,
23 training them for people who need animals as service
24 dogs. They do things like that.

25 Q. Now did Mr. -- you said Mr. Moore provided you

1 with certificates, so did you consider these courses
2 that he took in rendering your opinion?

3 A. Yes, I looked through them, yes. It's something
4 that I don't -- there's not a lot of information about
5 what those programs are and what those certificates
6 could mean. I don't know what the curriculum of those
7 courses are, so it's difficult to give them much weight.

8 Q. Why would an expert in your field consider prior
9 sexually violent predator action?

10 A. I want to look at whether he has been reviewed
11 by a multi-disciplinary team, whether he's been
12 evaluated before, you know, things like that, how close
13 he came to being committed, whether he was committed
14 before, whether or not he was. So, I'll look at whether
15 they have any history of that.

16 Q. Well, what, if anything, in this case did you
17 have regarding any prior SVP actions in this case?

18 A. His case was reviewed in 2000 when he was -- just
19 prior to his release in 2000, and so he went out after
20 that time. I believe that, you know, he went through
21 the first step, the multi-disciplinary team, and they
22 referred his case, so they voted it through. He went
23 to the next step, which is the prosecutor's review
24 committee. They voted it through. A petition was
25 filed, and they had a hearing before a judge, and the

1 judge found no probable cause. That's my understanding.
2 So the case was dismissed at that point.

3 Q. What, if anything, is significant to your opinion
4 regarding this prior review?

5 A. I look at them to see sort of the history
6 of somebody, but it's not something that I give a lot
7 of weight to.

8 Q. You mentioned earlier, you said he had sex
9 offender treatment in SCDC?

10 A. Yes.

11 Q. What is sex offender treatment?

12 A. Sex offender treatment is treatment that's meant
13 to reduce the likelihood of you committing another
14 sex offense. So they have a very small program in
15 the prison system. I think probably 20 years ago,
16 there was a bigger program, but now it's very small.
17 So they learn -- they learn some things, like, the first
18 phase is psychoeducational, and the second and third
19 phases they might talk about their sexual offenses
20 to try to understand those. That's my understanding
21 of it.

22 Q. So when did -- when did Mr. Moore have this
23 training?

24 A. It was in one of his early periods of
25 incarceration. I believe it was after he was convicted

1 the second time, so it was in the early 1990s.

2 Q. And what did he complete?

3 A. So he completed the first phase of the sex
4 offender treatment program, the second phase of the sex
5 offender treatment program, and then he was
6 involuntarily terminated from the third phase of the
7 treatment program.

8 Q. Why is that important that he was involuntarily
9 terminated from the treatment program?

10 MR. FALK: Objection, Your Honor.
11 May I approach?

12 THE COURT: Yes, sir.

13 (Off-the-record conversation held at sidebar.)

14 (Back on the record.)

15 THE COURT: Madam Forelady, would you take
16 your jury back to the jury room, and would y'all leave
17 your notepads here in the courtroom, please.

18 (Jury exits the courtroom at 3:25 p.m.)

19 THE COURT: Go ahead and ask your question.

20 BY MR. RUNYAN:

21 Q. So, Dr. Gehle, we were talking about sex offender
22 treatment in a SCDC program. Why is it important
23 to you in rendering your opinion to look at sex offender
24 treatment -- prior sex offender treatment?

25 A. Well, it can be important to see how somebody

1 talks about their sex offenses, whether they've been
2 through treatment to see if they've gotten anything
3 out of it, to see if he's offended after sex offender
4 treatment, things like that.

5 Q. Why would it be important if he started it
6 and didn't complete it?

7 A. Well, being terminated from a program increases
8 your likelihood of re-offending, but I did not have
9 records specifically about the reasons. It just listed
10 that he was terminated, so it's not something that
11 I gave much weight.

12 THE COURT: I think that's fair.
13 She doesn't try to speculate as to what the nature
14 of his termination was, and that's what you were worried
15 about.

16 MR. FALK: Well, no. I mean, she's drawn
17 this negative conclusion based on the termination,
18 and she doesn't know ---

19 THE COURT: Overrule your objection.

20 MR. FALK: Thank you, Your Honor.

21 THE COURT: Noted for the record.

22 All right. Y'all ready to resume?

23 MR. RUNYAN: Yes, Your Honor.

24 THE COURT: Bring the jury back, please.

25 (Jury enters the courtroom at 3:28 p.m.)

1 THE COURT: Mr. Runyan.

2 MR. RUNYAN: Thank you, Your Honor.

3 BY MR. RUNYAN:

4 Q. Again, we're talking about sex offender treatment
5 in SCDC. Could you tell us why it's important to look
6 at prior sexual offender treatment?

7 A. Well, it's something that I look at in every case
8 because it could -- I want to see if they re-offended
9 after they completed treatment, how much treatment
10 they've had, if they've learned anything from treatment,
11 so it's something that I look at every time.

12 Q. What's significant about someone who starts
13 offender treatment but doesn't complete it?

14 A. Well, that is a risk factor for committing
15 another sex offense.

16 Q. Now did Mr. Moore report to you any sexual
17 offender treatment while he was in the community?

18 A. Yes.

19 Q. And what did he tell you he had done?

20 A. He said that he was -- he participated in sex
21 offender treatment from 2000 to 2004.

22 Q. Four years. He said he had four years of sexual
23 offender treatment in the community?

24 A. Yes, and that would have been while he was on
25 probation, so that's believable.

1 Q. So what's important -- in rendering your opinion
2 in this case, why is it important that he had that
3 treatment?

4 A. Well, despite going to treatment that long,
5 he couldn't remember the name of the treatment provider,
6 he couldn't give me enough information that I could
7 request records because I would request records,
8 even though that's been a long time ago, to see if any
9 still existed. But he couldn't give me information
10 sufficient that I could track down a treatment provider.
11 He also offended after that long period of treatment,
12 so that's significant to my opinion.

13 Q. Okay. Moving away from treatment, let's talk
14 about substance abuse. What is substance abuse?

15 A. It's misusing drugs or alcohol.

16 Q. Do you consider substance abuse when you're doing
17 these types of evaluations?

18 A. Yes.

19 Q. Why do you consider it in these types
20 of evaluations?

21 A. Well, it's something that can speak to the kind
22 of life that they live, which can be important in some
23 cases. Whether, you know, they're involved in a lot
24 of substance abuse that usually means their day-to-day
25 life is more unstable, causing more problems, things

1 like that.

2 Q. Was there anything about Mr. Moore's history
3 that was significant to you?

4 A. Oh, he told me that he didn't use drugs
5 or alcohol and that he abstained from that stuff.

6 Q. So it did not factor into your opinion?

7 A. Correct.

8 Q. As part of your evaluation, did you review
9 Mr. Moore's mental health records?

10 A. He did not have any mental health records,
11 but I asked him about his mental health history.

12 Q. Did he have any significant mental health history
13 that was important to you in rendering your opinion?

14 A. He reported that he was hospitalized one time,
15 and that was after he was first charged with a sex
16 offense in 1988. I know that when they went to serve
17 that warrant he was in the hospital. He just went
18 to the hospital. He really reported no mental health
19 problems, apart from, you know, some problems around
20 the time that he was charged with sexual offenses
21 related to, like, depression, hopelessness, stuff like
22 that.

23 Q. So what did -- did his mental health history
24 play any significant role in rendering your opinion?

25 A. It wasn't very significant, no.

1 Q. Doctor, that kind of closes out your record
2 review. I would like to move on to your diagnosis.

3 A. Okay.

4 Q. Do you recognize this book?

5 A. Yes.

6 Q. I understand the book I have is no longer valid;
7 is that correct?

8 A. I think it's still valid, but there was a new
9 edition that came out just a couple of weeks ago.

10 Q. A couple of weeks ago.

11 A. So, I brought the new copy with me.

12 Q. Is it okay if we still use this one?

13 A. Yes, the diagnostic criteria is the same for
14 the paraphilic disorders.

15 Q. Okay. So could you just tell us what these books
16 are here?

17 A. So this is a book that lists all the mental
18 health diagnoses and the criteria that you use to make
19 the diagnoses of mental illness.

20 Q. Now are these books considered authoritative
21 in your field?

22 A. Yes.

23 Q. What does authoritative mean to you?

24 A. If you want to know what the criteria is
25 for any mental illness, this is the authority on that,

1 so this is the group that dictates. This is published
2 by the American Psychiatric Association, and they
3 dictate what the diagnostic criteria for mental illness
4 is, and everybody in this country relies on that
5 to -- all mental health professionals rely on that book
6 to make their diagnoses.

7 Q. So could you tell us what are personality
8 disorders?

9 A. Personality disorders are really like -- they're
10 the way somebody sees the world, the way they think,
11 the way they feel, the way they interact, the way
12 that they interpret. And when it's a disorder,
13 it's interpreting thinking in ways that are maladaptive,
14 that are inflexible, that are problematic in regard
15 to how they interact with others, how they interpret
16 events.

17 Q. Now did you consider any personality disorders
18 for Mr. Moore?

19 A. Just in broad terms, I consider personality
20 disorders in every case. It's something that's been
21 related to sexual offending, so it's something that
22 I look to see whether it's there or not. And in
23 Mr. Moore's case, I didn't see evidence of a personality
24 disorder.

25 Q. So you weren't able to diagnose him with any

1 relevant personality disorder?

2 A. That's correct.

3 Q. Could you tell us what paraphilic disorders are?

4 A. Paraphilic disorders are disorders related to
5 deviant sexual interests, so they are a pattern that
6 lasts at least six months of deviant sexual interest,
7 and that can be evidenced by reported fantasies,
8 by behaviors, by intense arousal, things like that.

9 Q. What's the difference between a paraphilic
10 interest and a paraphilic disorder?

11 A. A paraphilic interest is when somebody has
12 an interest, but they haven't acted on it. So you
13 could have somebody who is attracted to children,
14 let's say, but they haven't acted on it, so they haven't
15 touched a child, and it doesn't cause them distress or
16 impairment. If it causes them distress or impairment,
17 or they've acted on it over a period of six months,
18 or they've been distressed or impaired over a period
19 of six months, then it would be at the level of
20 a disorder.

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

23 A. Yes.

24 Q. Why did you consider a paraphilic disorder?

25 A. They are the things that are commonly associated

1 with sexual offending. They have the most direct link
2 to sexual offending.

3 Q. What did you consider for Mr. Moore?

4 A. Well, I again broadly look at a variety
5 of things. I want to see does he have any deviant
6 sexual interest. I assess for all types of -- some
7 of the more common deviant sexual interests, maybe,
8 like, 15, 20 different deviant sexual interests, we'll
9 talk about in the evaluation. So, I look for those
10 in every single case.

11 In his case, I was looking at whether there
12 was force involved, whether there was violence involved
13 in his offending, and the age of his victims, whether
14 any of his victims were pre-pubescent, so whether they
15 were, like, without any level of sexual development.

16 Q. So were you able to diagnose Mr. Moore with any
17 relevant mental abnormality?

18 A. Yes.

19 Q. And what did you diagnose him with?

20 A. I diagnosed him with pedophilic disorder
21 and -- pedophilic disorder, sexually attracted
22 to females, non-exclusive type.

23 Q. Okay. Can you explain to us what the criteria
24 for diagnosis is for pedophilic disorder?

25 A. Yes, it's essentially a six-month pattern

1 of intense arousal, sexual fantasies or behaviors
2 that's focused on a pre-pubescent child.

3 Q. Now how does Mr. Moore meet the diagnostic
4 criteria?

5 A. Well, in his case all of his victims were
6 minors. They ranged in age from 6 to 11 with the girls,
7 and then they were 11 to about 12 or 13 with the boys.
8 So what I have to do is I have to look at what was their
9 level of sexual development.

10 First thing I do is look in medical records
11 because a lot of times when people -- when children
12 report they've been sexually abused, they're sent for
13 a medical examination or a forensic medical examination
14 or forensic interview. And if they had a medical
15 examination, especially if it's a forensic medical
16 examination, that doctor will note their level of sexual
17 development on something that's called the Tanner
18 stages.

19 This is a -- it's named after a doctor
20 who developed this scale. It's a five-step scale.
21 Step one means they're pre-pubescent. They have
22 no sexual development, and they're looking at, like,
23 body characteristics, so whether they have breasts
24 development in girls, genital development in boys,
25 and whether they have pubic hair. So what I found

1 in the records is none of the victims had been Tanner
2 staged by a doctor.

3 So the second thing that I go to is their age,
4 and puberty starts at different ages for different kids.
5 There's factors that play into that. One factor that's
6 been found in the research is the race of the
7 individual. So African-American or black girls and boys
8 tend to start puberty a little bit younger than white
9 or Hispanic boys and girls, so really I have to go
10 and judge off the age.

11 There have been studies that have been published
12 by, like, pediatricians who are looking at what's the
13 average age of puberty, how many girls at this age have
14 started puberty, how many girls at this age, things like
15 that, and then I'm just comparing their age.

16 So what I found was that he had one victim,
17 who was most certainly pre-pubescent, based on her age
18 of six to nine years old, and that he offended her over
19 a period that lasted well over six months.

20 Q. And those facts satisfied the criteria for
21 a pedophilic disorder?

22 A. That's correct.

23 Q. Now is a pedophilic disorder a lifelong
24 or considered a chronic condition?

25 A. It is considered chronic.

1 Q. So what does that mean for someone living
2 with a pedophilic disorder throughout their life?

3 A. It means that it's not likely to go away
4 on its own. It's something that has to be managed,
5 it can be something that can continue to be a struggle
6 throughout the course of someone's life.

7 Q. So you've diagnosed Mr. Moore with a pedophilic
8 disorder?

9 A. That's correct.

10 Q. Let's talk about his risk to re-offend;
11 let's talk about your risk assessment. Could you tell
12 us how do professionals in your field assess risk?

13 A. Well, the way that we do these evaluations
14 in psychology is by using actuarial risk assessments.
15 That's what almost all professionals that do this type
16 of work, almost all of them use actuarial risk
17 assessments when they can. So, I completed two
18 actuarial risk assessments. I scored him on those.

19 And then I also looked for the presence
20 or absence of risk factors that have been shown
21 in a large research study that -- in a metaanalysis.
22 So somebody did some research where they looked at
23 all the research that has been done that was rigorous,
24 and that met certain criteria. They took all of these
25 research studies, and they looked at can we figure out

1 what are the main risk factors for sexual offending.

2 Q. Let's back up just a little bit. Could you tell
3 us what risk factors are?

4 A. Risk factors are anything that has been found
5 in the research to increase somebody's likelihood
6 of re-offending sexually.

7 Q. Are there different types of risk factors?

8 A. Yes, there's -- you typically put them into two
9 categories. They're static, things from their history,
10 things that can't be changed, and then dynamics, things
11 that can be possibly addressed in treatment.

12 Q. Okay. Let's talk about -- let's just start with
13 static risk factors. I think you testified you use
14 actuarial assessments?

15 A. Yes.

16 Q. Are the actuarial assessments used based on the
17 static risk factors?

18 A. Yes.

19 Q. Could you just explain to us, I guess, what an
20 actuarial is and how it works?

21 A. Yes. It's complicated, but essentially they
22 took lots of sex offenders, thousands and thousands
23 of sex offenders, and they looked at those sex offenders
24 on a variety of risk factors, and then they looked
25 at who re-offended and who did not re-offend within

1 a certain period of time, usually, like, five or ten
2 years.

3 And they wanted to see, like, what risk factors
4 were associated with the people who re-offended.

5 And if they have more of those risk factors, how much
6 more likely are they to re-offend, so it's scaled
7 as well.

8 Q. Can you give us just several real world examples
9 of actuarial?

10 A. It's something like if you're diagnosed -- if you
11 have a heart attack, let's say. You go to your doctor
12 after the heart attack, and they'll look at what risk
13 factors you have to have another heart attack. They're
14 looking at research of people who've had a heart attack
15 and those who did not have another heart attack versus
16 those who did have another heart attack and what
17 differentiated those two groups. So they probably
18 look at things like, you know, smoking, your weight,
19 your exercise level, your stress level, genetic factors,
20 family history, things like that.

21 Q. Thank you. So what actuarial assessments
22 did you perform as a part of your evaluation?

23 A. I completed two, the Static 99R and the Static
24 2002R.

25 Q. Why do you perform these assessments?

1 A. They're standard practice in the field,
2 and they're the best way to estimate whether somebody
3 is going to sexually re-offend, so it's what I need
4 to know in order to say whether somebody is likely
5 or not.

6 Q. So these assessments are typically and reasonably
7 relied on by experts in your field in rendering opinions
8 in these matters?

9 A. That's correct.

10 Q. Was the information you learned from these
11 assessments a part of your basis of your opinion?

12 A. Yes.

13 Q. Let's talk about, you said two -- let's talk
14 about Static 99R first. Tell us about that particular
15 -- well, you told us how it works. What's the scoring
16 range of the Static 99R?

17 A. The scores range from negative 3 to 12.

18 Q. And what was Mr. Moore's score on the Static 99R?

19 A. His score was four.

20 Q. So what did you find significant about his --
21 the re-offend score he had on the Static 99R?

22 A. So a score of four is above average compared
23 to an average sex offender. And the average score
24 on this test is two, so his was elevated above that.
25 And when you do an actuarial, you get a total score,

1 and then you could go to an actuary table, and I can
2 see what percentage of people re-offended when they had
3 a score of four. So individuals with the score of four,
4 what percentage of them re-offended within five years
5 or ten years.

6 Q. So you said above average risk. How many
7 categories are there on the Static 99R?

8 A. So there are essentially five categories.

9 Q. And so what's the lowest one?

10 A. It goes from very low risk, below average risk,
11 average risk, above average risk, and then well above
12 average risk.

13 Q. So above average risk is one category below the
14 highest?

15 A. That's correct. Even though the scores go up
16 to 12, most of the scores -- like, hardly anybody scores
17 above an eight.

18 Q. What did you find significant about the -- what
19 the actuarial table told you about his risk to
20 re-offend?

21 A. So his risk to re-offend essentially was
22 individuals with the score of four, about 11 percent
23 of them re-offend within five years, and his score
24 was about twice that of the, like, expected -- of
25 the average sex offenders. So his rate to re-offend

1 is about two times that of just the average sex offender
2 who's getting out of a secure facility.

3 Q. So what about the Static 2002R, can you tell
4 us does it work the same as a Static 99R?

5 A. The principles are the same, and it's made
6 by some of the same researchers, but the instruments
7 actually are very different. So the 99R gives more
8 weight to charges, and the Static 2002R gives basically
9 no weight to charges, and they're looking at
10 convictions. So on -- and also the ranges are
11 a little bit different, but I think on the Static 2002R,
12 the scores range from negative 2 to 13. And on that
13 instrument, Mr. Moore scored a six.

14 Q. What did you learn from that assessment that
15 was important to you in forming your opinion?

16 A. So on that, he was again in the second highest
17 group, so he was in the above average risk category.
18 And individuals with a score of six, about 19 percent
19 of them re-offended sexually within five years.
20 And then when I looked at the rate of offending,
21 his expected recidivism rate is 2.63 times that
22 of the average sex offender. And on this instrument,
23 the average score is a score of three.

24 Q. And he scored a ---

25 A. A six.

1 Q. A six. Okay. Well, why do you use both
2 assessments?

3 A. Well, it's recommended by the researchers
4 that when you're doing high-risk evaluations like this
5 that you use both instruments because they add a little
6 bit of what we call incremental validity. So it helps
7 the estimate be more accurate when you use both.

8 Q. Now do you solely rely on the static actuarial
9 system to assess risk?

10 A. No.

11 Q. Are there ways a person could lower their static
12 score?

13 A. There are, I guess, some ways in theory.
14 So they could age because they actually can have points
15 subtracted as they get older, and they could get
16 involved in a relationship where they lived with
17 somebody for two years. That can decrease their score.
18 There are some things like that. But people can also
19 change their score by committing more offenses
20 and non-contact offenses, offending against a male,
21 things like that.

22 Q. Well, you mentioned age. Does Mr. Moore get
23 any reduction in his score because of age?

24 A. Yes, he's in his 50s, so there were points
25 subtracted because of his age.

1 Q. What about -- you also mentioned being in
2 a relationship or being married. Does that category
3 fit Mr. Moore?

4 A. It's not just being in a relationship and being
5 married. It's -- it actually says for the 99R,
6 the question is whether they have lived with a romantic
7 partner for two years, and so he had based on his
8 self-report. So he did not get a point for that.

9 Q. You said the Static 99R -- well, the static
10 scoring -- scratch that question. I'll move on.
11 So despite the score-lowering factors that you just
12 talked about, Mr. Moore still scored in the above
13 average risk category?

14 A. That's correct.

15 Q. So let's talk dynamic risk factors. What are
16 dynamic risk factors?

17 A. Those are risk factors that have also been
18 identified in research to increase the likelihood
19 that somebody will commit another sex offense.
20 And there are things that can be addressed in treatment
21 and that a person has a chance of changing.

22 Q. So did you -- were you able to assign any dynamic
23 risk factors to Mr. Moore?

24 A. Yes, I found two or three were relevant to him.

25 Q. And what were they?

1 A. There was sexual preference for pre-pubescent
2 or pubescent children, offense-supportive attitudes
3 and emotional congruence with children.

4 Q. Let's just go into each of those. Can you
5 just tell us what sexual preference for pre-pubescent
6 or pubescent children is?

7 A. So this risk factor is looking at their victim
8 history. So for him, he has that history of offending
9 against minors over, you know, most of his adult life,
10 apart from being incarcerated. He offended against
11 children, despite having access to consenting adult
12 partners. And he offended, you know, after periods
13 of incarceration and considerable consequences.

14 Q. Okay. What is offensive-support attitudes,
15 and how does it relate to Mr. Moore?

16 A. So with offensive-support attitudes, I'm looking
17 at how somebody views offending, and in particular
18 for him, how he views children in offending. So things
19 like whether children are sexually promiscuous, whether
20 they are doing things that children do that he's
21 interpreting as being invitations for sex and sexual
22 touching, whether he thinks children enjoy sex, things
23 like that.

24 In his case, he said that two of the female
25 victims initiated the sexual contact with him.

1 He viewed them as sexually provocative. This was,
2 like, especially in the earlier offenses that was
3 very prevalent. And he said, you know, this
4 six-to-nine-year-old girl was starting things with him,
5 she was initiating it, she was sexually active, things
6 like that. And that's just out of sorts with a child,
7 especially one who's pre-pubescent.

8 Q. What about emotional congruence with children,
9 what is that and how does it apply?

10 A. That's somebody who is -- feels better about
11 relationships with children. They enjoy relationships
12 with children more than adults, they feel more
13 comfortable around children, they prefer to spend time
14 with children, and that's what I found in his history.
15 He was spending a considerable time with minors.
16 He was a youth choir director. He seemed to be
17 surrounded by kids all the time.

18 All those things suggest that he was, you know,
19 drawn to children, and that those relationships were
20 easier for him. He sought those sexual relationships
21 with children when he could have, you know, had sex with
22 an adult, consenting partner, and he wouldn't have been,
23 you know, sent to prison for that.

24 Q. What is the fact that he had male and female
25 victims mean for risk?

1 A. Having a male victim increases risk to re-offend.
2 That's the essential part of it.

3 Q. Well, how do these static and dynamic risk
4 factors that you talk about, how do they relate to
5 Mr. Moore's risk for re-offending if he's not confined
6 to a secure facility for treatment?

7 A. Well, when I do these risk assessments, I get
8 to this point I have to make a determination as to
9 whether his level of risk makes him likely, and that's
10 an opinion. The definition of likely in our statute
11 is to such a degree as to pose a menace to the health
12 and safety of others. I believe that his level of risk
13 rises to that level. It poses a menace to the health
14 and safety of others.

15 Q. That's based on your review of the static
16 and dynamic risk factors that you testified to?

17 A. That's correct.

18 Q. What about future plans, do you discuss future
19 plans with Mr. Moore?

20 A. I did.

21 Q. Why is it important for someone in your
22 profession to talk about future plans?

23 A. I just want to see what their plan is, you know,
24 on where they're going to live, what they're going
25 to do, what kind of environment they're going back

1 to, what if any -- if they have, like, supervision,
2 or any sort of safeguards that way, and I'll always
3 ask about how they plan to satisfy their sexual needs.

4 Q. Well, what did Mr. Moore tell you about his plans
5 when he's released?

6 A. He said he plans to live with his mom, hopes to
7 get a job in horticulture. He said he wanted to become
8 involved in prison ministries. He has some community
9 supervision, he has GPS monitoring, not house arrest,
10 but GPS monitoring, and that he would meet his sexual
11 needs by masturbating.

12 Q. Do you believe his future plans is a realistic
13 view of his level of risk?

14 A. I don't think that there's much in his future
15 plans that it would mitigate his risk. He was able
16 to offend on probation before, so there -- I don't see
17 any reason why he couldn't do that again.

18 Q. And, Doctor, just putting everything together
19 you discussed, did you make any conclusions about
20 whether Mr. Moore meets the criteria for civil
21 commitment?

22 A. Yes.

23 Q. Okay. And is it your expert opinion that
24 Mr. Moore has been convicted of a sexually violent
25 offense?

1 A. Yes, I found that he was convicted of five
2 of them.

3 Q. Is it your expert opinion that Mr. Moore suffers
4 from a relevant mental abnormality?

5 A. Yes, I believe he suffers from pedophilic
6 disorder, sexually attracted to females, non-exclusive
7 type.

8 Q. Do you have an opinion as to whether Mr. Moore's
9 pedophilic disorder causes him serious difficulty
10 in controlling his behavior?

11 A. I believe that it does, yes.

12 Q. Why is that?

13 A. I believe that he has sexual arousal, he's unable
14 to control himself. If he acts on that sexual arousal,
15 it will mean that he's going to victimize another child.

16 Q. Do you have an opinion as to whether Mr. Moore's
17 pedophilic disorder makes him likely to engage in acts
18 of sex and violence if he's not confined to a secure
19 facility for long-term control, care and treatment?

20 A. It's my opinion that the pedophilic disorder
21 makes him likely.

22 Q. Do you have an opinion as to -- an expert opinion
23 as to whether Mr. Moore meets the criteria to be found
24 a sexually violent predator?

25 A. It's my opinion that he does meet the criteria

1 of a sexually violent predator.

2 Q. Did you draw up your conclusions to a reasonable
3 degree of psychological certainty?

4 A. Yes.

5 MR. RUNYAN: Thank you, Dr. Gehle.
6 Please answer any questions that Mr. Falk may have.

7 THE COURT: Madam Forelady, let's take
8 a little afternoon break, about ten minutes or so,
9 then we'll bring them back for cross-examination.
10 You can leave your pads here in the courtroom, please.

11 (Jury exits the courtroom at 4:00 p.m.)

12 THE COURT: Dr. Gehle, you can step down,
13 just don't talk to anybody about your testimony.
14 Ten minutes, guys.

15 MR. RUNYAN: Thank you, Your Honor.

16 (Recess taken.)

17 (Back on the record.)

18 THE COURT: Please be seated. All right.
19 You're ready, Mr. Falk?

20 MR. FALK: I'm ready, unless you think
21 the jury is tired.

22 THE COURT: Check the jury and see if they
23 are ready to come back. If they are, bring them in.

24 (Jury enters the courtroom at 4:13 p.m.)

25 THE COURT: Cross-examination, Mr. Falk.

1 MR. FALK: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. FALK:

4 Q. So, Dr. Gehle, your office is on Crafts-Farrow
5 Road in Columbia?

6 A. Farrow Road.

7 Q. Farrow Road.

8 A. Yeah.

9 Q. All right. So that medical facility that's next
10 to your office, what is that building?

11 A. Well, so I work at the Crafts-Farrow State
12 Hospital campus.

13 Q. Okay.

14 A. And it's my understanding that that's -- like,
15 it was after a Dr. Craft and a Dr. Farrow, and their
16 names are combined. But there are a variety of things
17 on campus. Probably the most predominant is a forensic
18 psychiatric hospital.

19 Q. Okay. But just so we're clear, that is not where
20 somebody who is a sexually violent predator goes for
21 treatment; is that correct?

22 A. That's correct.

23 Q. All right. That's a different type of secure
24 facility?

25 A. That's where people go if they're -- if they need

1 to have an inpatient period of restoration for
2 competency to stand trial. That's where they go if
3 they're not guilty by reason of insanity; that's where
4 some jails send people if they're having mental health
5 problems in the jail. And there are some -- it's run
6 by a private company, so there's some federal prisoners
7 there, and there's some out-of-state prisoners there.

8 Q. Okay. Thank you. You had talked a little bit
9 about disciplinary infractions or disciplinary record.

10 A. Yes.

11 Q. And that is something that you generally look
12 at when you do these evaluations?

13 A. Yes.

14 Q. And you've done hundreds of these pre-commitment
15 evaluations?

16 A. Yes.

17 Q. What is -- how common is it for somebody
18 who is -- who's gone to prison for a sexually violent
19 offense to then commit offenses while they're in,
20 you know, disciplinary infraction?

21 A. I don't know what the split is, like, how many
22 people do and how many people don't. But I can see
23 in the people I evaluate, it ranges from no infractions
24 to, you know, lots and lots and lots of infractions.
25 And everybody I evaluate has been convicted

1 of a sexually violent offense.

2 Q. But certainly you see people who sort
3 of are acting out sexually, you know, they'll have
4 a lot of, you know, public displays?

5 A. Sexual misconduct ---

6 Q. Sexual misconduct.

7 A. --- exposures, yes.

8 Q. And you'll also see people acting out physically
9 where they're -- conduct; is that correct?

10 A. Yes, sometimes that happens.

11 Q. But -- now Mr. Moore had only three infractions,
12 one was for being out of place; one was for using
13 an obscenity; and one was for failure to obey?

14 A. Yes.

15 Q. And this was all during that first term when
16 he was -- you know, I guess, from about 1999 to 2000 --
17 I mean, 1989 to 2000?

18 A. I believe it was -- I believe that they
19 were during his second term of prison. Yes. I mean,
20 they weren't during the current term of prison, that's
21 correct.

22 Q. Right, right, right. Not during because
23 there were three, right? So it was -- yeah.

24 A. Correct.

25 Q. But now wouldn't you look at that as being really

1 a protective factor in that somebody is learning to,
2 you know, follow the rules?

3 A. Yeah, you can't really look at it like that,
4 as a protective factor, because they actually might just
5 be actually really good at breaking the rules and not
6 getting caught. It might mean that they're more
7 psychopathic, and they can run things and not get
8 reported. So it's something that -- the way that I look
9 at it, I want to -- I would give, like, more importance
10 to the sexual-based infractions than anything else.

11 Q. And he had none?

12 A. He had none.

13 Q. Okay. So is that not a protective factor with
14 no sexually-based infractions?

15 A. It's still not a protective factor because
16 there are very few, maybe no children, that he would
17 come in contact in prison. Children are sometimes
18 allowed to visit, but I don't know if he would have
19 any exposure to children in the prison system.

20 Q. All right. You said something about him having
21 a stable lifestyle, what did you mean by that?

22 A. I mean, he had a job, he wasn't using substances,
23 he had a routine, you know, his life appeared pretty
24 stable from the outside.

25 Q. Well, frequently, you will find when you're

1 evaluating people, they'll have lots of different
2 jobs, you know, poor problem solving, very impulsive.
3 You didn't really see that in this case, did you?

4 A. That's correct.

5 Q. All right. So again would that not be considered
6 a protective factor?

7 A. It's not necessarily a protective factor because,
8 I mean, in broad terms what leads somebody to sexually
9 offend is deviant sexual interest and antisocial
10 lifestyle. He doesn't have that antisocial lifestyle.
11 So, I'm not -- I did not see any evidence of that
12 antisocial lifestyle, except for his three terms
13 in prison.

14 Q. Okay.

15 A. But his day-to-day life was pretty stable.
16 He was involved in the church, you know, he had
17 a family, things like that.

18 Q. And he was married?

19 A. That's correct.

20 Q. And he had two children of his own?

21 A. Yes.

22 Q. And then he raised two other children that were
23 hers; is that correct?

24 A. Yes.

25 Q. Okay. Now you did -- it's not part of your

1 practice to ever talk to any of the victims; is that
2 correct?

3 A. I'll talk to the victims if they request
4 to talk to me, but I don't seek them out. I don't want
5 to cause any further trauma or to violate their rights.
6 But if they request to talk to me, I'll talk to them.

7 Q. Did you reach out to any of the victims from
8 2008?

9 A. No.

10 Q. That includes their families, right? So not just
11 the victims, but the parents, and you did not?

12 A. That's correct.

13 Q. Okay. And he denied 2008; is that correct?

14 A. Yes, the offenses that he was convicted of then,
15 he denied those, yes.

16 Q. But he readily admitted the ones in '89 and '91;
17 is that correct?

18 A. He admitted to many aspects of those early
19 offenses with the girls, but not to all that the victims
20 reported in those cases.

21 Q. But he certainly acknowledged some of the conduct
22 that would still be problematic, right?

23 A. That's correct.

24 Q. So, I mean, he -- you may not think he made
25 a full disclosure, but he certainly disclosed conduct

1 regarding those?

2 A. Yes, he did.

3 Q. Okay. And what did he -- so when you talked
4 to him about them, did he -- I'll withdraw that.

5 Thank you. Now you had said that back in -- 20 years
6 ago, the sex offender treatment that they were doing
7 at SCDC was more, the term of robust, it was a bigger
8 program than they do now?

9 A. I think it was more people took the treatment.
10 I think more people were offered treatment at that time
11 than they are now.

12 Q. Okay.

13 A. I don't know if it was any more rigorous or
14 more robust, but I think the program itself was bigger
15 in terms of how many people went through the treatment
16 program.

17 Q. Okay. And he went through two of the stages;
18 is that correct?

19 A. He completed two of the stages and participated
20 in the third.

21 Q. And do you know how long those first two stages
22 last?

23 A. I do, but those records are over there. I didn't
24 bring them up here. I believe that -- I mean, they were
25 months and months.

1 Q. I mean, it's more than just a weekend kind
2 of thing, right?

3 A. Oh, no, they're months and months.

4 Q. It's months and months of meeting daily or weekly
5 or something, right?

6 A. I think it depends on what phase they're in.
7 So phase one might be once a week. And I'm saying might
8 be because I don't know exactly how it was run then,
9 and there have been changes, and I don't know how it's
10 been run during COVID. So, I don't even know if that's
11 how it is now.

12 But I believe that the further, like, the more
13 advanced phase, the more intensive the treatment is.
14 I know that when they were in phase three, it was more
15 of, like, residential treatment. They had to be living
16 on that unit, and it could have been more, like,
17 a day-to-day meeting.

18 Q. But just -- the type of treatment that
19 when he was doing the C-star, the type of treatment,
20 is that similar to the type of treatment that he would
21 get if he were committed to the program, I mean, if you
22 know?

23 A. I think it would be similar in that there is some
24 psychoeducation in that it's a talk therapy, but I don't
25 know if it's similar beyond that.

1 Q. But it's still some type of talk therapy,
2 and what does that mean?

3 A. It means that you're going to talk about
4 your offenses, and most of the treatment is through,
5 you know, talking about it, understanding it,
6 identifying what led you to offend, identifying ways
7 to cope with that and to stop that, things like that.
8 So it's -- there's no, like, electric shock; there's
9 no behavioral treatments; there's no ammonia tablets,
10 and pairing that with a deviant sexual interest, there's
11 none of that stuff that happens.

12 Q. That's the negative reinforcement, the ammonia
13 tablets?

14 A. Probably you could say it like that but ---

15 Q. Where they would show -- you could get the
16 obnoxious odor and that would try ---

17 A. Yes, if you had a deviant thought, you would
18 smell it, something that smelled really bad, so that
19 you would have a bad association with it.

20 Q. But that's not what they're doing at the sexual
21 violent predator treatment program, right?

22 A. That's correct.

23 Q. Okay. And he had said that he had four years
24 of treatment while he was on probation?

25 A. That's correct.

1 Q. And again -- and maybe we keep going back
2 to the same thing, but you had said that he had no --
3 he has no issues with substance abuse?

4 A. Correct.

5 Q. And you find that in all the evaluations
6 you've done, don't you typically -- isn't that -- it's
7 not uncommon to find people who are sexually offending
8 also to be taking drugs or having problems with drugs
9 and substances?

10 A. That is correct.

11 Q. Now you had diagnosed him with pedophilic
12 disorder; is that correct?

13 A. Yes.

14 Q. And pedophilic disorder is limited to an
15 attraction to pre-pubescent children; is that correct?

16 A. Yes.

17 Q. Okay. With regards to 2009, what were the ages
18 of the -- his accusers?

19 A. So one was 12 to 13 years old, and one was likely
20 11 years old. I think that it was -- there was a range
21 when those offenses occurred, so it would have -- it was
22 likely that he was 11, but it was a little bit unclear.

23 Q. And you had said that African-American males
24 are typically -- it's not uncommon -- you said something
25 about African-American males hitting puberty at

1 a particular age and it being younger than -- I mean,
2 being older than -- excuse me, younger than white males,
3 right?

4 A. Yes. I don't think I testified to exactly
5 what those ages are, but for African-American girls,
6 they tend to start puberty roughly around age nine,
7 so it's a little bit, you know, like, nine and a half
8 or so. And it's around the same time for boys who are
9 African-American, so a little bit older because girls
10 start puberty a little bit before girls do -- boys start
11 puberty a little bit later than girls do.

12 Q. So it's reasonable -- and you don't have
13 any information as -- you said the Tanner scale.
14 So you don't know how mature the 11-year-old boy was,
15 do you?

16 A. The 11-year-old is the one that I would be
17 concerned about because the 12-year-old reported that
18 he ejaculated, and ejaculation means that you are
19 at least pubescent. So he would have been
20 pre-pubescent, but I don't know about the 11-year-old.

21 Q. Okay. You don't know one way or the other?

22 A. I don't know one way or another.

23 Q. I mean, so isn't it one way that you could look
24 at this is that he had offenses that he admitted to back
25 when he was 21 and 24 years old, where his victims were

1 pre-pubescent; is that correct?

2 A. Well, I tried to be very fair when I did this
3 consideration, and I don't know if the first victim
4 was pre-pubescent. She was at that age range, 10, 11,
5 where it could go either way, so, I give him the benefit
6 of the doubt. With the second victim, six to nine,
7 that's more likely than not she's going to be
8 pre-pubescent for a good portion of that offense time.
9 So that's what I counted, and then I didn't count
10 the boys because I didn't know, and they were again
11 on that line.

12 Q. But, I mean, couldn't we look at it this way,
13 that worst case, even if it's the worst case,
14 that all of his victims back when he was in his young
15 to middle 20s were pre-pubescent. Since that time,
16 he did two stages of sex offender treatment at SCDC,
17 and he did four years of sex offender treatment on the
18 outside, and there's really no evidence that he offended
19 against a pre-pubescent child after that time?

20 A. That's quite possible because the victim --
21 the youngest victim after that time was 11 years old.
22 That victim could have been pre-pubescent; that victim
23 could have been in the early stages of puberty. You're
24 correct.

25 Q. When we talk about risk assessment, there's

1 two terms that sort of get -- that might get confused.
2 When you're talking about doing the Static 99, you're
3 talking about sexual offending; is that correct?

4 A. Correct.

5 Q. But now when we were looking at whether or not
6 somebody qualifies for the definition of a sexually
7 violent predator, the issue is whether or not there's
8 a likelihood that he would commit a crime, a sexually
9 violent offense; is that correct?

10 A. That's correct.

11 Q. Okay. So when you talk about sex offenders,
12 that could be exhibitionist, right? I mean ---

13 A. Yes, the Static 99 and the actuarial instruments,
14 they are used in this country and in different
15 countries, they're developed in Canada. So they are
16 not just estimating whether somebody is going to commit
17 a sexually violent offense. They are estimating whether
18 somebody is going to commit any sexual offense,
19 including things that are not classified as sexually
20 violent in South Carolina.

21 Q. And so let's just say that Mr. Moore was released
22 tomorrow and committed a sexual offense, it wasn't
23 a sexually violent offense, that would mean -- that
24 would not mean he was a sexually violent predator;
25 is that correct? I mean, you have to commit a sexually

1 violent offense to be a sexually violent predator;
2 is that correct?

3 A. You have to be convicted of at least one sexually
4 violent offense to be classified as a sexually violent
5 predator in South Carolina.

6 Q. Right. And whether -- if it's just a sexual
7 offense, for you to opine that he is a sexually violent
8 predator, you would have to be convinced that he's going
9 to commit a sexually violent offense, not just a sex
10 offense; is that correct?

11 A. Yes.

12 Q. Well, if the static measures all sex offenders
13 and the likelihood to recommit another sexually --
14 another sexual offense, isn't that going to tend
15 to exaggerate the risk that Mr. Moore would commit
16 a sexually violent offense?

17 I mean, if you're looking at, you know -- you
18 said 11 percent possibility. I think you said 11
19 percent over the next five years, looking at the static,
20 committing a sexual offense, wouldn't we assume that the
21 percentage that are going to commit a sexually violent
22 offense is going to be less smaller?

23 A. I mean, that's a fair point. When I look
24 at his history, all he has is sexually violent offenses.
25 So he hasn't committed those other types of sexual

1 offenses that aren't classified as sexually violent.
2 He hasn't committed the -- like, the primary offenses
3 that aren't sexually violent are indecent exposure
4 and peeping Tom.

5 Q. Okay.

6 A. So he hasn't committed those types. So, I think
7 that this would be a fair estimation of his risk.

8 MR. FALK: May I approach the witness?

9 THE COURT: Certainly.

10 BY MR. FALK:

11 Q. I'm showing you Exhibits 5 and 6. And you see
12 there's a box checked right there?

13 A. Yes.

14 Q. All right. So what does that box -- what
15 checkmark is on that box?

16 A. On both of these sentencing sheets, the box
17 for non-violent was checked.

18 Q. Okay. So for the purposes of the criminal code
19 in South Carolina, it would appear that he was convicted
20 of something that's not considered a violent offense?

21 A. I don't know if it could ever be considered,
22 but I know that this just has an X to non-violent.
23 I've seen things, like assault and battery, have checks
24 on non-violent, so I don't know.

25 Q. But these charges do fit under the statute?

1 A. Yes, they're sexually violent offenses.

2 Q. Okay. I was trying to just sort of do some
3 math while you were testifying. So you said that his
4 risk to re-offend, just based on the static numbers,
5 was, like, 11 percent; is that -- I don't want to
6 mischaracterize your testimony.

7 A. It's a little more technical than that.
8 It's individuals with the same score as him, 11 percent
9 of those people re-offended with a new sexual offense
10 within five years.

11 Q. And again not to get over the -- that's any kind
12 of sexual offense, not necessarily sexually violent
13 offenses?

14 A. Correct.

15 Q. And you said there was roughly twice the regular,
16 the ---

17 A. The rate ---

18 Q. There could be such a term, as absurd as it
19 sounds, is a typical sex offender or an average sex
20 offender, that's twice as much as that; is that correct?

21 A. Yes.

22 Q. So does that mean that the average sex offender's
23 likelihood to re-offend is only about five percent?

24 A. I would actually have to look at the actuarial
25 table, but it's probably right. If you give me

1 a second, I think I have it. Yes. So that -- so
2 individuals with the score of two, about 4.6 percent
3 of them re-offend within five years with a new sexual
4 offense.

5 Q. Okay. Now you would testify that one of the --
6 I think Mr. Runyan asked the question about how can
7 you ever improve your score on the Static 99. What can
8 happen that can make your score go down, and you had
9 said age?

10 A. Yes.

11 Q. How does the risk -- how is his risk to
12 re-offend, you know, actuarially, go down once he hits
13 the age of 60?

14 A. So it would decrease further because that's
15 another line.

16 Q. It's two more points, isn't it?

17 A. I believe so. So, I think that -- I have to look
18 at his actual scoring sheet here. Yes, so at his age,
19 he's 54 years old. That puts him in the category of age
20 40 to 59.9, so he gets a negative one, and when you turn
21 60, your score would be a negative three.

22 Q. Okay. So ---

23 A. Two points.

24 Q. So what would -- how would -- let's say he was
25 60 today, how would you score him on the Static 99?

1 A. If he was 60 today, his score would be two.

2 Q. Okay. So that would put him as the average sex
3 offender?

4 A. Yes. But I do have to offer a caveat, and that
5 is when they're released from custody, you have to look
6 at the age that they were released. So if he was
7 released today, and he turned 60 tomorrow, it would
8 still have a negative one on that item, not a negative
9 three.

10 Q. Well, that's just -- because that's the way y'all
11 have to keep score?

12 A. Yeah, we have to follow the rules that they
13 provide.

14 Q. But certainly you wouldn't think anybody's risk
15 would be affected by one day there, right? I mean,
16 it's a tendency to show that risk goes down as men age?

17 A. That's correct.

18 Q. And it goes down significantly once men get
19 beyond -- get to their 60th birthday?

20 A. Yes.

21 Q. Okay. So, I mean, if we're looking at the graph
22 of the current, it starts sloping down?

23 A. Yes.

24 Q. Okay. And how does age affect on the ---

25 A. 2002R?

1 Q. --- 2002R?

2 A. So it's calculated a little bit differently,
3 but he gets zero points on that one. So the scores
4 on that for somebody who's 18 to 34.9 gets two points;
5 35 to 39.9, they get one point; 40 to 59.9, which
6 is where he is, gets zero points; and if they're 60
7 or older, they get negative two points.

8 Q. Okay. So that again would go down?

9 A. That's correct.

10 Q. So that he would be down to a four?

11 A. Yes.

12 Q. And that would be closer to the average offender?

13 A. Yes, the average offender on this instrument
14 has a score of three, so it would be closer.

15 Q. Okay. So, I mean, are you saying that, assuming
16 he's 55 today, which is what I think he is, so you're
17 saying that his risk over the next five years, looking
18 at your Static 99, it's an 11 percent chance to
19 re-offend, and once he hits -- and so you're talking
20 about a five-year window, right? You're saying it's
21 an 11 percent chance to re-offend over the next five
22 years; is that right?

23 A. You can't say it, like, 11 percent chance.

24 Q. Okay. All right.

25 A. But it's 11 percent of the individuals

1 re-offended, yes.

2 Q. So 11 percent of the individuals re-offended
3 over -- but you're looking at a five-year window?

4 A. Yes.

5 Q. And so if he turned 60 in five years, then it's
6 going to go down even further?

7 A. If he was evaluated again, then his score would
8 be lower when he was 60.

9 Q. Okay.

10 A. Assuming he didn't do other things to raise his
11 score in other areas.

12 Q. Of course. What type of -- and does he have
13 any type of supervision? He has -- he's going to have
14 an ankle monitor?

15 A. I believe he has community supervision. I tried
16 to reach out to Probation, Pardon and Parole to just
17 verify that last week, but I didn't hear back from them.
18 But it's my understanding he has community supervision
19 for a period of time, that's usually around two years.

20 And that he'll -- he's also required to do GPS
21 monitoring, which just means they're going to know where
22 he is, but they're not going to keep him from going to
23 anyplace he wants to go after he's off of supervision.

24 Q. But for the next two years he's going to
25 be responsible to South Carolina Probation, Pardon

1 and Parole?

2 A. That's correct.

3 Q. And it's somebody who he's going to be meeting
4 with?

5 A. Yeah, kind of roughly two years. I don't know
6 what the end date is.

7 MR. FALK: May I have a moment, Your Honor?

8 THE COURT: Yes.

9 (Pause.)

10 MR. FALK: Your Honor, I have no further
11 questions.

12 THE COURT: Very good. Redirect.

13 MR. RUNYAN: Briefly, Your Honor.

14 THE COURT: Okay.

15 REDIRECT EXAMINATION

16 BY MR. RUNYAN:

17 Q. Dr. Gehle, you were asked about, and I think
18 you testified to Mr. Moore's stable lifestyle; is that
19 right?

20 A. Yes.

21 Q. Okay. Now the stable lifestyle that he had,
22 did he have a stable lifestyle while he was offending?

23 A. Yes.

24 Q. Did he have a stable lifestyle while he was
25 married?

1 A. Yes.

2 Q. Did he have a stable lifestyle while he was
3 raising children?

4 A. Yes.

5 Q. But he's offending during all these times?

6 A. Yes.

7 Q. Now the phase -- you were asked about phase three
8 treatment, what type of treatment that was, and you said
9 it was like talk therapy?

10 A. Yes, that's what I believe it is.

11 Q. And similar to what someone would get if they
12 were committed to the sexually violent predator
13 treatment program?

14 A. It's -- the modality of treatment is the same,
15 the content could be different, and things have changed
16 since the 1990s when they used to use more of
17 shame-based approach to treatment. So, I don't know
18 how similar it is to what happens now.

19 Q. Okay. But he did have his treatment -- his
20 treatment was offered to him, and he took it while
21 he was at SCDC?

22 A. Yes.

23 Q. And did he offend after that?

24 A. Yes.

25 Q. Was he given -- well, he self-reported to you

1 that he had treatment for four years in the community?

2 A. Yes.

3 Q. And was that while he was on probation?

4 A. Yes.

5 Q. Did he offend after that?

6 A. Yes.

7 Q. And you were also asked about this kind of idea
8 that static captures kind of all sex offenses, including
9 I think you said, like, exhibitionism and peeping Tom,
10 things of that nature?

11 A. Yes.

12 Q. And you testified on direct, I believe, that the
13 Static 99R looked at a group of thousands and thousands,
14 I think you said ---

15 A. Yes.

16 Q. --- of sex offenders who they tracked, who went
17 on to be detected re-offending; is that correct?

18 A. That's correct.

19 Q. So they had to be either charged or arrested
20 or found guilty, right?

21 A. Charged or convicted is what they considered
22 to be detected.

23 Q. Okay. So could you tell us what the research
24 suggests about the reporting of sexual offenses?

25 MR. FALK: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 (Off-the-record conversation held at sidebar.)

3 (Back on the record.)

4 THE COURT: Madam Forelady, would you take
5 the jury back to the jury room right quick, please.

6 (Jury exits the courtroom at 4:46 p.m.)

7 THE COURT: Ask your question again, please,
8 sir.

9 MR. RUNYAN: Okay.

10 BY MR. RUNYAN:

11 Q. Dr. Gehle, we're talking about the Static 99R.
12 What does the research suggest about the percentage
13 of sexual crimes that get reported?

14 A. The research that I've seen is it's about roughly
15 30 percent are reported, and then it's a lower rate
16 for how many crimes are reported that actually result
17 in charges or convictions.

18 Q. So is there -- based on that, is there a risk
19 that the Static 99R could underreport sexual offenses?

20 A. Yes.

21 MR. RUNYAN: That's all I'm going to ask.

22 MR. FALK: Could I ask what research?

23 THE COURT: Sir?

24 MR. FALK: Could I ask what research?

25 THE COURT: No, sir, you can't. This

1 is redirect, and we're not going there. You have
2 an objection, you state it, and I'll be glad to listen
3 to it, but I'm not going to let you get into voir dire
4 with it.

5 MR. FALK: I'm just trying to ---

6 THE COURT: Okay.

7 MR. FALK: No, no, no, I was just trying
8 to ---

9 THE COURT: Okay. I thought you were going
10 to say -- okay.

11 MR. FALK: No, no, no, no. All right.
12 Thank you.

13 THE COURT: Yes, sir. For the record, guys,
14 I'm fine with the way you're doing it now, but you know,
15 when it's reviewed on appeal, if this case gets
16 appealed, there's no standing objection in the record,
17 so just FYI. I've had appellate court judges tell me
18 on more than one occasion, you know, I tell you you're
19 protected on the record. It doesn't matter what you
20 tell them, it's what we find. It's not what you say,
21 so FYI. Okay. You ready to resume?

22 MR. RUNYAN: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. FALK: Thank you, Your Honor.

25 THE COURT: Objection on the record like

1 you wanted?

2 MR. FALK: My objection on the record is
3 that it was calling for an answer that was speculative
4 and that Dr. Gehle did not provide any clear citation
5 to any type of record or any type of scientific
6 publication to support that conclusion.

7 THE COURT: Noted for the record.
8 Thank you. Bring the jury back in, please.

9 (Jury enters to courtroom at 4:49 p.m.)

10 THE COURT: Mr. Runyan.

11 MR. RUNYAN: Thank you, Your Honor.

12 BY MR. RUNYAN:

13 Q. So, Dr. Gehle, we were talking about -- on cross,
14 you were asked about the Static 99R and if there was
15 a potential that it could overreport sexual offenses,
16 meaning it could report more offenses than sexually
17 violent offenses, like exhibitionism and peeping Tom?

18 A. Yes.

19 Q. So what does the research suggest about the --
20 I'm sorry. On the Static 99R, you said the way it
21 worked was there were thousands and thousands of people,
22 sex offenders, that were committing sex offenses,
23 and they tracked them over time to see which ones
24 were charged or convicted with detected offenses;
25 is that correct?

1 A. Yeah, with a new sexual offense, charged
2 or convicted with a new sexual offense, yes.

3 Q. What does the research suggest about the amount
4 of sexual offenses that go reported?

5 A. The research suggests that lots of sexual crimes
6 are not reported, and it's about 30 percent of sex
7 crimes are reported, and far fewer of those result
8 in charges and convictions.

9 Q. So is there also a potential for the Static 99R
10 to underreport risk?

11 A. Yes.

12 Q. There was also some talk about the fact what
13 he's going to -- what age he's going to be in, I think
14 it's six years from now or five years from now?

15 A. Yes.

16 Q. You don't -- you're not scoring the Static 99R
17 or 2002 for five years from now, are you?

18 A. No.

19 Q. You scored it during your assessment?

20 A. I scored it when I wrote my report, yes.

21 Q. And you scored him a four on the Static 99R?

22 A. Yes.

23 Q. And that's the above average risk category?

24 A. That's correct.

25 Q. And on the Static 99 -- 2002R, you scored him

1 a six?

2 A. Yes.

3 Q. And that's in the above average risk category?

4 A. That's correct.

5 Q. I guess it was made in six years, his offense --
6 his risk to re-offend, based on these, actuarials would
7 go down; is that right?

8 A. Well, if he was scored and nothing else had
9 changed, just his age, then his score would be lower,
10 unless, you know -- a lot can happen in five years.
11 The whole assessment could be redone, so I have no way
12 of really knowing for certain.

13 Q. And you've diagnosed him with pedophilic
14 disorder?

15 A. Yes.

16 Q. Sexually attracted to females, non-exclusive
17 type?

18 A. That's correct.

19 Q. There was some talk about the ages of the
20 victims, and I think you kind of erred on the side
21 of caution in calling them pubescent or pre-pubescent?

22 A. Yes.

23 Q. What about -- what about their ages or being
24 pubescent, related to your dynamic risk factors,
25 how does that relate to dynamic risk factors?

1 A. It increases the risk of re-offending.

2 But in this state, the age of consent is 16. So most
3 sex offenses involving a child who is under 16 with
4 an adult is going to be a sexually violent offense.

5 Q. And the convictions that you talked about on
6 direct that were entered into evidence, you testified
7 they're all sexually violent convictions?

8 A. Yes.

9 MR. RUNYAN: No further questions.

10 THE COURT: May this witness be excused?

11 MR. FALK: Yes, Your Honor.

12 THE COURT: All right. Thank you.

13 Ma'am, you are excused.

14 THE WITNESS: Thank you.

15 THE COURT: Madam Forelady, ladies
16 and gentlemen of the jury, it's about five to five,
17 a good time to break for the day. Is there any reason
18 why we can't be here and start back at 9:30 in the
19 morning? All right. If you would, I'm going to ask
20 that you take your notepads back into the jury room
21 and leave them there for the night. It'll be under
22 lock and key, and we'll try to resume testimony at 9:30
23 in the morning.

24 THE FORELADY: Thank you.

25 THE COURT: Yes, ma'am. Y'all have a nice

1 evening.

2 (Jury exits the courtroom at 4:54 p.m.)

3 THE COURT: See you guys in the morning.

4 Any matters before we leave?

5 MR. RUNYAN: The only matter I have
6 is I think I'm going to -- I would like to keep
7 Dr. Gehle under subpoena for tomorrow just for potential
8 rebuttal.

9 THE COURT: That's between you and her.

10 MR. RUNYAN: Okay.

11 THE COURT: All right. See you all in the
12 morning.

13 MR. RUNYAN: All right. Thank you.

14 (End of Transcript of Record)

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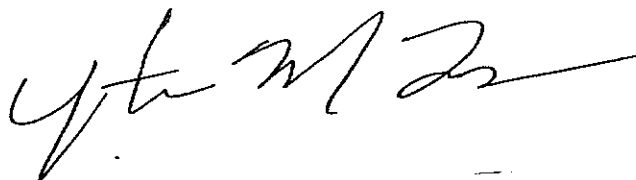
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 18th of April, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 27, 2022



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF BERKELEY

2020-CP-08-02684

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) April 19, 2022 - Vol 2 of 2

Tyrone Maurice Moore)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable R. Lawton McIntosh, Judge

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

Christopher S. Runyan, Esquire
Attorney for the StateJames K. Falk, Esquire
Attorney for the Defendant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

EXHIBITSNO EXHIBITS INTRODUCED

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1 THE COURT: Please be seated. So,
2 Mr. Runyan, I assume we'll get the jury in, get
3 the Respondent in, I'll say call your next witness,
4 and you'll say, I rest.

5 MR. RUNYAN: Yes, sir, the State will rest
6 at that time.

7 THE COURT: All right. We'll be doing
8 motions, and you have the three, Respondent two.

9 MR. FALK: It's going to be two.

10 THE COURT: Do you think your guy is going
11 to testify? You don't have to say if he won't.

12 MR. FALK: I think my guy is going to
13 testify. Mr. Curry is not going to testify, and his
14 mother is going to testify, and she's going to go first,
15 so if she could stay in the courtroom.

16 THE COURT: That's okay. Good morning.

17 MS. PALMER: Good morning.

18 MR. FALK: Your Honor, if the -- never mind.
19 Excuse me.

20 THE COURT: Anything from the State before
21 we bring the jury in?

22 MR. RUNYAN: No, Your Honor.

23 THE COURT: From the Respondent?

24 MR. FALK: No, Your Honor.

25 THE COURT: All right. Bring the jury in.

1 (Jury enters the courtroom at 9:40 a.m.)

2 THE COURT: Good morning.

3 THE JURY PANEL: Good morning.

4 THE COURT: Does everyone have their pads
5 that they used when taking notes with yesterday?

6 THE FORELADY: Yes, sir.

7 THE COURT: Very good. All right.

8 Mr. Runyan, would you call your next witness.

9 MR. RUNYAN: Your Honor, at this time,
10 the State would rest its case.

11 THE COURT: Okay. Very good. May I see
12 the attorneys up here for one second.

13 (Off-the-record conversation held at sidebar.)

14 (Back on the record.)

15 THE COURT: All right. Mr. Falk, would you
16 call your first witness.

17 MR. FALK: Yes, we would call Lonnie Palmer
18 to the stand.

19 THE CLERK: Good morning. Raise your right
20 hand, place your left hand on the Bible.

21 MS. LONNIE PALMER was called as a witness,
22 being duly sworn, was examined and testified as follows:

23 THE CLERK: Please be seated. State your
24 full name for the record, and please spell your last
25 name.

DIRECT EXAMINATION - BY MR. FALK

1 THE WITNESS: My name is Lonnie
2 Moore-Palmer, P-A-L-M-E-R.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. FALK:

6 Q. Take a breath. Ms. Palmer, how are you related
7 to Tyrone Moore?

8 A. I'm Tyrone Moore's mother.

9 Q. Okay. And can you tell me how many brothers
10 and sisters Tyrone has?

11 A. There is nine of them, so he has four sisters
12 and four brothers.

13 Q. Okay. And has Tyrone always been in your life,
14 has he always been in your family?

15 A. Yes.

16 Q. Okay. So you say it's four sisters, four
17 brothers. Where does he fit in that?

18 A. He is the third -- wait a minute. I've got a set
19 of twins. Yeah, he is the third oldest.

20 Q. Okay. And if you could just tell me what do you
21 do for an occupation?

22 A. I am a pastor at a local church in North
23 Charleston.

24 Q. Okay. And what is the name of that church?

25 A. The name of that church is Christian Praise

DIRECT EXAMINATION - BY MR. FALK

1 and Worship Center, formally Reformed House of God.

2 Q. Okay. And how long have you been associated
3 with that?

4 A. I have been pastoring there for 20 years.
5 I've been in that ministry all my life because my father
6 was the former pastor.

7 Q. Okay. Now if Tyrone is released today, or is
8 released after the end of these proceedings, do you know
9 where he would live?

10 A. Yes, I do.

11 Q. Can you explain that, please?

12 A. Okay. He's living in a place that I found
13 for him that will be fully furnished, a very nice place,
14 and that's on Paramount in North Charleston. It's like
15 a bed and bath.

16 Q. Okay.

17 A. And the young man that owns it is allowing him
18 to come to one of the nicer places.

19 Q. And so the man who owns it, he's aware -- you
20 believe he's aware of Mr. Moore?

21 A. He's aware of everything.

22 Q. Okay.

23 A. He is aware.

24 Q. Is he a member of your congregation?

25 A. His brother is. His brother, as a matter

DIRECT EXAMINATION - BY MR. FALK

1 of fact, is a minister at -- an associate minister.

2 Q. Okay. And so what kind of -- does he have
3 brothers and sisters that still live in this area?

4 A. Let me see, so many are out of town. He has one,
5 two, three that's still in the Charleston area.

6 Q. Okay. So would you be available to -- he's
7 obviously going to be -- once he gets out, you know,
8 he's not going to have a car, he's not going to have
9 a job. Are you going to -- is there anything that you
10 can do to support him?

11 A. As a matter of fact, that's almost already,
12 if he gets out, already taken care of.

13 Q. And how is that?

14 A. I have someone that runs a program for people
15 that's coming out that don't have jobs, that they get
16 them a job right away, and begin to train them in other
17 areas, as a matter of fact, find them their own place
18 to stay, help them with anything that they need,
19 and it's waiting, if he gets out.

20 Q. Now the members of your congregation, are they
21 aware of Tyrone's charges?

22 A. Yes, they are.

23 Q. Okay. Would you expect -- will he be able to go
24 to church at your ---

25 A. Yes, he will. He will be able to go to church.

DIRECT EXAMINATION - BY MR. FALK

1 We're pretty conservative Christians, and we're there
2 to help in any capacity we can.

3 Q. And you said this person who has this program
4 to help people get on their feet, I think that's what
5 you were saying?

6 A. Well, yeah. The person who I'm talking about
7 actually knows and says he's already talked to the
8 people about the program, and they look for people
9 who give to them whatever. So they're kind of waiting,
10 and they will definitely have a job, place him at a job,
11 and, like I said, place him -- find a place to stay.
12 The program has been used before, and they do it quite
13 efficiently and quite fast.

14 Q. Okay. And this is another sort of association
15 or connection you have through your church?

16 A. It's really not with the church; it's another
17 association. But -- and I wish I had known because
18 I would have brought all the information, but it's quite
19 an awesome program.

20 Q. And is it your understanding -- well, what's
21 he going to do as far as earning money?

22 A. As far as what?

23 Q. Earning his own keep? How is he going to ---

24 A. Yeah, they find him a job.

25 Q. Okay.

DIRECT EXAMINATION - BY MR. FALK

1 A. They find him a job. As a matter of fact,
2 a young man that I know, that actually got a job,
3 good-paying job. They find really good jobs.

4 Q. What types of jobs are there? Are they
5 construction jobs?

6 A. Oh, well, one of the jobs was a guy was placed
7 in a factory was one of them. And when he didn't like
8 the hours because he wanted to be in church, they found
9 him another one. And that job, he told me is in a plant
10 somewhere, but I know it's long, about six -- about 12
11 hours a day, then they give them certain times off.

12 Q. Well, what kind of skills do you think your son
13 has as far as employment skills?

14 A. My son has a lot of skills. My son has a lot
15 of skills. Very, very bright, like mom, but I think
16 he can do a lot of things. I think he can go -- I think
17 it's landscaping he can do. He's a musician, an awesome
18 musician, yes. And I think he could probably --
19 whatever they place him, I think he'll be able to do it.
20 That's just the way my family is. They're able to fit
21 in and do things.

22 Q. Now did you drive here today?

23 A. Yes, I did.

24 Q. So you'll be able to drive him if he needs to go
25 to appointments?

CROSS-EXAMINATION - BY MR. RUNYAN

1 A. Of course, of course. He'll keep all his
2 appointments. I mean, he has a community of people
3 that's willing to help him, even if I can't do it.

4 Q. So what is this community of people?

5 A. Excuse me?

6 Q. Can you describe -- what is this community
7 of people?

8 A. Community of people is mainly the Christians
9 in the churches, people that have, you know, already
10 said if you needed the help, they're there to do it.
11 As a matter of fact, people that have known, they're
12 willing and waiting to help him.

13 Q. Okay.

14 A. They're willing and waiting.

15 MR. FALK: I have no further questions.
16 Thank you.

17 THE COURT: Cross-examination.

18 MR. RUNYAN: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. RUNYAN:

22 Q. Good morning, Ms. Palmer.

23 A. Good morning.

24 Q. You do understand that -- I just want you to
25 understand that I have to ask you some questions that

1 might be difficult, it might be uncomfortable for you
2 to answer.

3 A. Yes.

4 Q. And you understand that I'm just doing it because
5 that's part of my job?

6 A. I understand.

7 Q. Okay. Ms. Palmer, you've testified that you've
8 always been in Mr. Moore's life, he's always been in
9 your life?

10 A. Okay, let me explain. He's always been in my
11 life, but me being in my parents' house because I was
12 a mother -- a single mother, my parents really helped
13 me raise him. So, yeah, he's -- practically, he's been
14 in my life all the time.

15 Q. So ---

16 A. We were in my parents' home though.

17 Q. Now you're aware that in 1989 he was convicted
18 of sexually assaulting a female child?

19 A. Yes.

20 Q. And so in '89, he was in your life during that
21 time?

22 A. No, he wasn't.

23 Q. He wasn't? Who was he with then?

24 A. He was with my grandparents.

25 Q. Okay.

CROSS-EXAMINATION - BY MR. RUNYAN

1 A. I mean, my parents, not my grandparents.

2 My parents.

3 Q. His grandparents?

4 A. Yes.

5 Q. Okay. So you're aware that in 1991 he was
6 convicted of criminal -- two counts of criminal sexual
7 conduct with a minor in the first degree?

8 A. Yes.

9 Q. Was he with you in your life at that time?

10 A. No, I had gotten married. At that particular
11 time, I got married, and I was not in my parents' house
12 anymore.

13 Q. Okay. Now later in 2009, you understand that
14 he was convicted by a jury of two lewd acts?

15 A. Yes.

16 Q. Was he in your life at that time?

17 A. When you say in my life, what are you saying?
18 Did I have contact with him, or was he living with me?

19 Q. Did you have contact with him?

20 A. Of course. He's -- my son has always been in my
21 life.

22 Q. Right. So you've been around, and you've been
23 there to help him?

24 A. Yes.

25 Q. So you were there to help him ---

1 A. At the times he needed me, I was there.

2 Q. Thank you. Now you said you're a pastor for 20
3 years; is that right?

4 A. Yes, sir.

5 Q. And that's with, you said, the Christian Praise
6 Worship Center?

7 A. Yes. Originally -- if anybody knows the church,
8 some of them still know the church as Reformed House
9 of God because my father was actually the pastor there.

10 Q. Now Reformed House of God that your father was
11 a pastor, is that the church that your son was the youth
12 choir director of?

13 A. Yeah, for a long time he did have a youth choir.

14 Q. He did?

15 A. Yes.

16 Q. And you're aware that he was the youth choir
17 director during the time of two of his convictions;
18 is that correct?

19 A. Yes.

20 Q. Okay. And the church has always been a part
21 of your family's life?

22 A. Yes.

23 Q. That includes Mr. Moore?

24 A. Yes, most of the time. He started his own
25 ministry.

CROSS-EXAMINATION - BY MR. RUNYAN

1 Q. When did he do that?

2 A. He was a pastor.

3 Q. Yeah, but when?

4 A. When?

5 Q. When did he start the church?

6 A. Approximately -- let me go back because I'm not
7 a young woman. I think it was about 2001 or 2002.

8 Q. Okay. Now you said you found him a place
9 to live, is that right, if he were to get out?

10 A. Yes.

11 Q. So he won't be living with you?

12 A. Can I tell you why?

13 Q. Sure.

14 A. My husband and I have been married 44 years.

15 Ever since we've been married, we've had somebody in our
16 homes, grandchildren, raising them. So during the COVID
17 period, we -- one of my grandkids left, and we had said
18 we didn't want anybody else living with us anymore
19 because we want to enjoy each other the rest of our
20 lives, so that is the main reason. That's the only
21 reason that we don't want -- 44 years, we need some
22 privacy.

23 Q. Okay. But, I guess -- but he won't be living
24 with you, and that's the reason?

25 A. No, but contact will be there. That's the only

1 reason, sir.

2 Q. Now you testified that he could -- your son could
3 do almost anything, right?

4 A. I think he can.

5 Q. Okay, good.

6 A. I'm a mother. You need to say that about your
7 children.

8 Q. Now as he was growing up and during the time
9 he was offending, did he ever have a problem with
10 getting a job or holding a job?

11 A. Not really, not really. He was a go-getter,
12 he just was a go-getter, and to be honest with you,
13 that's just the way we are. Whatever -- we're just
14 going to put our hands to things and to do what we
15 have to do. But you've got to remember that he was also
16 a musician, so he made a living at playing for different
17 churches.

18 Q. But employment was never a problem for him,
19 was it?

20 A. No, no.

21 Q. Did he ever have a problem with money?

22 A. No.

23 Q. And he was married, right?

24 A. Yeah, he got married.

25 Q. And had children, you have grandchildren?

CROSS-EXAMINATION - BY MR. RUNYAN

1 A. Do I have grandchildren?

2 Q. Yeah, with Mr. Moore's children?

3 A. Oh, yes.

4 Q. And how many?

5 A. Huh?

6 Q. How many?

7 A. Two. He has children of his own, two step-kids.

8 Q. And you know how old they are?

9 A. Yes, the boys are 18. The twins are 18, going
10 on 19, yeah.

11 Q. Okay. Now are you aware of any supervision by
12 the Department of Corrections or Probation and Parole,
13 any supervision he may have, if he were to be released?

14 A. Am I aware?

15 Q. Are you aware of any?

16 A. Not that I know of right now.

17 MR. RUNYAN: No further questions.

18 THE COURT: Redirect.

19 MR. FALK: No redirect.

20 THE COURT: May this witness be excused?

21 MR. FALK: Please. Yes, Your Honor.

22 THE WITNESS: I can be excused?

23 THE COURT: You may step down. Be careful.

24 MR. FALK: Can she stay in the courtroom?

25 THE COURT: Yes. Call your next witness,

DIRECT EXAMINATION - BY MR. FALK

1 please.

2 MR. FALK: I call Tyrone Moore.

3 THE CLERK: Raise your right hand and place
4 your left hand on the Bible.

5 MR. TYRONE MOORE was called as a witness,
6 being duly sworn, was examined and testified as follows:

7 THE CLERK: Thank you. Please be seated.
8 State your full name for the record, and please spell
9 your last name.

10 THE WITNESS: Tyrone Moore, M-O-O-R-E.

11 DIRECT EXAMINATION

12 BY MR. FALK:

13 Q. Mr. Moore, you can take your mask off.

14 A. Oh, my bad.

15 Q. Spending all that time at SCDC, I'm sure y'all
16 have gotten kind of used to the mask. So, Mr. Moore,
17 we heard a little bit about your mother testifying about
18 some of the skills you had. So if you were released,
19 what would you do as far as earning a living, you think?

20 A. She allowed me to know that there's some people
21 that's willing to give me a job working in a plant,
22 landscaping. I'm willing to do whatever is necessary
23 in order to support myself and to help my children.

24 Q. Well, did you learn any skills while you were
25 in SCDC?

DIRECT EXAMINATION - BY MR. FALK

1 A. I did. In horticulture, I worked -- as a matter
2 of fact, I was a clerk, and I learned how to keep
3 greenhouses. They had three greenhouses there.
4 I was the main person to work the greenhouses, learning
5 how to cultivate plants. Individually, that's something
6 I need to go into later on. That will take time to do.

7 Q. Now where did you learn that?

8 A. At Lieber Correctional Institution.

9 Q. Okay. So were all -- this last time, since 2008,
10 which prisons have you been to?

11 A. Lieber and Kershaw Correctional Institution.

12 Q. Okay. And what other classes did you take when
13 you were at Lieber or Kershaw?

14 A. At Lieber, I took -- they have a program called
15 the CBU, which is a character-based unit. You have
16 to meet certain criteria in relation to behavior,
17 the willingness to take multi-classes. And so the
18 classes that I took at Lieber was anger management.
19 They had a victim impact class.

20 Q. Did you say victim?

21 A. Victim, yeah, victim impact class. A class that
22 deals with character. And then they had other classes,
23 they called the classes elective classes that are
24 necessary for you to take, and then classes that weren't
25 elective classes, so I took a lot of classes there.

1 Q. Let's talk about one of those. You said you took
2 an anger management course. What did you learn there?

3 A. That was a pretty good course because it helps
4 you to understand anger from the standpoint that anger
5 in itself is not a negative emotion. I learned that
6 there are three levels of anger in relation to natural
7 anger.

8 There is what we call secondary anger. Secondary
9 anger is anger that you develop over a period of time
10 that contributes to you acting out in a situation.
11 And then the third level of anger that was very powerful
12 was called social anger, anger that you develop
13 as it relates to the social climate that you believe
14 is affecting you. A very good class in relation
15 to that.

16 Q. So how often would that meet? How often would
17 you go to that class?

18 A. Those classes was weekly.

19 Q. Okay. And so once a week?

20 A. Yes, sir.

21 Q. Okay. And then, like, over how many weeks do you
22 think that lasted?

23 A. Twelve weeks. There were 12 weeks of classes.

24 Q. And then you said you also took a victim impact
25 class?

DIRECT EXAMINATION - BY MR. FALK

1 A. Yes, at Lieber, it began at Lieber.

2 Q. And tell me a little bit about that class.

3 A. That class deals with you understanding the
4 magnitude of impacting the victims. It's very intense.
5 Talks about the effects that the victims go through
6 as a result of whatever the crime may have been because
7 we have people in that class dealing with different
8 things. And they take you through a process of
9 understanding the damage, the ongoing effects of certain
10 crimes. You have to be honest. And it's very intense
11 because it makes you face, you know, the harm you've
12 caused in the lives of people.

13 Q. So when you were 21 and 25, approximately,
14 you were convicted of crimes against some very young
15 people; is that correct?

16 A. Yes, sir.

17 Q. What did your victim impact class specifically
18 tell you about your victims?

19 A. The psychological effects that it has with them
20 over a period of time. It grows up into adulthood.
21 It's just not that act. And although it was
22 30-something years ago, the victim impact class helps
23 you to understand that there are things that happen in
24 relation to sexual violation that carries on into people
25 -- that was pretty painful, but I think it's necessary

DIRECT EXAMINATION - BY MR. FALK

1 because it helps you to realize the changes that
2 you need to make, but that was tough.

3 Q. I believe you said that you -- part of that
4 was you recognized that it wasn't just the offense,
5 but it had a lingering effect on those victims; is that
6 correct?

7 A. (Nods head.)

8 Q. So tell me a little bit about the character-based
9 -- some of the other character-based classes. What were
10 they?

11 A. The character-based classes, basically, that's
12 an environment where, like I said, you have to agree
13 to take in classes all through the week, it's just
14 not one class. As a matter of fact, the limited
15 amount of classes that you have to take is five classes
16 a week. And, like I said, it was different classes;
17 anger management, character first was another class,
18 the victim impact class was a part of that.

19 And then they have other classes that deals
20 with religion because you have a lot of people who
21 are in this system that, you know, consider themselves
22 religious, whether it's Christianity or Islam or other
23 religions, and so those classes were made available
24 also.

25 Q. Did you take any faith-based classes that were

DIRECT EXAMINATION - BY MR. FALK

1 there? I mean, because I know there's also some other
2 ministries that are at the prison. Did you?

3 A. Yes, I did.

4 Q. Tell me about some of those.

5 A. The character first class is one of the classes
6 that really spring out of the Christian faith, which
7 is vitally important to me, and it deals with character
8 from a biblical perspective of being honest. Who are
9 you when people are not looking? It deals with having
10 core values and sticking to those values, even under
11 pressure. It's a very powerful class.

12 Q. What would happen if you decided not to take
13 the classes while you were in the character-based unit?

14 A. You would be removed.

15 Q. And what kind of incentive is that? Was the
16 lifestyle better when you were in the character-based
17 unit?

18 A. It is. As a matter of fact, the character-based
19 unit, you can't -- there can be no illegal activity
20 going on, like drugs or violence, or people who are
21 committing offenses within the system cannot be a part
22 of that unit -- the program unit.

23 Q. What was your level of confinement when you were
24 in the character-based unit? Were you in a cell 24 --
25 you know, 23 hours a day?

DIRECT EXAMINATION - BY MR. FALK

1 A. No, sir. When I left from Lieber -- I left from
2 Lieber to Kershaw because my custody level did change
3 to a better custody level.

4 Q. Okay.

5 A. Lieber Correctional Institution is a level three;
6 Kershaw is a level two, which means that your behavior
7 is giving you the opportunity to change custody levels.
8 But in the character-based unit, we were out more.
9 We were not locked down because the -- we called
10 ourselves residents. But, you know, they had proven
11 they could be trusted to be out more, having respect
12 for the staff, the officers and each other.

13 And the reason why we call each other residents
14 was because the program was geared on changing
15 the mindset of us, you know, calling ourselves inmates
16 so that we can understand that preparation for community
17 is vitally important, and so that's why we called
18 ourselves residents in that program.

19 Q. So you would only -- would you interact
20 with the general population, or did you only interact
21 with the people who are in the character-based unit?

22 A. The system had become so limited with staff
23 security, so it limits our ability to have general
24 contact with anybody else, other than our unit, unless
25 we're going to church services, our religious service.

DIRECT EXAMINATION - BY MR. FALK

1 Q. Well, let's talk about what kind of jobs did you
2 have while you were there?

3 A. I was the clerk for Ms. Magwood; I don't know if
4 I should call her name. I was the clerk for the person
5 that was over at horticulture at Lieber. My
6 responsibility was keeping the books, the files, also
7 training new workers in relation to the chemicals,
8 making sure that they understand the use of the
9 equipment, and also I began to teach them how to deal
10 with the plants and regermination, things of that sort.

11 I also worked for the chaplain ministry at
12 a period, being that I have certain educational areas
13 and biblical subject matters, so I would teach classes
14 there. I also became -- when I came to Kershaw,
15 I worked in the unit as the head custodian to keep
16 the unit clean, and I would organize them to keep
17 the unit clean. Then, I became the clerk for the coach.
18 He needed a clerk -- he needed a trustworthy clerk
19 for the gym, and so I became a clerk for the gym.

20 Q. When you say custodian, obviously, I guess in
21 a prison that could have two different kinds of titles,
22 one is someone's keeping custody of somebody else,
23 or somebody who is acting like a custodian in
24 a building.

25 A. Oh, no -- well, people called me janitor.

DIRECT EXAMINATION - BY MR. FALK

1 Q. Yeah, okay.

2 A. Yeah.

3 Q. All right. That's what you meant. So you
4 were ---

5 A. Right. Keeping the unit clean. They had high
6 expectations of that, and so I would -- I was the one
7 that was responsible for making sure that the units
8 were clean, giving the assignment in relation to what,
9 you know, what the assignment was because we had showers
10 to keep clean, the rock area to keep clean. And so
11 they said I had skills to -- they liked working with me,
12 so I would -- you know, they put over that to do that.

13 Q. So going forward, just sort of tell me, how do
14 you -- let's say you were released after the end of
15 these proceedings. So tell me what do you think a day
16 is going to be like a year from now? What are you going
17 to be doing a year from now, if you're released?

18 A. I would be working. I want to establish,
19 you know, taking care of the necessities, making
20 sure that I have a place to stay of my own, you know.
21 I know I have a place to stay, but I want to make sure
22 I have a place to stay of my own. I want to establish
23 me getting a vehicle to travel. I also want to pursue
24 horticulture. So, I really want to do that because
25 I love doing that and pursuing growing plants and things

DIRECT EXAMINATION - BY MR. FALK

1 like that.

2 But as from now to about a year, I want to
3 establish myself financially to make sure I take care of
4 myself in relation to my clothing, getting me a vehicle,
5 securing me a place of my own, but that's the short-term
6 goal.

7 Q. So you have twins who are 19 right now?

8 A. They're 19 years old.

9 Q. And what kind of interaction have you had with
10 them while you were in custody?

11 A. We had a great relationship, a great relationship
12 with all of my kids. And, you know, I never considered
13 my step-kids, step. I have a great relationship
14 with them. They were -- I was receiving visits up until
15 the COVID restrictions hit, and they wouldn't allow
16 us to have visits. But I was receiving visits from
17 them up until that.

18 Q. Well, if they're 19 now, and COVID has been
19 around for about two years, were they driving to Kershaw
20 by themselves?

21 A. Oh, no, their mother would bring them.

22 Q. All right. So you were married; is that correct?

23 A. Yes, sir.

24 Q. And how long had you been together?

25 A. We were married -- the boys are 19 years old,

1 so it was about 20 years ago.

2 Q. Okay.

3 A. But we knew each other prior to that.

4 Q. And then at some point you all got divorced?

5 A. Yes.

6 Q. And is that close to when you went to prison
7 the second -- in 2008?

8 A. Yes, it happened -- it didn't happen until some
9 years after my incarceration because she stuck with me.

10 Q. Okay.

11 A. But it didn't happen until some years after when
12 she said that just the pressure of me not being there,
13 but she stuck with me up until maybe two years after
14 my -- me doing my time.

15 Q. Okay. But she still was bringing the children,
16 your boys, up to you up until they suspended visits
17 for COVID, is that what you testified to?

18 A. Yes, sir.

19 Q. Okay. Let me just ask you this because it's
20 something that Dr. Gehle kind of alluded to. Have you
21 ever been tested for a sexually transmitted disease?

22 A. Yes, I have.

23 Q. And what kind of results did you have?

24 A. Didn't have any.

25 Q. Were you ever diagnosed with having chlamydia?

DIRECT EXAMINATION - BY MR. FALK

1 A. No, sir.

2 Q. Okay. When did you get tested for that?

3 A. It was in 8 ---

4 Q. So relative to your conviction?

5 A. Right. When the accusation was made, they tested
6 me and found that I didn't have it.

7 Q. Okay. All right. So you have been through
8 the court system three times. What is your plan as
9 far as -- I mean, do you know what -- what is your plan
10 for not coming back to prison?

11 A. Well, my plan for not coming back to prison
12 is to never put myself in the situation where
13 accusations can be made, and I'm not who I was
14 30-something years ago. It's painful having to relive
15 that because that's not who I am today, and making sure
16 that I keep myself in a position where mainly that
17 accusations can't be made. But so far as me committing
18 any acts, that's not --- I'm not who I was 30-something
19 years ago. And that's the most painful thing to hear,
20 what I caused and who that person was then. That's not
21 who I am now.

22 Q. But then you did go to trial in 2008; is that
23 correct?

24 A. Yes, that's correct.

25 Q. Okay. And Dr. Gehle asked you about your charges

DIRECT EXAMINATION - BY MR. FALK

1 back from when you were 20 and 24, right?

2 A. Yes, sir.

3 Q. And did you acknowledge that conduct?

4 A. I did.

5 Q. Did she ask you about the charges in 2009?

6 A. She did.

7 Q. And you heard her testimony?

8 A. I did.

9 Q. Okay. So you don't dispute that you denied those
10 charges?

11 A. I did deny it.

12 Q. Okay. And you went all the way to trial with
13 those charges?

14 A. I did.

15 Q. Okay. Is there anything else that you would like
16 this jury to know?

17 A. I would like for them to know that I'm not
18 the young man that I was back then. I have -- I have
19 to find forgiveness for myself through Christ Jesus,
20 that's where my relationship lies, and I have no desire
21 to hurt anyone. That's not where my mind is, and that's
22 not who I am now. And I paid a heavy price for my past,
23 and I just want the opportunity to live out the rest
24 of my life that God has given me to be there with my
25 children and to maybe help those who are in a similar

CROSS-EXAMINATION - BY MR. RUNYAN

1 situation that I am in.

2 I know there's a lot of broken people within
3 the system that, you know, when you're charged with
4 sex crimes, there's a stigma, and there's a lot
5 of brokenness. And I really believe that one
6 of the ways that people get help is to realize that
7 they can move from their past, but they have to take
8 responsibility. And so that's just what I want the jury
9 to know.

10 MR. FALK: I have no further questions.
11 Please answer any questions Mr. Runyan asks.

12 CROSS-EXAMINATION

13 BY MR. RUNYAN:

14 Q. Good morning, Mr. Moore.

15 A. Good morning.

16 Q. So you testified you were here listening
17 to Dr. Gehle's testimony? You listened to Dr. Gehle's
18 testimony?

19 A. Yes, sir.

20 Q. You heard all of it? You were here for all
21 of it?

22 A. Yes, sir.

23 Q. So based on her testimony, Mr. Moore, is it fair
24 to say that for a period of around 20 years, while you
25 were in and out of prison, you sexually offended against

1 four different minor children, both male and female?

2 A. No, sir.

3 Q. That's not fair to say?

4 A. No. No, sir.

5 Q. Well, let's talk about this. Your first victim
6 was in 1998 -- sorry, 1988; is that correct?

7 A. Yes, sir.

8 Q. So you were what, 21 -- 19, 20 years old?

9 A. Twenty-one.

10 Q. Twenty-one? Yes?

11 A. I believe so, yes, sir.

12 Q. Okay. And she was a 10, 11-year-old female?

13 A. Yes, I thought -- yeah.

14 Q. Now, at that time, you were the youth choir
15 director at the Reformed House of God; is that right?

16 A. Early on, I was the youth choir director,
17 now at that -- early on, I was the youth choir director.

18 Q. You weren't the choir director at the time
19 you offended against her?

20 A. No.

21 Q. No? Okay. But you admitted to Dr. Gehle that
22 you fondled this girl, that you performed oral sex on
23 her?

24 A. Yes.

25 Q. And you had her perform oral sex on you; is that

CROSS-EXAMINATION - BY MR. RUNYAN

1 correct?

2 A. No, sir.

3 Q. That's not what you told Dr. Gehle?

4 A. I don't recall that, but I don't believe it was
5 that -- I don't think it was that.

6 Q. Okay. We'll move on. But you admit sexually
7 assaulting the girl?

8 A. Yes, sir.

9 Q. Okay. And you went to prison for this?

10 A. Yes.

11 Q. You said about seven months in prison?

12 A. Yes, sir.

13 Q. And you had probation?

14 A. Yes, sir.

15 Q. About how long was your probation, do you
16 remember?

17 A. If I'm not -- I can't remember.

18 Q. Well, okay, would it be fair to say it was around
19 15 months, does that sound familiar?

20 A. Yes, sir.

21 Q. Okay. So you got out of prison around December
22 of 1989, does that sound right?

23 A. Yes, sir.

24 Q. Okay. And then you were on probation after that?

25 A. Yes, sir.

1 Q. So moving forward, in September of 1991, you were
2 back in prison; isn't that correct?

3 A. Yes, sir.

4 Q. And that's for -- because you were convicted
5 of two counts of criminal sexual conduct with a minor
6 in the first degree; is that correct?

7 A. Yes, sir.

8 Q. And you also had a conviction for criminal
9 sexual conduct within 100 yards of a childcare facility;
10 is that right?

11 A. Yes, sir.

12 Q. So that's about what, a year after you went
13 to prison, somewhere around there?

14 A. A year after?

15 Q. Yeah. So you got out of prison in '89, so maybe
16 a year, a year and a half after ---

17 A. Yes, sir.

18 Q. --- you were back in prison for the same conduct
19 that you had before, correct?

20 A. Yes, sir.

21 Q. Were you the youth choir at this time -- the
22 youth choir director at that time?

23 A. No, sir.

24 Q. No?

25 A. No, sir. I was the youth director early

CROSS-EXAMINATION - BY MR. RUNYAN

1 on in my teens, like, 15, 16 years old, 17. But I was
2 always, like my mother testified to, involved with
3 music. But being on the youth choir is when I was
4 myself, like, about 15, maybe 15, 16 years old, 17.

5 Q. Okay. Now the second victim was around six
6 to nine years old the time you offended against her;
7 is that correct?

8 A. Nine. I believe she's between eight and nine.

9 Q. Eight and nine, okay. Now you told Dr. Gehle
10 that you had offended against her for a period of maybe
11 a year, a year and a half over that whole time; is that
12 right?

13 A. The first, not this particular.

14 Q. The one -- the six-to-nine-year-old -- you said
15 eight-to-nine-year-old?

16 A. No, the first -- the first -- the first one that
17 you said in 80 -- the first one I went to prison for.

18 Q. Okay. But you admitted you -- for this victim,
19 you simulated intercourse with her?

20 A. No.

21 Q. You didn't?

22 A. No, sir.

23 Q. Okay. You performed oral sex on her?

24 A. Yes, sir.

25 Q. Okay. Now Dr. Gehle testified that you told her

CROSS-EXAMINATION - BY MR. RUNYAN

1 that you knew that this was wrong, that she couldn't
2 continue -- she was living with you at the time, right?

3 A. Which one? The first one?

4 Q. The first one was living with you at the time?

5 A. Yes.

6 Q. Did you tell Dr. Gehle that you knew that was
7 wrong, that she couldn't continue to stay with you?

8 A. I did.

9 Q. You did? And eventually she moved out?

10 A. She did.

11 Q. Okay. So you went to prison September 1991.

12 How long were you there the second time?

13 A. I think it was about seven, nine years, I think.

14 Q. You think seven to nine years? Okay.

15 So September '91 to August 2000, so a little over --
16 almost nine years?

17 A. Yes, sir.

18 Q. That's about right?

19 A. Yes, sir.

20 Q. Okay. Now when you were there in prison during
21 that timeframe, you had some sexual offender treatment,
22 didn't you?

23 A. Yes, sir.

24 Q. You did? And it's called C-Star, right?

25 A. Yes, sir.

CROSS-EXAMINATION - BY MR. RUNYAN

1 Q. And you went through C-Star phase one?

2 A. I did.

3 Q. And you went through C-Star phase two?

4 A. I did.

5 Q. And you were terminated from C-Star phase three?

6 A. Yes, because of the building that they wanted
7 to place me in. When you go to the third level of
8 that program, there's a particular unit that they place
9 you in.

10 In that particular time, they had placed me
11 in the separation lockup of the prison system because
12 there was some situations where -- there was a situation
13 where I was being kind of attacked for why I was there
14 for, and so they placed me there a limited time for
15 protection. So when the C-Star level three was going,
16 I wasn't able to be a part of that because that's where
17 I was kept.

18 Q. Where were you when you were in this special
19 protection unit?

20 A. It was called lock -- they called it lockup
21 segregation. It's an area where they remove you from,
22 for people who they want to protect, maybe somebody
23 wants to do something violent where people have had
24 infractions, and they've got time to serve, and so
25 that's where I was at that time.

1 Q. And where was that?

2 A. At Lieber.

3 Q. That was at Lieber?

4 A. Yes.

5 Q. Okay. Did you learn anything during your sex
6 offender treatment when you had it?

7 A. Yes, sir.

8 Q. Okay. So you got released in 2000; is that
9 right?

10 A. Yes, sir.

11 Q. Were you on any kind of supervision at that time?

12 A. I was.

13 Q. What kind of supervision did you have?

14 A. Probation.

15 Q. Probation. So what did you have to do for that?

16 A. I had to see -- report to a probation officer.
17 I also had to take classes in relation to my offense,
18 and I did that, but those are the main two, and figure
19 out -- the probation officer, you know, would come on
20 unexpected visits.

21 Q. And how long were you on probation?

22 A. Five years, I think.

23 Q. Okay. Now as far as that, you had told Dr. Gehle
24 that you had sex offender treatment?

25 A. Yes, I did.

CROSS-EXAMINATION - BY MR. RUNYAN

1 Q. From 2000 to 2004, that's what you told her,
2 correct?

3 A. Yes, sir.

4 Q. And that was in the community?

5 A. Yes, sir.

6 Q. So you've been incarcerated now twice, in prison
7 for sexual violent offenses, is that right, from '89
8 to 1991, right?

9 A. Yes, sir.

10 Q. Okay. And you've had at least two different
11 rounds with sexual offender treatment; isn't that
12 correct?

13 A. Yes, sir.

14 Q. Let's talk about your church. You started
15 a ministry?

16 A. Yes, sir.

17 Q. Yeah? Tell me about that.

18 A. Well, during my last incarceration that's when,
19 you know, my relationship with God became very intimate
20 because, you know, you could be raised up in church
21 and not commit to it. But -- and I saw a need for
22 a ministry.

23 I know people call it a church, but I saw a need
24 for a ministry where people who came out of prison,
25 or people who may have been living life on the streets

1 selling drugs and stuff, that they would feel more
2 comfortable because I know in my time of incarceration
3 there were a lot of people who said that they wasn't
4 comfortable having a past record going to, you know,
5 regular-type churches because of the judgmental
6 perspective.

7 And so I felt that I had a call to have a place,
8 and that's why we weren't called a church; we were
9 called a ministry. A ministry with people who had
10 a relationship with God through Christ who would be
11 able to come without, you know, having the judgmental
12 cloud over their head. And so that's why I started that
13 particular ministry, for people who came out of prison,
14 or people that didn't feel comfortable going to
15 a typical church.

16 Q. Thank you. So then in 2006, you were arrested
17 for two counts of a lewd act; isn't that correct?

18 A. Yes, sir.

19 Q. And you went to trial for these; is that right?

20 A. I did.

21 Q. And that was in, what, 2009?

22 A. Yes, sir.

23 Q. Okay. And at that trial, you were found guilty
24 of two counts of lewd acts against a minor?

25 A. Yes, sir.

CROSS-EXAMINATION - BY MR. RUNYAN

1 Q. And those were for two male victims; is that
2 correct?

3 A. Yes, sir, two cousins.

4 Q. And these were -- these were boys that were
5 coming over to your house?

6 A. They did. Against my will, they befriended
7 my kids, and that's how they started coming over
8 periodically. They were cousins, and so they started
9 coming over periodically. And I did have a discussion
10 with my wife because she knows everything about my past,
11 and that's why we really never had females coming over
12 and stuff like that because I didn't want it to be said
13 that, you know, accusations could be made as a result
14 of my past convictions.

15 And -- but she allowed them to come for my
16 boys, my oldest son in particular. They took a liking
17 to them. And there were situations -- I was having
18 a meeting somewhere, and this is where the last straw
19 where I told my wife to just tell them that they --
20 their mothers that they cannot be coming over because
21 they started dropping them off there, and I told her
22 they cannot do that.

23 And, like I said before, being that I had
24 the type of problem -- excuse me -- the ministry that
25 I had, it was a very confrontational ministry about

CROSS-EXAMINATION - BY MR. RUNYAN

1 responsibility, not blaming others for our situations in
2 relation to taking accountable, and I kind of addressed
3 that the next Sunday when I stopped them from coming
4 to the house because something transpired between
5 them and my daughter, and so I put a stop to that.
6 But it wasn't that they was there all the time,
7 but I put a stop to them coming over there even when
8 I wasn't there.

9 Q. Okay. Do you believe you have a problem with
10 your sexual behavior?

11 A. No, sir. I believe I had a problem, and I dealt
12 with it, faced it, and I've grown from who I was
13 30-something years ago.

14 Q. So you don't need any sexual offender treatment?

15 A. No, sir.

16 Q. Is there any situation that you would be at risk?

17 A. I wouldn't harm anybody sexually or in any way,
18 but I wouldn't put myself ever again in a situation
19 where anything could be said.

20 Q. Have you had -- you haven't had any issues
21 holding jobs, have you?

22 A. No, sir.

23 Q. You've had any issues of finding a place to live?

24 A. No, sir.

25 Q. Now you were asked about -- Mr. Falk asked

CROSS-EXAMINATION - BY MR. RUNYAN

1 you about a sexually transmitted disease, chlamydia,
2 you said you didn't have that, and I guess,
3 the implication was that the girl had it, right?

4 A. Yes, sir.

5 Q. But you admitted to the offenses against her,
6 right?

7 A. Yes, sir, but there was some things that I was
8 accused of that I did not do. And so when they tested
9 her, they tested me and said that I, you know, didn't
10 give it to her because I didn't have it.

11 Q. But you pled guilty to sexually assaulting her?

12 A. Yes, sir.

13 Q. And you ---

14 A. Took responsibility of that.

15 Q. And you admitted to sexually assaulting her?

16 A. Yes, sir.

17 Q. Okay. Now the character-based unit that you were
18 in, that was at Lieber?

19 A. It started -- it's at Lieber and at Kershaw.
20 It's throughout all the prisons.

21 Q. Right. So I understand, you started at Lieber
22 and then maybe as you progressed through the program,
23 you can go to a -- is it a less secure facility,
24 Kershaw?

25 A. Yes, it is.

1 Q. And you testified you had a little bit more
2 privileges?

3 A. Yes, sir.

4 Q. Okay. And you also testified that in order
5 to stay in that program you have to continue to
6 progress ---

7 A. Yes, sir.

8 Q. --- is that right?

9 A. You take five classes a week.

10 Q. And if you don't take those classes, you lose
11 these privileges?

12 A. Yes, and you're moved out of that unit.

13 Q. Now you told Dr. Gehle about these classes?

14 A. I did tell her about some of them.

15 Q. Okay.

16 MR. RUNYAN: No further questions,
17 Your Honor.

18 THE COURT: Redirect.

19 MR. FALK: No redirect, Your Honor.

20 THE COURT: All right. Thank you, sir.
21 You may step down. Be careful. Call your next witness.

22 MR. FALK: Respondent will rest.

23 THE COURT: The State have any reply?

24 MR. RUNYAN: May I have one moment,
25 Your Honor?

1 THE COURT: Yes, sir.

2 (Pause.)

3 MR. RUNYAN: May we approach, Your Honor?

4 THE COURT: Yes, sir.

5 (Off-the-record conversation held at sidebar.)

6 (Back on the record.)

7 THE COURT: Madam Forelady, let's take our
8 morning break, and we'll bring you back out in a few
9 minutes, please.

10 (Jury exits the courtroom at 10:39 a.m.)

11 THE COURT: All right. Recess for about ten
12 minutes.

13 (Recess taken.)

14 (Back on the record.)

15 THE COURT: Please be seated. Just for
16 the record, we had a meeting in my chambers. The basis
17 was in request to put Dr. Gehle back on the stand.
18 My first inclination, I was told by Mr. Runyan that
19 he wanted to bring up the fact that the Respondent
20 did not have community supervision. I felt like that
21 went into the issue of punishment, which is not what
22 this case is about.

23 It's about treatment, and he said that, no,
24 it actually goes to risk factors. Mr. Falk said, well,
25 it's not -- this is a reply, and it's not appropriate

1 because he'll be rebutting, it will be the mother's
2 testimony that I didn't know whether or not one way
3 or the other.

4 I agree with Mr. Falk, and I'm not going
5 to let you bring her back up. If you want to supplement
6 the record more than that, Mr. Runyan or Mr. Falk,
7 please do. That's just my understanding of our meeting.

8 MR. RUNYAN: No, Your Honor, we'll stand
9 with your decision.

10 THE COURT: Okay.

11 MR. FALK: Yes, Your Honor, we're fine.

12 THE COURT: Okay, good. So let's go ahead
13 and argue your motions. We held those in abeyance.

14 MR. FALK: Yes, Your Honor. So our motion
15 for a directed verdict would be twofold. One is that
16 the State has not proven the medical diagnosis,
17 the diagnosis regarded pedophilia, and there was some
18 activity that took place when he was 20 and 25 years
19 old. By the State's own expert, pedophilia requires
20 an assault against -- or an attraction to pre-pubescent
21 children.

22 Her testimony certainly was that of the
23 victims in 2008 and 2009. One of them clearly wasn't
24 pre-pubescent, and one of them she could not tell.
25 So, I mean, whether or not they provided ample proof

1 as far as the pedophilia diagnosis when there have been
2 no repeat conduct in 30 years is my first point.

3 The second point is the testimony,
4 speculative as it was, either on the high side
5 or the low side, her testimony was that he has about
6 an 11 percent chance to re-offend and whether or not 11
7 percent equates with likelihood. I think at some point
8 the Court needs to determine what -- how to quantify
9 likelihood as it should be as a number as low as 11
10 percent chance to re-offend.

11 THE COURT: All right, sir. I'm going to
12 find that those are questions that should be responded
13 to by the jury. You're certainly free to argue those,
14 but -- and, therefore, it's a question of fact for the
15 jury. Mr. Runyan, anything you want to say on the
16 record in response to those arguments, or do you feel
17 the need to?

18 MR. RUNYAN: Nothing that I won't address
19 in closing, Your Honor.

20 THE COURT: Okay. Let's go do my -- do you
21 want to go ahead and do the charge now, or do you want
22 to bring the jury back in and say, look, we're going to
23 work on the charges? How do you -- what would you all
24 rather?

25 MR. FALK: Let me see the charge.

1 THE COURT: Sir?

2 MR. FALK: Do you want to do the charge now?

3 THE COURT: I think I would like to do
4 the charge. I'll tell you, it's pretty straightforward.
5 This would be the charge that I would propose, is number
6 one, the State handed up a charge that I would --
7 I would read it for the most part. I don't like your
8 reasonable doubt charge; I like mine better.

9 MR. RUNYAN: That's fine.

10 THE COURT: So, I will put that in there.
11 I would add to your direct or circumstantial evidence
12 examples of what is direct evidence and what is
13 circumstantial, and the examples are this.

14 The issue is whether or not I ran a stop
15 sign -- this is direct evidence. My law clerk said she
16 saw me run a stop sign. That would be direct evidence
17 because it doesn't require any inference or deduction.
18 It just immediately establishes a fact in question,
19 whereas circumstantial evidence does require inference
20 or deduction.

21 An example I would give there is if we all
22 went to bed at night with a fresh sheet of snow in your
23 front yard, you wake up in the morning, and there's
24 tracks in your yard, you can infer or deduce that
25 someone or something walked through your yard during

1 the night, even though you didn't see it. And that
2 would be my -- those would be my examples.

3 I would continue, except on Page 11.

4 I would not charge that. I have a few final points,
5 but before I did that, I would insert request to charge
6 number one from the Respondent. The rest of them,
7 I feel like it would be contained in the State's request
8 to charge.

9 MR. FALK: Okay. Your Honor, I think that
10 the -- if you look at the opinion in Snow -- if you look
11 at the Court's opinion in Snow, Henry Snow, the Court
12 of Appeals clearly said that the elements in a sexually
13 violent predator case is, like, threefold; it's one,
14 the conviction; two, the diagnosis; and three,
15 the likelihood to re-offend.

16 And to the extent that the State is going
17 back to this, we only have to prove the conviction,
18 and as our second point, he suffers from the mental
19 diagnosis that makes him likely to re-offend, I don't
20 think that's consistent with the Court's opinion
21 in Snow. I could provide you that case.

22 THE COURT: Okay. Mr. Runyan.

23 MR. RUNYAN: I mean, I think the Court's
24 opinion in Snow, they were dealing with whether or not
25 a particular personality disorder -- I mean, I'm sorry,

1 a particular paraphilic disorder that was not in the
2 DSM-5 was an accurate diagnosis. So, I think they
3 really had to pull out mental abnormality to discuss
4 that, and they did say in that there's kind of these
5 three things, but they were talking about that mental
6 abnormality.

7 So, I think the statute, as it reads,
8 is we have two things; they have been convicted,
9 and that they -- that mental abnormality makes them
10 likely to re-offend. I'm really not going to argue
11 the point. If we want to make it three, we can make
12 it three. That's fine.

13 THE COURT: So let me ask you this.
14 So looking -- starting at Page 9 of your request
15 to charge, if I were to go and insert the two, three,
16 four, five of the Respondent's requests, you really
17 don't have a big problem with that?

18 MR. RUNYAN: I would say that I would be
19 okay with a certain number.

20 THE COURT: I think that ---

21 MR. RUNYAN: Two.

22 THE COURT: --- they all need to be in
23 there.

24 MR. RUNYAN: The other ones are in there.
25 I mean, number three is already in there. Number four

1 is in there; number ten is not in there, but we don't
2 deal with mental disorders. That's not how our statute
3 defines it. We define it as mental abnormality that
4 affects a person's emotional or volitional capacity.
5 That is in there.

6 THE COURT: Okay. Let me ask you this.
7 So you are looking at number two.

8 MR. RUNYAN: Yes.

9 THE COURT: Where -- so ---

10 MR. RUNYAN: I would say on Page 9.

11 THE COURT: Yeah. If we put it at the very
12 beginning and insert number two, the elements which
13 the State must prove, et cetera, et cetera, that's
14 there. Then skip your one and two, then go to inherent
15 in these two elements in there. Is that what you would
16 suggest?

17 MR. RUNYAN: The way I would suggest is we
18 would say the elements which the State must prove beyond
19 a reasonable doubt are, first, that he has a sexually
20 violent conviction.

21 THE COURT: That's number two.

22 MR. RUNYAN: Well, I think -- number one,
23 right? Going to stay number one? That's the first
24 element that we have to show. He has ---

25 THE COURT: No, I'm talking about number two

1 on his proposed charges.

2 MR. RUNYAN: Okay. That he has been
3 convicted of a sexually violent offense, I would ask
4 that if you say it that way, we would say that you
5 charge him that criminal -- you charge them that
6 criminal sexual conduct with a minor in the first degree
7 and lewd act on a minor are sexually violent offenses
8 under the Sexually Violent Predator Act.

9 THE COURT: Okay.

10 MR. RUNYAN: And then two is yes ---

11 THE COURT: Hang on.

12 MR. RUNYAN: And then three would be ---

13 THE COURT: Hang on. Hang on.

14 (Pause.)

15 THE COURT: So if I were to -- on Page 9
16 go to insert -- or request to charge number two, put
17 the elements which the State must prove, all three must
18 be beyond a reasonable doubt. I don't like the way that
19 word reads. The elements which the State must prove,
20 all three must be beyond a reasonable doubt.

21 MR. RUNYAN: You could say the three
22 elements that the State must ---

23 THE COURT: Yeah, just put the State must
24 prove three elements beyond a reasonable doubt, namely
25 that Respondent has been convicted of a sexually violent

1 offense, I charge you that criminal sexual conduct
2 with a minor in the first degree and lewd act on a minor
3 are sexually violent offenses.

4 Next, that the Respondent suffers
5 from a mental abnormality or personality disorder.
6 And, third, mental abnormality or personality disorder
7 makes the Defendant likely to engage in acts of sexual
8 violence if not confined, subset, Respondent's
9 propensity to commit acts of sexual violence, subsection
10 3, as to pose a menace to the health and safety
11 of others, okay?

12 MR. RUNYAN: Thank you.

13 THE COURT: All right. Now if I were to
14 do that, then where, if anywhere, would we pick up back
15 on Page 9 itself? Anywhere?

16 MR. RUNYAN: I think we would pick back up
17 at inherent and these elements ---

18 THE COURT: Right.

19 MR. RUNYAN: --- is the State must
20 require ---

21 THE COURT: I think so too.

22 MR. RUNYAN: And go from there.

23 THE COURT: Then, the rest of your charges
24 are already in there. Now, I would, at the end on
25 Page 11, insert number one, and that is the Defendant

1 has already pled guilty to sexually violent offense --
2 to a sexually violent offense. He received a criminal
3 sentence for that crime and has already satisfied
4 the sentence.

5 South Carolina Sexually Violent Predator
6 Law was not enacted to add to the criminal punishments
7 imposed upon individuals that commit sexually violent
8 offenses. Therefore, your decision whether to commit
9 Respondent in this case may not be influenced by your
10 personal opinion with regard to whether the Respondent
11 received appropriate criminal punishment. There, that's
12 where I would put it.

13 MR. RUNYAN: That would be fine with
14 me. The only thing I would ask is that this says
15 this is geared for somebody who just pled guilty.
16 The Respondent has already pled guilty. He pled guilty
17 and was convicted.

18 THE COURT: We got that. You can argue
19 that. I'm going to charge that.

20 MR. RUNYAN: Okay.

21 THE COURT: And everybody's heard it
22 a thousand times. So that's the way I would do it,
23 and let me look at it. I would charge my own reasonable
24 doubt charge, and I don't like your last -- it's just
25 too wordy for me.

1 MR. RUNYAN: That's fine.

2 THE COURT: I'm going to go into what
3 I have. There's a few points that I'm used to giving,
4 basically, you don't serve to be partisans or advocates
5 for one side or the other. You represented during voir
6 dire that you could be fair and impartial to both sides
7 of this case. That means that you'll do just that.
8 Use your experiences in life, your common sense,
9 your sense of logic and reason to walk through and talk
10 through the evidence.

11 And I'll define what deliberation means,
12 and I'll tell them the genius of the jury system is
13 to allow 12 different people from different backgrounds,
14 perspectives, experiences to talk through and walk
15 through the evidence to come through, ultimately,
16 a decision and a verdict.

17 And they are not advocates or partisans;
18 they're judges of the facts. Therefore, they are to
19 listen to everybody's points and their point of views,
20 let everybody express why they have them, they would
21 do the same to you, don't be in a hurry because this
22 is an important case for both sides, their only day
23 in court.

24 And when you go back there, each of you
25 must decide this case for yourself, but don't be afraid

1 to change your belief as to the weight of the evidence,
2 if the deliberations convinces you that's the right
3 thing to do. But on the other hand, don't change
4 your firmly-held belief as to the weight of the evidence
5 just to satisfy your fellow jurors.

6 Then, I'm going to go over the verdict
7 form and filling it out with the forelady, and tell
8 her, basically, never tell us where you stand
9 numerically. If you have any questions, write it down,
10 and we will answer them. Is that okay?

11 MR. FALK: Do say he's going to go to
12 a secure facility operated by ---

13 MR. RUNYAN: I mean, that's what we've been
14 saying, yes, a secure facility, yes.

15 MR. FALK: Yeah, okay.

16 MR. RUNYAN: In a secure facility.

17 MR. FALK: Yeah, because we had that last
18 week.

19 THE COURT: Does anybody have a verdict
20 form without holes in it? Mine's got holes in it.

21 MR. RUNYAN: It's just the one I normally
22 send. I don't think you have any objection. May
23 I approach?

24 THE COURT: Yes, sir. Guys, I appreciate
25 it. Y'all make life a little bit easier for me.

1 And I'm going to tell her, I'll say, look, they've got
2 to be in some order, so the order doesn't mean anything,
3 sign it, fold it.

4 MR. RUNYAN: That's typical.

5 THE COURT: Okay. So let's talk about
6 closing. You presented evidence, so you're going to
7 go last. Typically, I give the parties an opportunity
8 that you just close in full, and then you close after
9 him in full, or you could open up on what you have to
10 prove, and then you close and then you respond to him.
11 What would you rather do?

12 MR. RUNYAN: I mean, the way we have
13 done these cases in the past is I open up closing,
14 and he responds, and if necessary I ---

15 THE COURT: Is that what you would like
16 to do?

17 MR. RUNYAN: Yes, sir.

18 THE COURT: Okay. Then that's what we'll
19 do. All right. Y'all need to take a few minutes to get
20 your heads on, or are y'all ready to go?

21 MR. RUNYAN: I would appreciate a few
22 minutes.

23 THE COURT: Okay. Let's take five.
24 Five or ten minutes, then we'll come back. Thank you,
25 guys.

1 (Recess taken.)

2 (Back on the record.)

3 THE COURT: Please be seated. Mr. Runyan,
4 do you want me to allow you to say we're closing our
5 case, then go into closings?

6 MR. RUNYAN: That's fine with me,
7 go straight into it.

8 THE COURT: All right. Are you ready?

9 MR. RUNYAN: Yes, Your Honor.

10 THE COURT: Are you ready?

11 MR. FALK: One minute. I forgot -- as soon
12 as I stood up, I realized I have to get a quick break.
13 One second.

14 THE COURT: Okay.

15 (Pause.)

16 MR. FALK: Thank you.

17 THE COURT: Bring the jury in.

18 (Jury enters the courtroom at 11:19 a.m.)

19 THE COURT: Okay. Mr. Runyan, do you intend
20 to have a reply?

21 MR. RUNYAN: I intend to have closing
22 argument, yes, Your Honor.

23 THE COURT: Sir?

24 MR. RUNYAN: Closing argument.

25 THE COURT: Yes, sir. But are you going

CLOSING ARGUMENTS - BY MR. RUNYAN

1 to have a reply witness?

2 MR. RUNYAN: No, Your Honor.

3 THE COURT: So you're closing your case?

4 MR. RUNYAN: Yes, Your Honor.

5 THE COURT: All right. Very good.

6 Madam Forelady, ladies and gentlemen, if you would
7 remember, I told you that there are phases in the case.
8 You had opening statements; you had presentation.
9 We have concluded the presentation of the evidence.
10 The lawyers will now give you their closing arguments.
11 I will then charge you on the law, and then we'll
12 gather, send everything back, and you'll be told
13 to begin your deliberations.

14 In this format, the State would go first,
15 next by the Respondent, and the State has a right
16 to reply to the Respondent. Mr. Runyan.

17 MR. RUNYAN: Thank you, Your Honor.
18 May it please the Court?

19 THE COURT: Yes, sir.

20 MR. RUNYAN: Mr. Falk. Good morning,
21 ladies and gentlemen. This might be the last
22 opportunity I have to speak with you, so I do want
23 to take a minute to thank you again for your service
24 here this short week. But thank you for being here
25 because it's very important to all of us who work in,

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1 you know, the judicial system.

2 As the judge told you, it's a very important
3 service that you're doing for your fellow citizens,
4 and we sincerely thank you from the attorney general's
5 office for doing that, and we do mean that. Without
6 you, we couldn't do our jobs.

7 And I do also want to thank you because
8 I did ask for you to do something for me. If you
9 remember when I opened yesterday morning, I asked
10 you guys to -- or yesterday afternoon, I asked you guys
11 to listen to the evidence. And I've been watching
12 you throughout the testimony, and I could tell that
13 you were paying attention to all the testimony,
14 not just the State's testimony.

15 You were listening to Mr. Moore's evidence,
16 and you were taking notes, and you were being diligent
17 in that, and that's all we can ask for, and I thank you
18 for doing that.

19 Mr. Moore is a sexually violent predator.
20 Over a period of approximately 20 years, from 1987
21 to 2006, he offended against four minor children from
22 a position of trust from his church community. He did
23 this to two females -- two minors females and two minor
24 males.

25 And remember that he was convicted of six

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1 sexual offenses, and five of those sexual offenses were
2 considered sexually violent offenses. He had the lewd
3 act on a child in 1989, the two counts of criminal
4 sexual conduct in the first degree with a minor in 1991.
5 He also had that criminal sexual conduct with a minor
6 within 100 yards of a childcare facility. And in 2009,
7 he had an additional two counts of lewd act with
8 a minor.

9 He committed those crimes; he was punished
10 for those crimes, and what you're here to determine
11 is whether or not he needs treatment. I want to point
12 out the fact that Dr. Gehle told you the patterns
13 of behaviors, you know, a person's pattern, or their
14 past sexual offending history, is directly related
15 to their future sexual offending. What she's looking
16 for is patterns of behavior.

17 And I think as we look at this, we see
18 a pattern. He offended against a minor child; he was
19 punished for that severely. He went to prison; he got
20 out on probation. He offended again against a minor
21 child. He went back to prison, got even more severe
22 consequences. He testified that he spent nine years
23 in prison for that charge.

24 While he was there, he had sexual
25 offender treatment. He got back out in the community,

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1 had a chance to change. He got sexual offender
2 treatment while he was in the community for four years,
3 and he offended again. That's a pattern of behavior.

4 Why can't Mr. Moore change his behavior?
5 Dr. Gehle gave us an answer. It's because he can't.
6 He lacks the control due to the fact that he suffers
7 from a mental abnormality, pedophilic disorder.
8 That's a lifelong condition. He lacks insight into his
9 offending. She testified that, you know, he knew these
10 things were wrong, that he told them that the little
11 girl couldn't live with him. He didn't stop until
12 she moved away, and he knew it was wrong for the boys
13 to come to the house. He told his wife to stop them
14 from coming to the house. He lacks insight into what
15 triggers his offending.

16 Now this has been a short trial, so I'm
17 not going to insult you with going over every detail
18 of the testimony that you heard because at the end
19 of the day, you have to remember the testimony the way
20 you remember it. I'll do my best to tell you how
21 I remember it, but if there's any conflict between
22 what I tell you and what you remember, you go with
23 what you remember because that's what's important here.

24 But I think that since -- you remember
25 the judge told you we have a higher burden. We have

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1 that beyond a reasonable doubt burden of proof that
2 leaves you firmly convinced that Mr. Moore is a sexually
3 violent predator. I feel like it's my duty from
4 the attorney general's office to kind of highlight
5 some of the things I think that are important to show
6 you why I think we meet those elements of what
7 a sexually violent predator is.

8 And you remember those elements I told
9 really kind of -- the way the statute reads, it's two,
10 but it's really three things we have to prove to you.
11 One, has he been convicted of a sexually violent --
12 at least one sexually violent offense? Two, does
13 he have a mental abnormality or personality disorder?
14 And, three, whether or not that mental abnormality
15 or personality disorder makes him likely to commit acts
16 of sexual violence, if not confined for long-term
17 control, care and treatment?

18 So, I want to go over those just briefly
19 with you. And I think with number one, we can probably
20 dispense of it pretty easily. As I've told you, he's
21 been convicted of five sexually violent offenses -- six
22 sexual offenses, five sexually violent under this Act.
23 And they're here; they've been entered into evidence.

24 You're going to have them back in the jury
25 room when you do deliberations, and I encourage you to

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1 read these documents. They're not very long, but they
2 have information on here. Each one has information
3 on here that should be important to you in determining
4 the facts, and they're here, so read them while you're
5 back there.

6 The second thing we have to prove to you
7 is that mental abnormality and personality disorder.
8 And, like I said, we rely on the medical experts -- not
9 medical, the mental health experts, to tell us, you
10 know, about that to help us understand what those things
11 are.

12 But Dr. Gehle testified to you it's her job
13 as a court-appointed expert to kind of determine whether
14 or not he suffers from a mental abnormality or
15 personality disorder. She has to look at -- she looks
16 at all the disorders, and she talked about personality
17 disorders and what they are. The kind of pervasive
18 pattern of the disregard for the rights of others over
19 a period of time.

20 And if you remember, she really -- to her
21 credit, she couldn't find anything, couldn't find
22 any personalities with Mr. Moore. He doesn't evidence
23 any of those things. He's kind of just, you know --
24 a long rap sheet and things of that nature that would
25 be indicative of a personality disorder, that he had

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1 a stable lifestyle, that he was employed, he was
2 married, raising children. He didn't have any of these
3 things that were indicative of a personality disorder,
4 so she didn't diagnose him with a personality disorder.

5 That's not where her inquiry stops.

6 She has to keep going, and she has to look for mental
7 abnormalities. She told you what those are, really
8 they're pedophilic disorders, and she explained to you
9 what a pedophilic disorder was, and that she's looking
10 for sexually deviant behaviors.

11 And while she was reviewing Mr. Moore's
12 record and talking with him about his offenses in
13 her evaluation, she found that he did have a sexually
14 deviant behavior, that he has an attraction to
15 pre-pubescent children and pubescent children.
16 But in order to be diagnosed with pedophilia, you have
17 to have an attraction to pre-pubescent children, has
18 to be for longer than six months, and she found that.

19 If you remember, there was some question
20 about what she talked about were Tanner stages,
21 and these are kind of clinical diagnosis -- clinical
22 definitions of what -- when a person enters puberty,
23 so they have to have a medical report that says certain
24 things. I think she talked about, you know, girls
25 develop breast development, things of that nature.

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1 And to her credit, she looked at all four
2 victims very carefully because she testified to you
3 she didn't have any information on the Tanner stages,
4 so she had to go off on what her experience was,
5 what her clinical training is. And she told you she
6 looked at all of them -- she carefully looked at all
7 of them.

8 Remember, the 14-year-old -- the 12-year-old
9 boy, she told you that he had ejaculated, which was
10 a clear sign of puberty, so he was post-pubescent.
11 And the other end of that, she told you she looked at
12 the six-to-nine-year-old girl that he offended against,
13 and she felt clearly that that child was pre-pubescent,
14 and Mr. Moore offended against her, by his own
15 admission, for over a year and a half, a year to a year
16 and a half. That meets the definition of a pedophilic
17 disorder, and she was able to diagnose that.

18 Now the other two, the 10, 11-year-old
19 girl and the 10-to-11-year-old boy, she didn't know,
20 she couldn't say. And I would say, to her credit,
21 she could have gone either way. She could have said
22 they were pre-pubescent; she could have said they
23 were post-pubescent. So she did -- what she called --
24 they were close calls. So, I want to say, to her
25 credit, she erred on the side of -- she gave him

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1 the benefit of the doubt and said that they weren't
2 pubescent.

3 But clearly he has a sexual attraction
4 to pre-pubescent and pubescent children because
5 she assigned that to him in his dynamic risk factors,
6 which we'll talk about. From the one victim, the
7 six-to-nine-year-old girl, clearly she was pre-pubescent
8 and that he offended against her for a period of over
9 six months, meeting the diagnosis of a pedophilic
10 disorder.

11 So that third thing she has to show is -- we
12 have to show, using her testimony, is whether or not
13 that mental abnormality or personality disorder makes
14 him likely to re-offend. And that really boils down to
15 a risk assessment. And Dr. Gehle talked to you on how
16 she assessed risks, and remember she talked about static
17 risk factors and dynamic risk factors.

18 The static risk factors, the historical
19 information that she uses; convictions and charges
20 and whether he was married, and how old he is. She puts
21 them into the scoring dynamics for the measures.

22 And then there's these dynamic risk factors,
23 which are kind of -- they're based on his life, based
24 on his circumstances, and they're treatable. They're
25 things that over time you can treat, and those are

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1 the dynamic risk factors. And she has to look at both
2 when doing the risk assessment.

3 So starting with the static risk factors,
4 she told you that she scored two assessments, the Static
5 99R and the Static 2002R. And the reason that she told
6 you she used both of those is because in cases like this
7 and evaluations like this, what she called high-stakes
8 evaluation, she told you that the developers of those
9 instruments said it was best to use both of those
10 together because it increased the accuracy in their risk
11 to re-offend.

12 And on the Static 99R, she said that
13 he scored a four, which puts him in the above average
14 risk category to re-offend. And on the Static 2002R,
15 he scored -- she scored Mr. Moore at six, which puts him
16 in again the above average risk category. And she told
17 you that was kind of the highest level. There was one
18 more level above that, but it wasn't -- she went from
19 very low risk all the way to well above average risk,
20 and he was in that above average risk category.

21 Now, I know Mr. Falk is going to focus
22 you on percentages. He said that, you know, I think
23 that it was an 11 percent risk and a 19.2 percent risk
24 on the Static 2002R.

25 But remember what she said when she was.

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1 challenged on cross-examination. Mr. Falk had told
2 her, well, he -- Mr. Moore has an 11 percent chance
3 to re-offend, and she said, no, it's not that Mr. Moore
4 has an 11 percent chance to re-offend, it's that
5 offenders who score the same score on the static went on
6 to re-offend at those percentages. It's not a chance.
7 People who scored the same did re-offend at those
8 percentages.

9 And the Static 99R says they'll re-offend
10 -- people who score that score, above average risk,
11 go on to offend at an 11 percent rate, and on the Static
12 2002R, it goes even higher at 19.2 percent.

13 But I want you to, you know, when you
14 think about the percentages, think about this: We might
15 not think 19 percent is a large risk, or 11 percent
16 is a large risk. But the developers of these
17 instruments, the people who developed these, the
18 researchers and the developers of those measures,
19 they put that percentage in the above average risk
20 category, and they're the ones who studied sexual
21 re-offenders.

22 And she also testified that that's not what
23 she solely relies on. I mean, it's not like she just
24 scored and measured, and we're done when assessing risk.
25 She looks at dynamic risk factors. She talked about the

CLOSING ARGUMENTS - BY MR. RUNYAN

1 study from which these dynamic risk factors are derived
2 from, and that people who -- sexual offenders who have
3 these risk factors, it's directly related to their risk
4 to re-offend.

5 And she was able to assign some dynamic risk
6 factors to Mr. Moore, and, remember, she told you about
7 three of them. One was sexual preference for
8 pre-pubescent and pubescent children; one was
9 offense-supportive attitudes; and the other one was
10 emotional congruence with children. And she told you
11 how he met all of those.

12 And just briefly, you know, sexual
13 preference for pre-pubescent and pubescent children is
14 based on his criminal offending history. By all account
15 in his conviction, he did offend against pre-pubescent
16 and post -- and pubescent boys and girls. He did this,
17 despite the fact that he had consenting adult partners.

18 That shows a preference because he could
19 have -- he was -- I mean, he was married. He has
20 children, but he chose to offend against children.
21 That shows preference. It also shows a preference
22 because he did this despite the considerable
23 consequences.

24 Offense-supportive attitudes. She talked
25 to you about that's how it's blaming the victims

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1 or justifying behavior, and he did that. I mean, he --
2 Dr. Gehle testified that he thought the little --
3 the six-to-nine-year-old girl was coming on to him,
4 that she viewed his understanding of the relationship
5 as kind of a girlfriend, and he also denies that
6 he committed the offenses -- the male offenses that
7 he was convicted of.

8 Emotional congruence with children.
9 This is kind of, you know, associating with children,
10 you have better relationships with children, and she
11 said, if you remember, that he surrounded himself
12 with children, that he really felt like -- she felt like
13 from talking to him, and the records that she reviewed,
14 that he was surrounded by kids much of his life.
15 And that suggests to her that, you know, he finds
16 relationships with children easier than with adults.
17 So those are the dynamic risk factors.

18 And she told you, you have to combine those
19 together. Again, it's not one -- it's not just one
20 of each of these. When you look at these risk factors
21 in totality, in whole, together, what is Mr. Moore's
22 risk to re-offend? She also told you that having male
23 victims was a risk factor, increasing someone's risk
24 to sexually re-offend.

25 Now again it's not that we have to prove --

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1 we don't have to prove to you, we have to show you he's
2 likely to go out and commit another sexually violent
3 offense. There are other sexual offenses that are not
4 sexually violent offenses. But as Dr. Gehle testified
5 to, Mr. Moore doesn't have any indication that he
6 suffers from any of this -- any of those things.

7 In fact, what was striking to Dr. Gehle
8 is that Mr. Moore's offending history, his criminal
9 history, is solely sexually violent offenses against
10 minors. So his risk to re-offend is directly related
11 to his mental abnormality, which is directly related
12 to the fact that he has a risk to go out and re-offend
13 against minors.

14 And combining all that together, Dr. Gehle
15 testified to you that it's her opinion that he does
16 meet the criteria for commitment, that his pedophilic
17 disorder is the thing that drives him -- drives his
18 sexual offending.

19 Now, ladies and gentlemen, you've heard
20 all the evidence that you're going to hear in this case.
21 It's up to you now to decide whether or not Mr. Moore
22 is a sexually violent predator or not. But I ask
23 you carefully to consider this evidence, and I ask you
24 to return a verdict that, yes, Mr. Moore is a sexually
25 violent predator and protect this community and its

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1 citizens, and to get Mr. Moore the treatment that
2 he desperately needs ---

3 MR. FALK: (Stands up.)

4 THE COURT: I sustain that objection.

5 MR. RUNYAN: I'm sorry. I didn't hear
6 an objection.

7 THE COURT: Yes, sir, there was an objection
8 on the golden rule. I'm going to ask that the jury
9 disregard the last statement about protecting the
10 community. That is not appropriate, and I'm striking
11 that from the record.

12 MR. RUNYAN: I apologize, Your Honor.

13 THE COURT: That's okay.

14 MR. RUNYAN: Well, I do ask that you give
15 him the treatment that he needs so that he can go back
16 to the community and return to his family. Thank you
17 for your time.

18 THE COURT: Mr. Falk.

19 MR. FALK: Briefly.

20 THE COURT: Yes, sir.

21 MR. FALK: May I approach?

22 THE COURT: Sir?

23 MR. FALK: May I approach?

24 THE COURT: Both of you can.

25 (Off-the-record conversation held at sidebar.)

CLOSING ARGUMENTS - BY MR. FALK

1 (Back on the record.)

2 MR. FALK: Again, I also want to thank you
3 all for sticking with us. I'm sure it's not the kind
4 of case that y'all were expecting, but it's obviously
5 a very important case for my client, and I hope y'all
6 could still pay attention. And I'm hoping that y'all
7 at least before you started deliberating, you waited
8 to hear from my client on the stand because I think
9 you saw somebody who maybe is a different person that
10 you might have thought he was when you heard Dr. Gehle's
11 testimony.

12 So really the issue here is does he have
13 a mental abnormality? That's point one. And is he
14 likely to re-offend? And I think the judge is going
15 to instruct you, and I think the law is that you need
16 to have both pieces.

17 If you don't have the mental abnormality,
18 then you really just -- if you're just worried about
19 the likelihood to re-offend without a mental
20 abnormality, all you're doing is using this process
21 in order to punish somebody for a crime that they've
22 already committed. You have to have the mental
23 abnormality, and it has to be a likelihood to re-offend,
24 and I want y'all to keep that in mind. Those are two
25 important things as you go forward.

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1 Now, I expect that the judge is going
2 to instruct you that -- and whatever the judge says
3 the rules are, is what the rules are and what the law
4 is. But I expect the judge when he's going to instruct
5 you, he's going to tell you that the expert witness
6 is not the person who decides this case, but you all
7 are people who decide this case. I believe he's also
8 going to tell you that you treat the testimony from
9 an expert witness just like you treat anybody else's
10 testimony.

11 And the third thing I think the judge
12 is going to tell you is that you all are free
13 to disregard any expert's, or to completely accept
14 all of the expert's testimony. You can disregard
15 some of it, or you can disregard all of it. It's going
16 to be your decision, and the decision that you make --
17 it's your decision to make regarding the testimony
18 you heard from his mother, and you heard from him.

19 Now, I think when you go back there
20 and you start to deliberate, you're going to find
21 some reasons to maybe have some doubts on the testimony
22 you heard from Dr. Gehle, and maybe there is some
23 reason to disregard some or all of her testimony.
24 Because, remember, you know, this isn't about whether
25 or not it's a close call.

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1 The State has got to prove their case
2 beyond a reasonable doubt. And you heard Mr. Runyan
3 talk about what Dr. Gehle said, something was a close
4 call. She can't -- you can't think that this is a close
5 call. You have to be convinced beyond a reasonable
6 doubt.

7 Let's talk about the diagnosis, the
8 diagnosis of pedophilic disorder. That's one of those
9 diagnoses that just I am sure is very difficult for
10 you all to accept because it just talks about sexually
11 assaulting small children, and that's a problem that
12 I'm sure we all share, but that is difficult.

13 Let's also consider that my client was
14 convicted when he was 21 and 25 years old of these
15 crimes against pre-pubescent children. And, you know,
16 pedophilia, it's got to be a crime against a child
17 that has no secondary sexual characteristic of a child.
18 My client admitted to those crimes against those
19 children, and those occurred when he was 21 and 25 years
20 old, so that's 30 years, 34 years ago. He's 55 years
21 old today as he sits right now.

22 We know that he got treatment. He got
23 sex offender treatment while he was at the Department
24 of Corrections, and he got sex offender treatment while
25 he was out in the community. We know that. I mean,

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1 we know that. We know he admitted to the crimes;
2 we know that those crimes against pre-pubescent
3 children, the little girl, happened over 30 years ago.
4 We also know that there's no evidence in the record
5 that he's ever committed a crime against a pre-pubescent
6 child.

7 Now you heard the State talk about
8 the crimes in 2008. What do we know about that?
9 We know that he denied the charges. We also know
10 that he received the maximum sentence that he could
11 get for those charges.

12 And not only that, he had -- those were
13 two charges and that he received consecutive sentences,
14 which means a lot of times in criminal cases, you know,
15 you'll hear about a concurrent sentence. That means
16 that you're serving time on both charges at the same
17 time. A consecutive sentence means you serve one,
18 and then you serve the other.

19 So he got the maximum punishment he could
20 get on that charge -- on those charges that the judge
21 could have imposed. Gave him the maximum, and he
22 doubled it because it was two, so he served the time
23 consecutively. So he got the maximum charges there.

24 Now there's another thing that I think
25 is important to remember here. What we also know about

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1. that charge is that it did not involve a pre-pubescent
2 child. So nothing about that conviction really supports
3 Dr. Gehle's diagnosis that he suffers from pedophilic
4 disorder.

5 And so I'm sure you're saying, so what,
6 Mr. Falk, we don't really care. But it's important
7 to remember that because what we're talking about
8 here is the difference between a mental health problem
9 and punishing somebody for a criminal conduct. The only
10 thing that we're supposed to be discussing here is about
11 whether or not he has a personality disorder or a mental
12 abnormality, okay?

13 A mental abnormality the State says he has
14 is pedophilic. He has not been convicted of a crime;
15 there's no evidence he's committed a crime related to
16 pedophilia in over 30 years. So whether or not he still
17 has pedophilia, I submit there's no evidence in his
18 record. He's been treatment for it; he's been treated
19 for it again.

20 You can't use this process right here
21 to punish somebody for crimes that they committed.
22 You're only supposed to be using this process to get --
23 for people to get treatment for a mental abnormality
24 or a personality disorder.

25 Now this might be a really overly simplistic

CLOSING ARGUMENTS - BY MR. FALK

1 example here, but I think it's important that
2 you understand what I'm trying to get conveyed to you.
3 Let's say that somebody goes into the Piggly Wiggly,
4 the store up here, and steals a steak, all right.
5 Walks into the store, took a T-bone steak, shoved
6 it in his shirt and walked out the front door.
7 That's clearly a crime. No question that's criminal
8 conduct.

9 But what's behind the criminal conduct?
10 What motivated the criminal conduct? Well, it could
11 have been he might not have eaten for -- the person
12 might not have eaten for six weeks and just really
13 needed some food. He was hungry and committed a crime.
14 It was a crime of necessity. Or he could have just
15 said, you know, I'm tired of having to pay so much
16 for steak, I like steak, I shouldn't have to pay \$5
17 a pound for this steak, or \$10 a pound for this steak,
18 so I'm just going to take it because I'm entitled
19 to it, all right. That's a crime too; that's criminal
20 conduct.

21 The third thing could be whether or not
22 he steals the steak because what he gets the greatest
23 pleasure out of his life is stealing stuff. He likes
24 to steal for the sake of stealing. I mean, I'm sure
25 all of y'all have heard of something called kleptomania,

CLOSING ARGUMENTS - BY MR. FALK

1 people who likes to steal for the sake of stealing.

2 That differentiation -- that difference
3 is really what we're talking about here today,
4 is whether or not the criminal conduct is motivated
5 by some kind of mental abnormality or personality
6 disorder. Did he steal the steak because he has
7 kleptomania? Or did he steal the steak because
8 he just didn't feel like paying for it? That's a crime.

9 He committed a crime; he's been punished
10 for a crime. He does not admit that he committed those
11 crimes in 2008, but the State has already punished him
12 for these crimes. Those crimes in 2008 provide no
13 evidence that he suffers from a paraphilic disorder.

14 Now, I am going to talk about risk.
15 They want to compare -- I'm not even sure what --
16 Dr. Gehle said that he fits within a group of people
17 who re-offend at a rate of 11 percent. I think
18 that's the best way to characterize what she had said.
19 She didn't say what his rate to re-offend was. She said
20 that he fits in a class of people who offended in that
21 same kind of rate.

22 She also said that when he becomes -- when
23 he turns 60, his rate is going to decrease considerably.
24 Whether it's 11 percent now, she said it would go down
25 to really being what the rate of re-offending is,

CLOSING ARGUMENTS - BY MR. FALK

1 whether there can be such a thing, the average sex
2 offender. And that rate to re-offend is 5 percent
3 is what she said.

4 Now, granted, he's only 55 today; he's not
5 60 today. But also her testimony sort of let's us all
6 know what we probably all can appreciate is that men
7 sort of have a decrease in drive as they start
8 approaching their 60th birthday and beyond. So whether
9 or not he has an 11 percent chance of re-offending for
10 the next five years, and it's going to go down to 5
11 percent after that, it still shows that whether or not
12 you could really say that's a likelihood to re-offend
13 if it's only 11 percent.

14 And then you look at even, like, at her
15 other score or other tests that, I guess, came in
16 at 19 percent. She still acknowledged that as he ages,
17 that rate is going to go down, and when he gets to 60,
18 that rate is going to go down to being the same as
19 the average, and, I guess, we're back to the 5 percent
20 re-offense rate.

21 I really wanted him to testify -- why
22 I wanted him to testify is because I wanted you to
23 get some kind of sense as to sort of what he's learned
24 about in his life since he's been in the Department
25 of Corrections. And that's why, you know, we talked

CLOSING ARGUMENTS - BY MR. FALK

1 about the classes he took. He took a victim's impact
2 and victim empathy, you know, feeling -- you know,
3 empathy is feeling the same emotions that somebody else
4 feels and trying to feel the same emotion as somebody
5 else feels.

6 And I think you saw a man who knows what
7 he did 30 years ago. And you saw a man who appreciates
8 the damage that he did 30 years ago to those children.
9 I think you also saw a man who knows he's not going
10 to do that again. He knows what he's done. I mean,
11 that's why people go to prison for rehabilitation.
12 He's a different man than he was 30 years ago.

13 I just want you to go back there and just,
14 you know, do some earnest deliberation. And while
15 you're thinking about it, and while you're deliberating,
16 it's going to be very easy to think about that little
17 girl from 30 years ago and still want to punish him some
18 more. That's not why we're here today. We're here
19 today to talk about what might happen tomorrow.

20 It's a man who's had treatment; it's a man
21 who knows the consequences of what he's done in the
22 past. We also have a man who's going to go out there
23 into a society that is going to support him. You heard
24 his mother testify about her connections through her
25 church and the people who are out there to support him.

REPLY CLOSING ARGUMENTS - BY MR. RUNYAN

1 And he's going to have a job, and he's going
2 to have contact with his family, and he's had contact
3 with his family. Even while he was in Kershaw,
4 in prison, he was still having contact with his sons.
5 His ex-wife would bring his sons up, so he was in
6 contact. He's got a strong financial and family support
7 when he gets out there.

8 I think when you sort of think about some
9 of these things and really focus on, or at least,
10 hopefully consider the fact that they have to prove,
11 not only that there might be a likelihood that he's
12 going to re-offend, but that he still suffers from
13 a mental abnormally. And I think when you give
14 that some consideration, you're going to appreciate
15 that he's not a sexually violent predator, and you're
16 going to have to come back with a verdict saying that
17 he's not a sexually violent predator. Thank you.

18 THE COURT: Mr. Runyan, any reply?

19 MR. RUNYAN: Yes, Your Honor. Thank you.
20 Ladies and gentlemen, I just think I need to reply
21 briefly to just a few things that Mr. Falk said.
22 I'm not going to take too much more of our time.
23 But mental abnormally and pedophilic disorder,
24 as Dr. Gehle testified, require that a person act
25 out on a sexually deviant behavior for over a period

REPLY CLOSING ARGUMENTS - BY MR. RUNYAN

1 of six months.

2 I think there might be a little bit --
3 Mr. Falk might have a little bit of confusion about
4 that. Dr. Gehle testified that the six-to-nine-year-old
5 victim was pre-pubescent. She erred on the side
6 of caution on the two who were 10 to 11. And Mr. Moore
7 and Dr. Gehle testified that he offended against that
8 person for over a year -- a year to a year and a half.
9 That meets the definition of pedophilic disorder.
10 He acted out on his urges by sexually assaulting
11 a pre-pubescent girl.

12 Why are the other offenses important?
13 Assuming for the sake of argument, they're
14 post-pubescent. Why are they important? Well,
15 Dr. Gehle told you why they're important. Because
16 they're risk relevant. They show a sexual preference
17 for both pre-pubescent and post -- and pubescent
18 children, and that's one of the dynamic risk factors.

19 She also testified, if you remember
20 on cross-examination, that she was looking at whether
21 or not he's going to commit any sexual violent offense
22 in the future, and that having sexually assaulting
23 a minor who's under the age of 16, is a sexually violent
24 offense. So the risk relevant, he does suffer from
25 a mental abnormality, and that's what drives him

REPLY CLOSING ARGUMENTS - BY MR. RUNYAN

1 to his sexual offending.

2 There's a lot of talk by Mr. Falk about
3 30 years ago and not much talk about the 2009 offenses.
4 He was convicted by a jury of molesting two minor boys.
5 Now he denies that, but he was convicted of it, and
6 those are directly relevant to his risk to re-offend.
7 You have to consider those because we are talking
8 about whether or not he's likely to go out and do
9 another sexually violent offense. It's not limited
10 to a sexually violent offense of a pre-pubescent child,
11 any sexually violent offense.

12 And I keep going back to this pattern
13 of behavior, going to prison, having treatment,
14 re-offending. And Mr. Moore, by all accounts, had --
15 has support now. He has a loving family. I don't
16 disagree with that. I think his family is sincere,
17 but he had those supports when he was in the community
18 offending, and he's going to have them again.

19 So again I ask you to carefully consider
20 all these things when you're making your decision.
21 I thank you for your time.

22 THE COURT: All right. Madam Forelady,
23 ladies and gentlemen of the jury, that concludes
24 the close of the third phase, and that is the closing
25 arguments by the attorneys. My charge is probably

1 going to be in the neighborhood of 25 minutes or so,
2 give or take. Would you want to break before I start
3 to charge you, or do you want me to go ahead and
4 continue with my charge now, Madam Forelady?

5 THE FORELADY: It's up to you, Your Honor.
6 If you want ---

7 THE COURT: Look at your fellow folks.
8 Y'all want to go ahead and take a quick break, or do you
9 want to finish?

10 THE FORELADY: Let's finish it.

11 THE COURT: Kind of like getting a whipping
12 and just getting it out of the way, yeah. Ladies
13 and gentlemen, it's my duty as the trial judge
14 to charge you on the law that you'll apply in this
15 case. I will tell you that I'm not intelligent,
16 nor articulate enough, to try to do it off the top
17 of my head, so I'm going to apologize to you now because
18 a great deal of it will be read. These are some complex
19 issues, and I'm scared to try to do it off the top of my
20 head. Can you hear me okay?

21 THE FORELADY: Yes.

22 THE COURT: All right. If you can't, let
23 me know. Ladies and gentlemen of the jury, it's now
24 my duty as the trial judge under the constitution
25 of this state to charge and instruct you on the law that

1 is applicable to this case. It is your duty as jurors
2 to accept and apply the law as I give it to you.
3 You may not infer anything that's not part of what
4 I give to you as part of the law.

5 The State has brought this case under
6 the Sexually Violent Predator Law of South Carolina.
7 The State seeks the civil commitment of Tyrone Maurice
8 Moore, the Respondent, for long-term control, care
9 and treatment in a secure facility.

10 This is not a criminal proceeding seeking
11 incarceration, but rather is a proceeding seeking
12 a civil commitment. The state of South Carolina alleges
13 or claims that the Respondent, Tyrone Maurice Moore,
14 is a sexually violent predator under the law.
15 Respondent denies that he is a sexually violent
16 predator, and the burden of proof is, therefore,
17 on the State to prove by evidence sufficient to satisfy
18 each of you beyond a reasonable doubt that Mr. Moore
19 is a sexually violent predator.

20 If the State is unable to meet that burden
21 of proof as to one or more of the elements of this
22 claim, then the Respondent is entitled to a finding
23 that he is not a sexually violent predator.

24 Ladies and gentlemen, I want to make sure
25 that you understand that Mr. Moore is not accused

1 of committing a crime in this proceeding. As you heard
2 from the testimony, he did have a prior charge for which
3 he was sentenced by the Court. The Respondent has
4 now completed his sentence for that charge or charges,
5 and the State is now alleging that Mr. Moore is
6 a sexually violent predator.

7 The State has the burden of proof in this
8 case and must prove this case beyond a reasonable doubt.
9 If you find that the State has not met this burden,
10 the Respondent will be released. If you find that the
11 State has met this burden, and find that the Respondent
12 is a sexually violent predator, he will not be released,
13 but will be committed to a secure treatment facility
14 in Columbia, operated by the South Carolina Department
15 of Mental Health.

16 Now during the trial, you and I have
17 had separate duties to perform. As the trial judge,
18 it is my responsibility to preside over the trial.
19 And I also have the duty to rule upon the admissibility
20 of evidence offered during the process of the trial.
21 In that regard, you are only to consider the competent
22 evidence before you, and you are to disregard from
23 your mind any testimony ordered stricken from the record
24 in this case during the progress of the trial, if there
25 was any.

1 You are to consider only the testimony
2 which has been presented from the witness stand,
3 together with any exhibits admitted into the record
4 of this case, and any stipulation of counsel made
5 into the record, if there were any. And, Counsel,
6 there were no stipulations in this case, were there?

7 MR. RUNYAN: No, there weren't, Your Honor.

8 MR. FALK: No, Your Honor.

9 THE COURT: Okay, so there are no
10 stipulations. Furthermore, I have the additional
11 duty to charge you on the applicable law of this case,
12 and in that regard, I am the sole judge of the law
13 in this case. It is your duty to accept and apply
14 the law as I state it to you.

15 If you have any preconceived ideas
16 as to what the law is, or what the law ought to be,
17 and it does not agree with what I tell you the law
18 is, you are obligated under your oath to abandon these
19 preconceptions because you were sworn to accept the law
20 precisely as I now state it to you.

21 In this trial, you are the sole and
22 exclusive judge of the facts, and I am the judge
23 of the law. Do not infer that I have any opinion about
24 the facts in this case from anything I have said during
25 the course of this trial in ruling on the admissibility

1 of evidence or otherwise, or from anything that
2 I now say during the course of this charge to you.

3 In this regard, the law simply does
4 not permit me to have an opinion about the facts.
5 As jurors, it is your duty alone to determine
6 the effect, the value, weight, and accuracy
7 of the evidence presented during the course
8 of this trial.

9 While argument of counsel is a beneficial
10 part of every trial, you should remember that
11 the statements made by counsel is not evidence.
12 In presenting arguments, counsel often refer to
13 the evidence. However, you should base your verdict
14 on the evidence as you remember it. Therefore, if there
15 are any conflicts between the recollection of counsel
16 about the evidence and your own recollection of the
17 evidence, you should rely upon your own understanding
18 of what the evidence is.

19 Now, ladies and gentlemen, in most civil
20 cases tried before -- in the Court of Common Pleas,
21 the burden of proving a claim is by the preponderance,
22 or the greater weight, of the evidence. However,
23 in this type of case, under this particular statute,
24 the State's burden is greater than that. Here, it must
25 be beyond a reasonable doubt.

1 As I already stated to you, the State
2 has the burden of proof. Under the law of this state,
3 according to the Sexually Violent Predator Statute,
4 the State must prove its case to the same standard
5 of proof beyond a reasonable doubt. If the State fails
6 to meet this high burden, then you must find Mr. Moore
7 is not a sexually violent predator.

8 And this is the charge on reasonable doubt.
9 A reasonable doubt is the kind of doubt that would cause
10 a reasonable, sincere, conscientious, and honest person
11 to hesitate to act in an important matter in their own
12 affairs.

13 Now if you've ever worked on a civil case
14 as a juror and participated in a civil case, normally
15 that is by a preponderance, or the greater weight,
16 of the evidence. Here, the burden of proof is much
17 greater. It is proof beyond a reasonable doubt.
18 Proof beyond a reasonable doubt is proof that leaves
19 you firmly convinced of the Defendant as being
20 a sexually violent predator.

21 Now with that being said, ladies
22 and gentlemen, there are very few things in this world
23 we know with absolute certainty, and the law does not
24 require the State to overcome every possible doubt that
25 may exist in this case. If, based on your consideration

1 of all of the evidence when you begin your
2 deliberations, if you are firmly convinced that
3 the State has met its burden of proof, it is your
4 duty to find that the Respondent is a sexually violent
5 predator.

6 On the other hand, if you think there's
7 a real possibility that the State has not met its burden
8 of proof, then you must give the Respondent the benefit
9 of the doubt and find that he is not a sexually violent
10 predator.

11 Now in this case, ladies and gentlemen,
12 evidence may be established by direct or circumstantial
13 evidence. Direct evidence is testimony by a witness
14 about the witness -- about what the witness personally
15 saw, heard or did. It is evidence that immediately
16 establishes the fact in question.

17 For example, if the question in the case
18 was whether or not I ran a stop sign, and my law clerk
19 says, I saw him run that stop sign, then that
20 immediately establishes a fact. You don't have to
21 infer; you don't have to deduce anything from that
22 testimony. That is called direct evidence, frequently
23 is an eyewitness.

24 Circumstantial evidence is indirect evidence
25 that is proof of one or more facts from which another

1 fact can be found. It is something that requires
2 inference, and it requires deduction.

3 For example, if I were to go -- if each
4 of you were to go to bed at night and have a fresh
5 sheet of snow in your front yard, if you were to wake
6 up in the morning and see tracks in that snow, you can
7 deduce, or you can infer, that someone or something
8 walked through your yard during the night, although
9 you did not actually see it. That is circumstantial
10 evidence.

11 The only limitation is that the deduction,
12 or the inference being made, can't be conjecture
13 or speculation or surmised. It must be with some
14 reasonable certainty. And you are to consider,
15 ladies and gentlemen, direct and circumstantial evidence
16 that has presented in this case. And the law permits
17 you to give equal weight to both, but it's up to you
18 to decide how much weight you will give to either one.

19 Now, ladies and gentlemen, in determining
20 what the facts in this case are, you have to determine
21 the credibility of the witnesses, or the credibility
22 of the evidence. And what that simply means is which
23 witness -- excuse me -- which simply means the
24 believability of the witness and the value of weight
25 to be given to their testimony.

1 You alone must decide the force, effect
2 and accuracy of any witness' testimony. As a group,
3 you have a right to believe all or part or none of any
4 witness who came before you and testified in this case.
5 You have a right to believe all of the witness'
6 testimony. That is solely your discretion.

7 In making this decision of the credibility
8 of the witnesses, let me give you some ideas to keep
9 in your mind. First, you can ask yourselves about
10 the appearance and the manner of the witnesses -- of the
11 witness while they're on the stand, the characteristic,
12 which is also described as the demeanor of the witness
13 while they're testifying.

14 You could ask yourself was the witness
15 forthright, or were they hesitant in their testimony,
16 was the witness' testimony consistent, or did it contain
17 discrepancies, what was the ability of the witness
18 to know the facts about which he or she testified,
19 was there some reason a witness would want to give
20 testimony that would help or hurt one side of the case
21 or the other?

22 In other words, do they have a bias
23 or prejudice towards one side of the case or the other,
24 was the witness' testimony reasonable when considered
25 in light of all the other testimony and the evidence

1 in this case and in your own experiences and your common
2 sense, was the testimony of the witness corroborated
3 or made stronger or weaker by other testimony and
4 evidence, or was it made weaker or impeached by other
5 evidence and testimony in the case.

6 As jurors, please understand you have
7 the right to believe a small portion of a witness'
8 testimony and disregard the larger portion or vice
9 versa. You may believe all of a witness' testimony
10 or none of a witness' testimony. You may believe
11 one witness over many or many over one. And, of course,
12 you do not determine this credibility by adding up
13 the number of witnesses or exhibits that were presented
14 by one side of the case or the other.

15 And, ladies and gentlemen, you don't check
16 your common sense at the door when you're sworn in
17 as witnesses [sic.], and you should not in this case.
18 You should use those things in your day-to-day lives
19 that you find indicative of truthfulness and indicative
20 of the lack of truthfulness when you go through this
21 exercise of determining the credibility, or the
22 believability, of the witnesses who appeared before you.

23 Now, ladies and gentlemen, you've heard
24 testimony from a person who's been qualified as an
25 expert. Normally, experts -- normally, witnesses

1 are not allowed to give you their opinion. They have to
2 testify as to what they saw, they heard, they smelled,
3 or they felt. However, a person who, because of their
4 education or their experience, who has developed
5 an expertise in an area that may be helpful to you
6 as fact finders, once qualified, is allowed to give
7 their opinion in this case.

8 Expert opinion, ladies and gentlemen,
9 is just like any other testimony you have heard in
10 this case. You have the right to reject it; you have
11 the right to accept it; you have the right to give
12 it as much weight as you think it deserves, based on the
13 testimony itself, the reasons given for the testimony,
14 as well as the other testimony and the evidence
15 presented in this case.

16 Now, ladies and gentlemen, this is the law
17 of the sexually violent predator. The State must prove
18 three elements beyond a reasonable doubt. First, that
19 the Respondent has been convicted of a sexually violent
20 offense. Now, ladies and gentlemen, I charge you that
21 criminal sexual conduct with a minor in the first degree
22 and a lewd act on a minor are both sexually violent
23 offenses.

24 Next, that the State must prove that
25 the Respondent suffers from a mental abnormality

1 or a personality disorder. And, finally, the State
2 must prove that the mental abnormality or personality
3 disorder makes the person likely to engage in acts of
4 sexual violence if not confined, such that Respondent's
5 propensity to commit acts of sexual violence is of such
6 a degree as to pose a menace to the health and safety
7 of others, and that burden of proof is by a proof beyond
8 a reasonable doubt, as I have told you.

9 Now inherent, ladies and gentlemen, in these
10 elements is that the State must prove the requirement
11 that the Respondent's mental abnormality or personality
12 disorder causes him serious difficulty in controlling
13 his behavior. In other words, the State must prove
14 beyond a reasonable doubt that the individual it seeks
15 to commit suffers from a mental illness which he cannot
16 sufficiently control without the structure and care
17 provided by a mental health facility, rendering him
18 otherwise likely to commit a dangerous act.

19 In order for you to better understand
20 the elements of the State's cause of action, I'm going
21 to define for you some of the terms that I've used.
22 Mental abnormality means this: It means a mental
23 condition affecting a person's emotional or volitional
24 capacity that predisposes the person to commit sexual
25 violent offenses. This mental abnormality or

1 personality disorder must cause Mr. Moore serious
2 difficulty in controlling his behavior.

3 Likely to engage in acts of sexual violence
4 means the person's propensity to commit acts of sexual
5 violence is of such a degree as to pose a menace to the
6 health and safety of others.

7 Again, I remind you that the burden of proof
8 is on the State to prove to your satisfaction beyond
9 a reasonable doubt that the Respondent has been
10 convicted of a sexual violent offense, as I have
11 instructed you, and also he suffers from a mental
12 abnormally or a personality disorder that makes him
13 likely to engage in acts of violence -- of sexual
14 violence, if not confined in a secure facility
15 for long-term control, care and treatment.

16 If the State carries its burden of proof
17 and convinces you beyond a reasonable doubt as to each
18 of the elements of its cause of action, it is entitled
19 to a finding that Mr. Moore is a sexually violent
20 predator. If the State does not meet that burden
21 of proof as to one or both of these elements,
22 the Respondent -- excuse me. If the State does not meet
23 its burden of proof as to one or more of the elements,
24 then the Respondent is entitled to a finding that
25 he is not a sexually violent predator.

1 The Respondent, ladies and gentlemen,
2 has already pled guilty to a sexually violent offense.
3 He received a criminal sentence for that crime and has
4 already satisfied that sentence. South Carolina
5 Sexually Violent Predator Law is not enacted to add
6 to the criminal punishments imposed upon individuals
7 that commit sexually violent offenses.

8 Therefore, your decision whether to commit
9 Respondent in this case may not be influenced by your
10 personal opinions regarding whether Respondent received
11 an appropriate criminal punishment.

12 Now, ladies and gentlemen, that leads
13 me down to the final part of my charge, and that's
14 the considerations about your deliberations. When you
15 went through voir dire in this case you either expressly
16 stated, or by your silence represented, that you could
17 be fair and impartial to both sides of this case, they
18 have a right to expect no less of you and so does this
19 Court.

20 You're not chosen to be partisans; you're
21 not chosen to be advocates for one side of this case
22 or the other. You are to be the judges of the facts,
23 and you'll make that determination based on the
24 testimony and the evidence you heard here in this
25 courtroom from the witness stand, along with the

1 exhibits that have been allowed into evidence,
2 in accordance with the law as I give it to you.

3 In just a few minutes, you will be sent back
4 to begin your deliberations. You are, when you begin
5 your deliberations, to call on your experiences in life
6 and your common sense and your sense of logic and reason
7 when you go through and talk about the evidence amongst
8 yourselves. Deliberation is defined as this: It is
9 a careful consideration, weighing up with a view to
10 a decision.

11 Now regardless of what anybody -- any of you
12 may think about our system, I would submit to you that
13 the genius of the system is it allows 12 men and women,
14 such as yourselves, who have different backgrounds,
15 who have different life experiences, and different
16 perspectives to talk through and walk through all the
17 evidence and to ultimately reach a verdict in the case.

18 In order for your verdict to stand, it will
19 have to be unanimous. We are -- we call it
20 deliberations for a reason. You're not to be in
21 a hurry. Go through and carefully and courteously
22 and deliberately walk through all of the evidence,
23 talk with your fellow jurors, let your fellow jurors
24 tell you what their views are and why they have the
25 perspectives they have. They'll do the same thing

1 to you.

2 At the end of the day, in order for
3 your verdict to stand, it will have to be unanimous.
4 But with that being said, each of you will have
5 to decide this case on your own. Do not be afraid
6 to change your view as to the weight, or the value,
7 of the evidence in this case, if your discussion with
8 your fellow jurors convinces you that it's the right
9 thing to do to change your mind.

10 On the other hand, do not change
11 a firmly-held belief as to the weight of the evidence
12 simply to appease your fellow jurors, okay?

13 Now, Madam Forelady, at the end of the day,
14 when the jury reaches its decision, it will be your job
15 to fill out the verdict form. They have to be in some
16 order, so whatever order the options appear is of no
17 consequence, but I'm going to give it to you, and this
18 is what it says.

19 Has the Petitioner, the state of South
20 Carolina, proved beyond a reasonable doubt Tyrone
21 Maurice Moore is a sexually violent predator under
22 the South Carolina Sexually Violent Predator Act?
23 Your response, we, the jury, unanimously answer the
24 question as follows. First, yes, Tyrone Maurice Moore
25 is a sexually violent predator, or no, Tyrone Maurice

1 Moore is not a sexually violent predator.

2 Obviously, you will X or check next to
3 the one that the jury agrees on, then you'll sign your
4 name. I'm going to ask that you fold this and crease
5 it and hold it. Don't give it to the bailiff.

6 THE FORELADY: Okay.

7 THE COURT: If at any time you have any
8 questions that you need to ask, write it down on a piece
9 of paper, write your name, knock on the door, give it to
10 the bailiff, he'll bring it out here, and we'll respond
11 accordingly in the courtroom. One thing I don't want
12 you to do ever is to tell me where the jury stands
13 numerically, in other words, whether you're six/six ---

14 THE FORELADY: Yes, sir.

15 THE COURT: --- or any other combination
16 that can come up with that. It's nobody's business,
17 okay?

18 THE FORELADY: Yes, sir.

19 THE COURT: All right. Now, I'm going
20 to send you back to the jury room. Don't start your
21 deliberations yet. I'm going to ask that the alternates
22 get your personal belongings and come back out.
23 If you've taken notes, you can rip them up, but do
24 not -- bring them back out with you, but do not leave
25 them in the jury room, okay? Once you come back out,

1 we'll meet you in the hallway and talk to you a little
2 bit further.

3 In just a minute, we'll bring back the
4 verdict form and the exhibits with word to begin your
5 deliberations. I think that dinner has been ordered.
6 You have a right to go ahead and eat, or you can eat
7 and deliberate, whatever you want to do, okay?
8 Thank you.

9 THE FORELADY: Thank you.

10 THE COURT: You can go back to your jury
11 room.

12 (Jury exits the courtroom at 12:22 p.m.)

13 THE COURT: All right. Any additions
14 or exceptions to my charge from the State?

15 MR. RUNYAN: No, nothing from the State,
16 Your Honor.

17 THE COURT: From the defense?

18 MR. FALK: Not from the defense.

19 THE COURT: Okay. Now you had a motion
20 that you were going to ask for a mistrial based
21 on the golden rule argument.

22 MR. FALK: Yes, Your Honor. It's so --
23 I mean ---

24 THE COURT: I'll let you put it on the
25 record. I'm going to deny it, but I'm going to go ahead

1 and let you do that.

2 MR. FALK: Do you want to do that now?

3 THE COURT: Yeah.

4 MR. FALK: Okay. So, Your Honor, the State
5 made an argument asking the jury to, you know, protect
6 the community, and it's clearly a golden rule argument.
7 And I don't believe -- although I appreciate your
8 curative instruction, I don't believe it was enough
9 to un-ring the bell, so we're making the motion for
10 a mistrial.

11 THE COURT: Well -- and I'm -- at the
12 time, I just said it was an inappropriate argument,
13 I'm striking it from the record. I think that
14 if I bring them back now and try to explain anything
15 further, it just makes it worse, so I probably would
16 not do that. I'm going to deny your motion. I don't
17 think it's manifested, necessarily, in this case.
18 And by striking it right then as we did, I think
19 it was -- that was sufficient.

20 MR. FALK: But the record will reflect
21 there was a contemporaneous motion for a mistrial.

22 THE COURT: It was.

23 MR. FALK: And the objection and the motion.

24 THE COURT: I saw what you did. You didn't
25 have a chance to speak, and I -- yeah, I caught you off

1 guard, and I'm sorry.

2 MR. RUNYAN: Yeah, I didn't even hear
3 the objection.

4 THE COURT: But, no, it was spontaneous,
5 and I responded to it then.

6 MR. FALK: Thank you.

7 THE COURT: Okay. Y'all check your
8 exhibits, and let's get this verdict form. Guys,
9 if y'all start to go anywhere, would you give Eve --
10 no, give my law clerk your cell phone so she can touch
11 base with you.

12 MR. RUNYAN: You want it now? I don't
13 intend on going anywhere.

14 THE COURT: Tell them to start their
15 deliberations.

16 (Recess taken.)

17 (Back on the record.)

18 THE COURT: Is this commitment for life?
19 Will he be reevaluated periodically? Can we get a copy
20 of the State's definition of a violent sexual predator,
21 the Act? Now, no on the second one. I'll charge them
22 again if they want me to, but I'm not sending it back.
23 How do you want to respond to the other one?

24 You know, normally, if this were a criminal
25 trial, don't you concern yourself with the time they're

1 getting. But they -- will he be reevaluated
2 periodically? Is he committed for life? What would
3 be your position?

4 MR. RUNYAN: I mean, I think my position
5 is they have all the evidence they could rely on.
6 I mean, we never talked about -- there's nothing
7 in evidence about any reviews or periodic reviews,
8 even though they get them. I don't think we could
9 give them that information. They can't rely on it.
10 We really didn't talk about the length of time,
11 other than it's just indeterminate. What do you think?
12 I don't think there's anything we can -- I don't think
13 we have any evidence we can give them to answer ---

14 THE COURT: Sir?

15 MR. RUNYAN: I don't think that there's
16 any evidence they can consider to answer the question.

17 MR. FALK: We would have to go ---

18 THE COURT: Well, it's not evidence so much
19 as the law. And, you know, there's some distinction
20 there because ---

21 MR. RUNYAN: Well, I will suggest that
22 in the past when we've had this question, the other
23 judges have answered it this way, and other judges
24 have answered ---

25 THE COURT: Well, I'm not everybody.

1 MR. RUNYAN: I know. I'm just suggesting
2 this. Basically said, you know, the -- how did they put
3 it? Those are -- you know, whether or not he gets --
4 when he's released is a subject to a separate
5 proceeding, not for you to consider in this matter,
6 a separate additional proceeding, not to be considered
7 in this matter.

8 THE COURT: What's your feeling about it,
9 Mr. Falk?

10 MR. FALK: Probably going to be if we were
11 going to be talking about ---

12 THE COURT: I think that right now that
13 they're worried about him not getting a periodic review,
14 that's what it sound likes.

15 MR. RUNYAN: Right, right.

16 MR. FALK: I might have done my case
17 differently had -- it was going to start addressing
18 his -- I mean, I want them to think he's going away
19 for life, and that it's not fair. I mean, that's
20 obviously, my approach.

21 THE COURT: Well ---

22 MR. RUNYAN: But he's not because we don't
23 know.

24 THE COURT: But, yeah, the idea that
25 Mr. Runyan had that, you know, whether or not he'll

1 be released will be subject to another proceeding that
2 you're not to concern yourself with basically answers
3 the question. It's not for life, it means he's coming
4 back again.

5 MR. FALK: Okay, I guess, I can live
6 with that, as long as we don't talk about evaluations.

7 THE COURT: Okay. So I've put -- let me
8 just write it down that way ---

9 (Pause)

10 THE COURT: All right. So what if we write
11 down there the issue of whether Respondent will be
12 released will be the subject of another proceeding
13 that you're not to concern yourself with?

14 MR. FALK: Okay.

15 MR. RUNYAN: Fine.

16 THE COURT: All right.

17 MR. FALK: And then whenever -- oh,
18 I'm sorry.

19 THE COURT: And, I'm all for just charge
20 them on the law again, they'll quickly say, no, no,
21 no, no, no. No, I'm kidding. I don't send my charges
22 back. I had Judge Miller in Greenwood, I was sending
23 them back at one time, he said, don't do it, and I did
24 it, and I've regretted it, and I've never done it since.

25 MR. FALK: What do you feel is the downside?

1 What happened when you sent it back?

2 THE COURT: They started debating on the law
3 back then.

4 MR. FALK: Oh, I see.

5 THE COURT: They started reading it, started
6 not to focus on the facts.

7 (Jury enters the courtroom at 1:11 p.m.)

8 THE COURT: All right. Ladies and gentlemen
9 of the jury, there are two questions. First, is this
10 commitment for life? Will he be reevaluated
11 periodically? And let me just say this to you.
12 The issue of whether the Respondent will be released
13 at another time will be the subject of another
14 proceeding, and you're not to concern yourself with
15 that, okay?

16 THE FORELADY: Okay.

17 THE COURT: Now, I don't send my charge back
18 to the jury, and I was telling the lawyers about that.
19 I've had jurors -- I've had judges tell me it's not
20 a good idea because then you start focusing on what
21 the law is. Instead, let me charge you on that,
22 and you focus on what the facts are, okay? But if you
23 want me to go back and read you the ---

24 THE FORELADY: Yes, Your Honor.

25 THE COURT: You do want me to read that?

1 THE FORELADY: One more time, please.

2 THE COURT: And would you like that to
3 be what the State has to prove about sexually violent
4 predators?

5 THE FORELADY: Yes, to clarify for all
6 of us, please.

7 THE COURT: Okay. So let me make sure --
8 I'm glad to do as much or as little as you want.
9 Let me see if this responds to what you want me to do.
10 This is the law of a sexually violent predator. Can you
11 hear me okay?

12 THE FORELADY: Yes.

13 THE COURT: Okay. The State must prove
14 three elements beyond a reasonable doubt. First, that
15 the Respondent has been convicted of a sexually violent
16 offense. I charge you that the -- that criminal sexual
17 conduct with a minor in the first degree and lewd
18 act on a minor are both sexually violent offenses.
19 Next, the State must prove that the Respondent suffers
20 from a mental abnormality or personality disorder.

21 And, finally, the State must prove that
22 the mental abnormality or personality disorder makes
23 the person likely to engage in acts of sexual violence
24 if not confined, such that Respondent's propensity
25 to commit acts of sexual violence is of such a degree

1 as to pose a menace to the health and safety of others.

2 Inherent in these elements is that the State
3 must prove that the requirement that the Respondent's
4 mental abnormality or personality disorder causes
5 him serious difficulty in controlling his behavior.
6 In other words, the State must prove beyond a reasonable
7 doubt that the individual it seeks to commit suffers
8 from a mental illness which he cannot sufficiently
9 control without the structure and care provided by the
10 mental health facility, rendering him otherwise likely
11 to commit a dangerous act.

12 In order for you to better understand
13 the elements of the State's cause of action, I'm going
14 to define a few of the terms. First, that's mental
15 abnormality. This means a mental condition affecting
16 a person's emotional or volitional capacity that
17 predisposes the person to commit sexually violent
18 offenses. This mental abnormality or personality
19 disorder must cause Mr. Moore serious difficulty
20 in controlling his behavior.

21 Also, the definition of the phrase likely
22 to engage in acts of sexual violence. This phrase means
23 that the person's propensity to commit acts of sexual
24 violence is of such a degree as to pose a menace
25 to the health and safety of others.

1 And again I remind you that the burden
2 of proof is on the State to prove to your satisfaction
3 beyond a reasonable doubt that the Respondent has been
4 convicted of a sexually violent offense, as I have
5 instructed you, and also suffers from a mental
6 abnormality or personality disorder that makes him
7 likely to engage in acts of sexual violence if not
8 confined in a secure facility for long-term control,
9 care and treatment.

10 If the State carries its burden of proof
11 and convinces you beyond a reasonable doubt as to
12 the elements of its cause of action, it is entitled
13 to a finding that Mr. Moore is a sexually violent
14 predator. If the State does not meet that burden
15 of proof as to one or more of these elements,
16 then the Respondent is entitled to a finding
17 that he is not a sexually violent predator.

18 The Respondent has already pled guilty
19 to a sexually violent offense. He received a criminal
20 sentence for that crime and has already satisfied that
21 sentence. The South Carolina Sexually Violent Predator
22 Law was not enacted to add to the criminal punishments
23 imposed for individuals that commit sexually violent
24 offenses.

25 Therefore, your decision whether to commit

1 Respondent in this case may not be influenced by your
2 personal opinions regarding whether Respondent received
3 an appropriate criminal punishment. Does that answer
4 your ---

5 THE FORELADY: Thank you, Your Honor.

6 THE COURT: Okay. Then you're able to go
7 back and resume your deliberations?

8 THE FORELADY: Yes, sir.

9 THE COURT: Any additions or exceptions
10 from the State?

11 MR. RUNYAN: No, Your Honor.

12 THE COURT: From the defense?

13 MR. FALK: No, Your Honor.

14 THE COURT: All right. If you would go back
15 and resume your deliberations.

16 THE FORELADY: Thank you.

17 THE COURT: Thank you, ma'am.

18 (Jury exits the courtroom at 1:18 p.m.)

19 THE COURT: All right. Guys, we're at ease.
20 Thank you.

21 MR. RUNYAN: Thank you, Your Honor.

22 (Recess taken.)

23 (Back on the record.)

24 THE COURT: Is the Respondent's mother out
25 there?

1 MR. FALK: I'm supposed to call her.

2 THE COURT: Sir?

3 MR. FALK: I'm supposed to call her.

4 She's not.

5 THE COURT: Okay.

6 MR. FALK: I'm sorry. She's gone home.

7 (Jury enters the courtroom at 1:29 p.m.)

8 THE COURT: Madam Forelady, has the jury
9 reached a verdict?

10 THE FORELADY: Yes, sir. Yes, Your Honor,
11 we have.

12 THE COURT: Is it unanimous?

13 THE FORELADY: Yes, it is.

14 THE COURT: Would you pass the verdict
15 form to our bailiff, please? Thank you, sir.

16 All right. On the question, has the Petitioner,
17 the state of South Carolina, proved beyond a reasonable
18 doubt Tyrone Maurice Moore is a sexually violent
19 predator under the South Carolina Sexually Violent
20 Predator Act? We, the jury, unanimously answer
21 the question as follows: Yes, Tyrone Maurice Moore
22 is a sexually violent predator, signed by the
23 foreperson, dated April 19th, 2022.

24 Ladies and gentlemen of the jury, if that
25 was your verdict in the jury room, and if that is your

1 verdict still here in the courtroom, raise your right
2 hand. Let the record reflect that all 12 raised to the
3 affirmative. All right.

4 Ladies and gentlemen, the Court is never
5 concerned about what your verdict is, but that you paid
6 attention, that you followed instructions, and y'all
7 did just that. I'm not thanking you for your verdict,
8 but I'm thanking you for your civic duty and your
9 service to the community. It's never easy, especially
10 these kind of cases, to sit there in judgment of other
11 people, but you did, and you did your civic duty.
12 And we want to thank you on behalf of South Carolina
13 and Berkeley County.

14 The good thing about it is you can't be
15 made to sit on a state court jury for three more years,
16 maybe city, maybe county, maybe federal, but not in
17 state court. Does anybody have any questions at all?
18 To answer your question earlier, it's a periodic review
19 annually, okay?

20 THE FORELADY: Thank you.

21 THE COURT: All right, you're welcome.
22 We'll get those exhibits from you. Does anybody need
23 a statement for work? Okay. He's got them right there.
24 Thank you. This will be the end of the trials this
25 week. Madam Clerk, is that correct?

1 THE CLERK: Yes, Your Honor.

2 THE COURT: We'll do pleas in the morning.
3 Okay. You're excused for the remainder of the week.
4 Thank you very much. If you want to take your notes,
5 take them with you. If not, they'll throw them away.

6 (Jury exits the courtroom at 1:32 p.m.)

7 THE COURT: All right, guys. I appreciate
8 the lawyers. Y'all did a fine job. Anyway, it's
9 a tough case all the way around. I thought both
10 of you did a good job. You explained appellate rights
11 and all those things in this case?

12 MR. FALK: Yeah, I explained to him that
13 I'll file an appeal. Somebody from the appellate
14 defense will pick up his appeal, but then I'll remain
15 his attorney going through the annual review cycle.

16 THE COURT: Good luck to all of you.
17 Take care.

18 MR. RUNYAN: Your Honor, from a housekeeping
19 standpoint, we do have an order of commitment that
20 will transfer custody from South Carolina Department
21 of Corrections when he completes the criminal sentence.

22 THE COURT: Do you need me to sign that?

23 MR. RUNYAN: Yes, I need you to sign it,
24 Your Honor.

25 THE COURT: Okay. Have you seen it,

1 Mr. Falk?

2 MR. FALK: I have not seen it.

3 (Pause.)

4 MR. FALK: Thank you.

5 MR. RUNYAN: May I approach, Your Honor?

6 THE COURT: Yes, sir. Thank you, guys.

7 All right. Have a good day. Good luck to you, sir.

8 (End of Transcript of Record)

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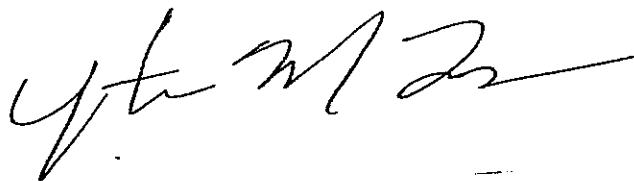
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 19th of April, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 27, 2022



Yvestre Torres

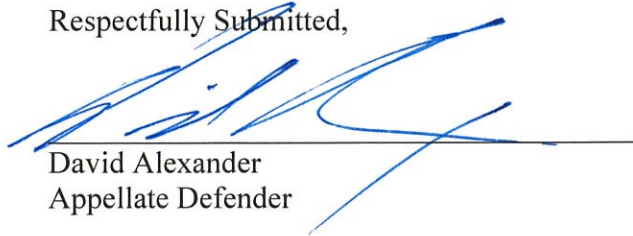
Circuit Court Reporter

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."

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Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of November, 2022.

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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable R. Lawton McIntosh, Circuit Court Judge

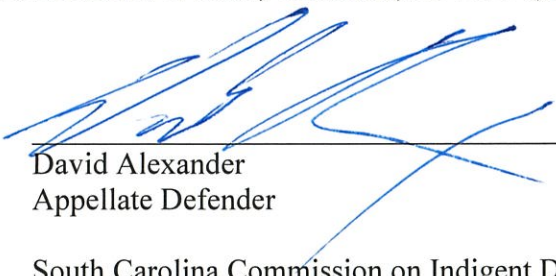
IN THE MATTER OF THE CARE AND
TREATMENT OF TYRONE MAURICE MOORE, A/K/A
TYRONE MOORE,

APPELLANT.

APPELLATE CASE NO. 2022-000547

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Deborah R.J. Shupe, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Tyrone Maurice Moore, at 4546 Broad River Road, Columbia, SC 29210, this 30th day of November, 2022.



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