

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Jennifer B McCoy

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Feb 21 2023

S.C. SUPREME COURT

IN THE MATTER OF THE CARE AND
TREATMENT OF KEVIN LAMAR WRIGHT

APPELLANT

APPELLATE CASE NO. 2020-001551

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2012-CP-10-1719
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STATE OF SOUTH CAROLINA	)	
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	)	
vs.	)	
	)	
KEVIN LAMAR WRIGHT	)	
	)	
Petitioner	)	
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_____	)	TRANSCRIPT OF RECORD

October 2, 2020
WebEx videoconference

B E F O R E:

THE HONORABLE JENNIFER B. MCCOY, JUDGE

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

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Circuit Court Reporter

[Certified transcript provided to: James K. Falk, Esq.]

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No exhibits were introduced

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PROCEEDINGS

THE COURT: Okay. Welcome back. All right. We reconvened for the purpose of holding this hearing at Mr. Falk's client's request. This is a proceeding taking place pursuant to the Sexually Violent Predator Act of South Carolina.

We began this hearing Tuesday, we tried to, and we had several technical difficulties. So after about 45 minutes we had an agreement to reschedule for this week so here we are.

We have Ms. Shupe, Deborah Shupe, on behalf of the State and Mr. Falk is representing the petitioner in this action. And Mr. Falk I'll hear from you first and I'll turn it over to you. If you could once again, state your full name and spell your last Mr. Falk and also that of your client. Please begin.

MR. FALK: James Falk. I'm representing Kevin Wright. My last name is spelled F-A-L-K. Mr. Wright spells his last name W-R-I-G-H-T.

THE COURT: All right. And before you begin do you know who is going to be getting him on from where he is right now? Is he at Wellpath?

MR. FALK: Deb, do you know?

THE COURT: I have a few names to choose from. Would it be Victoria Hauth, Russ Barlow, or Jacqueline

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1 Dye?

2 MR. FALK: I can call there; I don't know.

3 THE COURT: That's okay. I'm just going to make
4 all these people on so we'll figure it out; no problem.

5 MS. SHUPE: I don't know, Your Honor.

6 THE COURT: Okay.

7 MS. SHUPE: We -- they don't have to be here and so
8 the attorney on the other side usually arranges that.

9 THE COURT: Yes. Mr. Falk, do you know if there
10 are arrangements made to have him present?

11 MR. FALK: Then I dropped the ball. I thought --
12 no, I haven't.

13 THE COURT: Okay.

14 MR. FALK: I think I could find out.

15 THE COURT: Well, do you waive or do you know if
16 your client waives his presence for today's hearing?

17 MR. FALK: Let me just see if I can...

18 MS. SHUPE: We can try to reach the people at
19 Wellpath, Your Honor, and see if we can get him quickly
20 taken to the room they have set up for this.

21 THE COURT: That'd be fine. That will be fine.
22 I'll hold on for a minute. I don't have another hearing
23 after this so I'm not in a huge rush today.

24 [Off the record momentarily]

25 MS. SHUPE: Just as an update for everyone we have

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1 contacted Wellpath and we are trying. It worked out
2 right to be where he can be called regarding the hearing.
3 So, I don't know, hopefully that won't take long but I'll
4 keep you updated as we have more information.

5 THE COURT: Okay. I'll just be on standby.

6 [Off the record momentarily]

7 MR. FALK: Judge, Jim Falk. How well are you
8 receiving a video signal? Is it freezing up?

9 THE COURT: Not really. I think we're doing okay.

10 MR. FALK: We've had Wi-Fi problems here all day,
11 all morning. If it becomes a problem I'm two blocks away
12 from your office if I could walk down there with my
13 expert.

14 THE COURT: Sure. We'll make an arrangement.
15 We'll make something happen.

16 MR. FALK: Okay. You know what I'm saying is if it
17 might be easier.

18 THE COURT: We'll figure it out. We will do the
19 best we can. I mean if you -- so far so good so
20 hopefully that will continue.

21 MR. FALK: I was not having my expert, my witness
22 testify so if it becomes a problem we'll go forward and
23 I'll waive his appearance.

24 THE COURT: Okay. We can wait on him a couple of
25 minutes. We haven't given him too much time yet.

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1 [Off the record momentarily]

2 MS. SHUPE: Your Honor, I just have one update.
3 Our office did advise Wellpath on Wednesday about the
4 hearing being this morning at 10 AM so it may have fallen
5 through the cracks there. But we did what we were
6 supposed to do.

7 THE COURT: That's fine. Thanks for the update.

8 MS. SHUPE: We are in communication with them, Your
9 Honor and hopefully we'll get him here soon.

10 [Off the record momentarily]

11 THE COURT: All right. We have a new panelist
12 joining. I'm not sure if it's somebody from Wellpath or
13 not; it's hard for me to tell on my end. But if it is
14 they can unmute and start video.

15 MS. SHUPE: Are you looking at Jacqueline Dye, Your
16 Honor?

17 THE COURT: I see several. I see Jacqueline but
18 Marie Higgins most recently joined us. I don't know if
19 that's anybody from Wellpath ---

20 MS. SHUPE: --- that's our victim's advocate.

21 THE COURT: Oh, okay.

22 UNIDENTIFIED SPEAKER: Just to clarify for the Court
23 Doctor Dye and Doctor Hauth they are postdoctoral fellows
24 in the South Carolina Department of Mental Health and
25 they are observing the testimony today as part of their

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1 training.

2 THE COURT: Thank you. That's fine. So ---

3 MS. SHUPE: --- Your Honor, Russ Barlow is our law
4 clerk.

5 THE COURT: Okay. It's all fine. I'm happy for
6 everybody to be here. I'm just wishfully hoping somebody
7 was with the Wellpath person but not quite yet.

8 [Off the record momentarily]

9 MS. SHUPE: Mr. Wright is being brought around now
10 so he should be here in just a few minutes.

11 MR. FALK: Thank you.

12 [Off the record momentarily]

13 THE COURT: Ms. Shupe, do you know if the
14 solicitors if all the victims you know were notified
15 about the rescheduling? I know we had quite a few more
16 people on here Tuesday; specifically the victim's
17 advocate from the Ninth Circuit Solicitor's office I know
18 joined us Tuesday because she spoke up at one point. Do
19 you know if they were all notified?

20 MS. SHUPE: Yes, Your Honor. They were notified,
21 specifically the lady from the victim -- the victim's
22 advocate in the Solicitor's office, she emailed us later
23 and said that she had to be somewhere else so she would
24 not be able to attend.

25 THE COURT: Okay.

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1 MS. SHUPE: I don't know if Jack -- I see
2 Jacqueline Dye. I don't know if that possibly is someone
3 from the Solicitor's office.

4 THE COURT: It might be. I just know that Ms.
5 Purcell [phonetic] spoke up.

6 MS. SHUPE: Well, they were all notified, Your
7 Honor.

8 THE COURT: Okay. Perfect. That's all I need to
9 know. Thank you.

10 [Off the record momentarily]

11 THE COURT: Can you provide updates from Wellpath?

12 MS. SHUPE: All we know is the last thing we heard
13 they were getting him and they were bringing him where he
14 needed to be. I imagine they're doing it as quickly as
15 possible but that's a big place.

16 THE COURT: It is. It's fine. And I guess I know
17 they have the link and all that so we'll wait.

18 MS. SHUPE: They've been instructed if they can't
19 get on the link we told them how to go through the
20 Judicial Department website so...

21 THE COURT: Okay, perfect. Thank you.

22 MS. SHUPE: You're welcome.

23 [Off the record momentarily]

24 MR. FALK: Your Honor, Mr. Wright will get there
25 when he gets there but I'm okay to start.

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1 THE COURT: Well, I'm not trying to purposefully
2 delay this obviously any further than ---

3 MR. FALK: --- no, I understand. I'm just ---

4 THE COURT: --- we need to ---

5 MR. FALK: --- I feel like I dropped the ball here
6 so I'm just...

7 THE COURT: Well, I'm probably more comfortable
8 waiting on him.

9 MR. FALK: Okay.

10 THE COURT: Having not heard anything else from
11 Wellpath -- if we hear from them that they are having a
12 problem then we will reassess.

13 MR. FALK: Okay.

14 MS. SHUPE: Your Honor, according to Wellpath it's
15 not a problem; they're just -- we've just got someone to
16 go and make sure they've got him and they're bringing him
17 down to the room. So, they're working on it. Hopefully
18 he will be here very shortly.

19 [Off the record momentarily]

20 MS. SHUPE: Your Honor, I understand they are
21 logging in now.

22 THE COURT: Great. I'll be watching the screen to
23 bring them over.

24 [Off the record momentarily]

25 THE COURT: All right. It looks like we have

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1 Marquita Millhouse who hopefully is from Wellpath joining
2 us. If you can hear me please unmute at the bottom and
3 start video. Thank you.

4 MS. MILLHOUSE: Are we on now?

5 THE COURT: Yes, you're on.

6 MS. MILLHOUSE: All right. We'll get Mr. Wright in
7 here.

8 THE COURT: Thank you.

9 MS. MILLHOUSE: Thank you for your patience.

10 THE COURT: Thank you.

11 [Whereupon, Mr. Wright joins the hearing]

12 THE COURT: All right. Mr. Wright, welcome. We
13 are here along with the representative from the Attorney
14 General's office as well as your attorney, Mr. Falk. We
15 have a few more witnesses joining us; those are all the
16 people you see at the bottom of that screen.

17 If you click back and forth on those arrows you'll
18 see even more people; some of which are just joining us
19 just to listen in. My name is Judge McCoy. I'll be
20 presiding over this hearing this morning, Mr. Wright.
21 And I'm going to allow Mr. Falk to begin. This is --
22 he's -- we're here on his motion. Go ahead, Mr. Falk.

23 I will remind everybody once again to please mute
24 yourself when you are not speaking and that will greatly
25 help our court reporter as she endeavors to take down

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1 everything we are saying. With that Mr. Falk, I'll turn
2 it over to you.

3 MR. FALK: Again, Your Honor, I'm just reiterating
4 the fact that the only -- what we're trying to accomplish
5 here today is to establish probable cause that Mr.
6 Wright's situation or condition has changed. We're not
7 trying to say he is ready for release. That would be a
8 question for a jury. We're just trying to establish
9 probable cause. And therefore I would like to call
10 Selman Watson as my first witness.

11 THE COURT: All right. And is Mr. Watson there
12 with you Mr. Falk?

13 MR. FALK: He is. And so I think it's probably
14 better if y'all see him and you won't see me if that's
15 okay ---

16 THE COURT: --- that's okay; y'all can switch seats
17 or turn your computer around or whatever is best for you
18 as long as I can still hear you.

19 MR. FALK: Yes.

20 THE COURT: All right. Doctor Watson, once you
21 have a seat I'll swear you in.

22 [Whereupon, Doctor Watson is seated]

23 THE COURT: Please sir, raise your right hand.

24 [Whereupon, the witness complies]

25 [Whereupon, the witness is duly sworn by the Court]

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1 THE COURT: Thank you so much. Please lower your
2 hand and state your full name for the record and spell
3 your last.

4 THE WITNESS: My full name is Edwin Selman Watson;
5 last name is spelled W-A-T-S-O-N.

6 THE COURT: Mr. Falk, please proceed.

7 MR. FALK: Yes.

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Probable Cause Motion-Dr. Selman Watson-Direct Examination by Mr. Falk
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1 DR. SELMAN WATSON,
2 Having been first duly sworn,
3 Was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MR. FALK:
6 Q. Dr. Watson, could you please tell me where you are
7 currently working?
8 A. Currently I've got a full-time forensic practice in
9 Columbia, South Carolina.
10 Q. And what academic qualifications do you have that
11 allow you to do that?
12 A. I've got a Ph.D. in clinical psychology from the
13 University of South Carolina and I've collected over 500
14 hours of forensic training through the American Academy
15 of Forensic Psychology.
16 Q. Have you had any work specifically with sexually
17 violent predators?
18 A. Yes. I was the acting director of the SVP unit from
19 January of '03 to January of '07 for the Department of
20 Mental Health.
21 Q. And as acting Director of the Sexually Violent
22 Predator program what were those responsibilities?
23 A. I had a lot of administrative responsibilities but I
24 also provided a lot of treatment. If we had case
25 managers that could not run the groups I would fill in

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1 for them. So I was on the unit everyday for practically
2 four years.

3 Q. Do you have any responsibility for evaluations
4 whether or not they were initial commitments or annual
5 reviews?

6 A. I did most of the annual reviews yes, David
7 Strombaugh [phonetic] and myself and Westie Westmoreland
8 [phonetic] would travel to various counties doing the
9 annual reviews for the residents on the unit.

10 Q. But you have experience both in treatment and in
11 evaluation of sexually violent predators, is that
12 correct?

13 A. That's correct. That's correct.

14 MR. FALK: Your Honor, at this time I would move to
15 admit Doctor Watson as an expert in forensic psychology
16 and in the sexually violent predator evaluations.

17 THE COURT: Any objection from the State to him
18 being qualified as such?

19 MS. SHUPE: [No response]

20 THE COURT: I can't hear you.

21 MS. SHUPE: I'm sorry. No objection, Your Honor.

22 THE COURT: All right. Without objection he will
23 be admitted as an expert in the field of forensic
24 psychology and in sexually violent predator evaluations.
25 You can proceed, Mr. Falk.

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1 MR. FALK: Thank you.

2 Q. [Mr. Falk] Doctor Watson, can you sort of tell me
3 what type of contact you've had with Kevin Wright?

4 A. I've had around seven or eight hours of contact with
5 Mr. Wright. It was all in person out at the Wellness
6 [sic] clinic, the Wellpath clinic out there on Broad
7 River Road. I probably spoke with him for maybe five or
8 six hours.

9 He also responded to a couple of psychological
10 tests. We went through his sex offender history and
11 other various aspects of his background including his
12 mental health history, legal history; things such as
13 that.

14 We also spent a good bit of time talking about his
15 progress in the program, what level he was on, what kinds
16 of exercises were included in each of those levels. And
17 in addition I reviewed all of the group notes that were
18 sent to me in June of this year.

19 So, I wasn't able to talk to any case managers. I
20 didn't see any annual treatment summaries but I did
21 review all of the notes that were sent to me about three
22 months ago.

23 Q. And so you said you met with him. Was your first
24 meeting sometime around July of 2018?

25 A. Yes.

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1 Q. And in your report that you provided me you show
2 that you met with him for two and half hours on July 5th
3 and then again for two hours on July 6th in 2018.

4 You met with him again on June 14th of 2019 for an
5 hour and a half and then finally on February 5th, 2020,
6 excuse me, for 1.5 hours, is that correct?

7 A. That's correct, yes.

8 Q. Okay. So your opinion is based on both your review
9 of Kevin Wright over a period really of two years in
10 addition to your review of his work, is that correct?

11 A. That's correct.

12 Q. And based on your review have you reached an opinion
13 whether or not he still meets the criteria for whether
14 his situation has changed to the point where he is no
15 longer a sexually violent predator meaning he poses no
16 risk to be released?

17 A. Yes. I think his situation has changed to where he
18 is not likely to reoffend if he is released.

19 Q. Now when I was reviewing your report you noted that
20 not all of the doctors who evaluated him even initially
21 thought he needed to be in the program, is that correct?

22 A. That's correct.

23 Q. Specifically which doctor?

24 A. Doctor Gehle felt as if he was inappropriately
25 admitted and my opinion pretty much is in line with hers.

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1 Q. Now, you've had an opportunity to review all the
2 annual evaluations that were provided and all the initial
3 evaluations, is that correct?

4 A. That's correct.

5 Q. Did you find anything on Doctor Knight's evaluation
6 regarding whether or not she diagnosed him as an Axis II,
7 what would you say? Has he had any characteristics of a
8 borderline ---

9 A. --- personality features?

10 Q. Yes?

11 A. No, she did not give him an Axis II diagnosis. My
12 impression of Kevin Wright is that he had very little
13 anti-social propensity. So anti-social propensity and
14 sexual deviance are the drivers for sexual offending. He
15 has very little anti-social propensity.

16 Q. Okay. Can you just go through -- there are four
17 Axes, is that correct?

18 A. That's correct.

19 Q. And so Axis I is?

20 A. Axis I is major mental illness of bi-polar disease,
21 schizophrenia, major depression; Axis II is reserved for
22 personality disorders, Axis III tends to be medical
23 conditions; Axis IV is generally defined as stressors;
24 and Axis V is a global assessment of functioning number
25 to describe exactly how highly they are functioning at

1 the time that you do the evaluation. That's the DSM 4
2 and no one collects that; and DSM 5 has gotten rid of the
3 Axes.

4 Q. Okay. So we're concerned about whether or not he
5 has a mental abnormality or personality defect, is that
6 correct?

7 A. Well, I don't see any personality features within
8 the ---

9 Q. --- I mean in reaching a conclusion whether or not
10 somebody meets the definition of a sexually violent
11 predator or whether or not their situation has changed
12 that they no longer meet that definition we're looking at
13 whether or not they have a mental abnormality or
14 personality defect, is that correct?

15 A. Yes. But he does have pedophilia. I mean I would
16 give him the diagnosis of pedophilia.

17 Q. Right. Now, is -- all right, I'll come back around
18 to that.

19 Now did you have an opportunity to perform -- part
20 of the diagnosis -- part of the system here is to look at
21 both whether or not they have a mental disease and
22 whether or not there are risks to reoffend, is that
23 correct?

24 A. That's correct.

25 Q. Okay. And so part of your opinion is based on an

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1 assessment of this personality defect, is that correct?

2 A. That's correct.

3 Q. And what is the standard instrument that is used in
4 your profession that measures a risk to reoffend?

5 A. Usually the Static 99R--

6 THE COURT REPORTER: I'm sorry Doctor, what was the
7 name of that again? Your last answer; would you repeat
8 it again, please?

9 THE WITNESS: Static 99-R.

10 THE COURT REPORTER: Thank you.

11 MR. FALK: That's a capital R.

12 THE COURT: You can continue, Mr. Falk. Go ahead.

13 Q. [Mr. Falk] Okay. Go ahead. All right. You said
14 you did the Static -- it's the Static 99R, is that
15 correct?

16 A. The Static 99R, that's correct.

17 Q. And did you have an opportunity to look at whether
18 to score Mr. Wright on the Static 99R?

19 A. I did.

20 Q. And can you tell me what, how you scored him?

21 A. I gave him a score of three assuming that none of
22 his victims involved strangers.

23 Q. Okay.

24 A. That's the same score that Doctor Gehle gave him and
25 it's also the same score that Doctor Swan gave him.

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1 Q. Okay. Now, what kind of -- this is a measure of
2 risk to reoffend. How do you translate a score of three
3 on the Static 99R to a risk to reoffend?

4 A. That's an average risk to reoffend.

5 Q. Okay. Do you have any information about what the
6 relative risk to reoffend is as compared to other?

7 A. I would have to look in the chart but there is like
8 91 -- nine to ten percent chance that he might reoffend
9 within five years.

10 Q. Okay. Now the static factors are basically factors
11 that should not change, is that correct?

12 A. Those are historical factors, yes.

13 Q. Okay. So why don't you explain since you already
14 said you thought he had a diagnosis of pedophilia could
15 you please explain why you think he no longer or why you
16 think the situation has changed?

17 A. Well, he's had seven years of treatment.

18 Q. Okay.

19 A. I think he's learned a lot in the program. He has a
20 few dynamic risk factors but he doesn't have the full
21 slate of 13 factors. He harbors no hostility towards
22 women. He's got reasonable problem solving skills.

23 He does have emotional congruence with children;
24 that would be a risk factor. But I think he has changed
25 to such an extent he would probably be safe to be at

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1 large at this point in time.

2 Q. Has he indicated to you any plans that he would have
3 if he were released?

4 A. He mentioned to me that he would like to live at
5 Shields Ministries. It's my understanding now that
6 Shields might not be accepting sex offenders as
7 residents.

8 I think he also has a family member that he might be
9 able to live with. His interest is in continuing his
10 treatment on an out-patient basis with Doctor Bill Burke.
11 I think that's a good plan on his part.

12 I would hope that Mr. Wright would be able to find a
13 mental or an accountability partner that would be
14 available to him if he were to have any change in his
15 dynamic risk factors.

16 If he would find himself in some difficult
17 situations it would be a person he could go to and talk
18 about those issues.

19 It's also my understanding that he has a lifetime
20 GPS monitoring. So that would also be a good way to
21 manage his behavior in the community.

22 Q. Doctor Watson, I'm looking at page 9 of your report
23 and I'm just going to read to you some of the -- do you
24 have your report with you?

25 A. Yes. Just let me...

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1 [Whereupon, the witness reviews document]

2 A. Yes, sir.

3 Q. On page 9 you sort of did a summary of your clinical
4 impression of his treatment, is that correct?

5 A. I did.

6 Q. What is the significance of the statement that you
7 said that Kevin Wright participates in activities on a
8 regular basis on the unit. He interacts with other
9 members of the group with response to inquiries -- why
10 was that to a point that you thought that was worth
11 noting as the clinical impression?

12 A. Well, a lot of SVP's in the unit do not participate.
13 They refuse to participate. So it seemed to me as if
14 he's shown some active participation.

15 He's gone to all of his groups. He interacts with
16 group members and he's done this I think consistently for
17 the last six or seven years.

18 Q. And there was a period of time for about five years
19 that you were overseeing the treatment, is that not
20 correct?

21 A. Back in January of '03 to January of '07, yes.

22 Q. Okay. And you found that active participation in
23 the group was -- I mean you had firsthand opinion that
24 active participation in the groups are positive as far as
25 showing a change.

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1 A. It's a way to move forward, yes.

2 Q. Okay. So some of your other impressions as we're
3 going down here just to summarize you said that he
4 consistently described or benefitted from the group --
5 that's your number five?

6 A. That's correct.

7 Q. Can you look at your number six?

8 [Whereupon, the witness reviews document]

9 Q. Can you read what that factor was?

10 A. Number six, he's missed no group meetings nor has he
11 refused an assignment.

12 When I met with Mr. Wright he brought me a huge
13 binder full of homework assignments, articles, scales
14 that he submitted, coping log -- so I was able to review
15 a lot of the work that he's done in the program.

16 Q. So that review of the work is not just recently;
17 that's work over his whole time at the program, correct?

18 A. That's correct. Yes, that's correct.

19 Q. Can you just -- well, pointing to an impression
20 based on an observation June 12th, 2018 why did you write
21 down that he was calm and engaged in the process?

22 A. What page is that?

23 Q. On page five --

24 [Whereupon, the witness reviews document]

25 A. This is the comment of the leader of the group

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1 talking about his behavior.

2 Q. Okay.

3 A. So that's a remark that was made in his group notes
4 describing his participation and behavior in the group.

5 Q. You were able to in reaching your opinion you were
6 able to evaluate feedback from his case manager in the
7 group provided in addition to his own.

8 A. That's correct.

9 Q. And do you have an understanding of what a coping
10 log is?

11 A. Yes. I think the coping log talks about being able
12 to cope with different kinds of stressors. And he
13 submitted a number of different coping logs that he would
14 use.

15 So he had homework assignments, he had things to
16 complete for the program and he seems as if he applied
17 himself and tried to get that work done.

18 Q. What do you see as --

19 THE COURT REPORTER: I'm sorry, Mr. Falk. Could
20 you repeat your last question? You were breaking up a
21 bit.

22 Q. [Mr. Falk] I just asked Doctor Watson what possible
23 stressors he may have if he were released. Does he have
24 family support here?

25 A. He does have family support, yes, he's got a mother

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1 and a father.

2 Q. And is it your understanding that they interact with
3 him and they support him?

4 A. It's my understanding they are both in touch with
5 him yes and they do support him.

6 Q. Okay. And you said that he's making plans for
7 someplace to live? He could live with one of his
8 parents, is that correct?

9 A. He is making plans. Again, he's wanting to go to
10 Shields Ministry but I think his ultimate plan is to live
11 with a family member.

12 Q. Okay. All right. Is there anything else -- you had
13 indicated that he still suffers from pedophilia and that
14 diagnosis has not changed, is that correct?

15 A. That's correct.

16 Q. So why if he has that diagnosis would he be safe to
17 be released?

18 A. Because he's learning skills to manage that
19 behavior. That's what the program is all about is
20 teaching skills so you can manage that behavior in the
21 community.

22 If he were to continue in an outpatient group he
23 would learn additional skills in terms of managing that
24 kind of sexual behavior.

25 Q. But some of the skills would be to identify what the

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1 triggers are?

2 A. Identifying the triggers, examining some cognitive
3 distortions, developing relapse prevention skills,
4 developing skills in terms of being able to tolerate the
5 stress and things such as that.

6 Q. Cognitive distortions, did he have cognitive
7 distortions you think when he entered the program?

8 A. Absolutely, yes.

9 Q. And what were those?

10 A. He thought the children would enjoy the sexual
11 activity. He apparently was abused himself at a rather
12 young age and I think he found that abuse to be sort of
13 stimulating, exhilarating.

14 So he thought that these children would also be
15 similarly exhilarated by that kind of activity. He had a
16 number of cognitive distortions, yes.

17 Q. How have -- how do you know that some of those
18 cognitive distortions checked -- what does he now say
19 about his victim?

20 A. He feels shameful. He feels sorry that he engaged
21 in that kind of behavior. He's much more empathetic now
22 than he was when he entered the program.

23 He's shifted role prospective and put himself in the
24 victim's position and try to understand their reaction to
25 his behavior; understand their fears and such --

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1 Q. And so it's your opinion that you can say with a
2 reasonable degree of psychological certainty that Kevin
3 Wright's situation has so changed that he is now safe to
4 be released?

5 A. That's my opinion, yes.

6 MR. FALK: Your Honor, I have no further questions.

7 THE COURT: All right. Ms. Shupe, I'll allow you
8 to cross now. Mr. Falk, if you could just -- well,
9 actually you'll have to leave your microphone on. Thank
10 you. Go ahead, Ms. Shupe.

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CROSS-EXAMINATION

BY MS. SHUPE:

Q. Good morning, Doctor Watson. It's been a long time; good to see you.

A. Good to see you, Ms. Shupe.

Q. You mentioned that you served as the Director of the Sexually Violent Treatment program for four years, is that correct?

A. I was actually the acting Director of the program at the time.

Q. And you and I interacted a great deal while you were there, didn't we?

A. We did. You were very helpful to me.

Q. But you left that job on bad terms with DMH didn't you?

A. No ma'am, I didn't leave on bad terms. I think they were going to make a change at the top because of my contact with the AG's office and pointing out some deficiencies in the program. And I think that probably aggravated the administration.

Q. So it wasn't on good terms, is that correct?

A. I left ---

Q. --- they thought you were ---

A. --- I left -- I left DMH after 28 years of service. I went into a full time forensic practice. I've never

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1 been written up by DMH for any kind of poor conduct.
2 There were lots of problems in the program when I left in
3 terms of competency of the staff.

4 And when I walked out Nick Debase [phonetic], the
5 clinical director, walked out with me. So we both left
6 at the same time.

7 Q. Okay. We'll move on. Now, you were retained by Mr.
8 Falk to perform a comprehensive mental evaluation to
9 determine if Mr. Wright's mental abnormality or
10 personality disorder had so changed he was not likely to
11 commit future acts of sexual violence, correct?

12 A. Correct.

13 [Off the record momentarily due to technical
14 difficulties]

15 Q. [Ms. Shupe] Now, you did issue a report based on
16 that evaluation, correct?

17 A. That's correct.

18 Q. And you submitted that report to Mr. Falk on August
19 the 20th, 2020; is that correct?

20 A. I don't know the exact date but that sounds correct.

21 Q. And do you have your report in front of you, Doctor
22 Watson?

23 A. I do.

24 Q. Okay. Your report states that you reviewed, and I
25 want to make sure we're talking about the same documents,

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1 okay, so I'm not trying to be petty; I just really want
2 to make sure we're on the same page.

3 You stated you reviewed Doctor Gehle's annual review
4 report. But that was actually a pre-commitment
5 evaluation report, isn't that correct?

6 A. That was his civil commitment, yes.

7 Q. And your report lists Doctor Knight's annual review
8 report but that was also a pre-commitment evaluation,
9 correct?

10 A. That's correct.

11 Q. And Doctor Donna Maddox's annual review report you
12 have a two beside it. Did you review both of those
13 reports?

14 A. I reviewed one report from Doctor Maddox.

15 Q. Okay. So only one?

16 A. Yes.

17 Q. Okay. You ---

18 A. --- only one was made available to me.

19 Q. Okay. You reviewed Doctor Swan's annual review
20 report, correct?

21 A. I did, yes.

22 Q. And you reviewed Doctor Tross's annual review
23 report, is that correct?

24 A. That's correct ---

25 Q. --- Doctor Tross. Okay, did you review one report

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1 by Doctor Tross or two reports by Doctor Tross?

2 A. I'd have to look at the file. I know I read at
3 least one report and maybe two reports by her.

4 Q. Okay. And did you thoroughly and carefully review
5 all of those documents?

6 A. I read every document page to page, yes.

7 Q. All right. But your report does not indicate that
8 you reviewed Doctor Washelesky's annual review report,
9 which covered the 2018-2019 review period or Doctor
10 Gillen's ---

11 A. --- it was...

12 Q. Go ahead; I'm sorry.

13 A. It was not made available to me. I'm sorry; the
14 first name you mentioned was not made available to me and
15 I did not get Doctor Gillen's report until maybe two
16 weeks ago; two or three weeks ago.

17 Q. Okay. So you did not have Doctor Washelesky's
18 report and you just had the opportunity to review Doctor
19 Gillen's report, correct?

20 A. Recently yes, within the last two weeks.

21 Q. All right. Your report also states that you
22 reviewed treatment plans, homework assignments, handouts,
23 and SVP program material, correct?

24 A. Correct.

25 Q. Isn't it true that Mr. Wright provided that

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1 information to you?

2 A. Mr. Wright provided me a full binder of his work in
3 the program and then I got the notes, the group notes in
4 June of this year.

5 So I was not able to sit down and read those group
6 notes and go over those notes with him given the
7 pandemic. I didn't get the notes until June.

8 Q. In addition to the pre-commitment annual review
9 reports there is documentation relating to Mr. Wright's
10 offenses such as the State's petition, indictments,
11 warrants, and victim statements.

12 Did you -- but your report does not indicate you
13 reviewed those. Did you review those documents?

14 A. They were not made available to me. They were not
15 made available to me.

16 Q. All right. You interviewed Mr. Watson [sic] on four
17 occasions with the most recent being February 5th, 2020
18 correct?

19 A. That's correct.

20 Q. Had you ever met Mr. Wright prior to beginning this
21 evaluation on him?

22 A. I think I saw Mr. Wright when he was in Corrections
23 and I think they were looking for some I.Q. scores on
24 him. And so I might have done a brief psychological with
25 him at Gilliam Psychiatric Hospital while he was an

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1 inmate at Corrections.

2 Q. Okay. But that's not reflected in your report is
3 it?

4 A. I wouldn't need that to do my work, no. That's in
5 SCDC material that I left in a file cabinet at Gilliam
6 Psychiatric Hospital. I was aware of what his scores
7 were.

8 Q. Okay. Well, let's talk about some of what's in that
9 report. You found that Mr. Wright has a high average
10 intelligence with a full scale I.Q. of 112, is that
11 correct?

12 A. That was his WASI score at the time I gave him a
13 test, yes.

14 Q. Now, what personality measure did you use in that
15 evaluation?

16 A. Personality was not an issue in that evaluation.
17 They were looking for some intelligence quotients.

18 Q. All right. But you stated in that document that a
19 personality measure indicated a strong underreporting of
20 symptoms and concerns and a tendency to present himself
21 in an overly positive light. Is that correct?

22 A. Well, I don't have the report with me; I don't have
23 that file with me. He must have taken a BAI or a
24 personality assessment measure. If he did he faked good
25 on the test, tried to portray himself in an overly

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1 favorable light if that's the comment on the report.

2 Q. Well, you previously testified that you thoroughly
3 reviewed Doctor Knight's evaluation and Doctor Swan's
4 evaluation, correct?

5 A. I read both documents, yes.

6 Q. And both of those documents specifically refer to
7 the evaluation you did in 2011. Did you see that, Doctor
8 Watson?

9 A. I'd have to review those documents again. They may
10 have. Yes, I know at least one of them did.

11 Q. And given your findings in 2011 that Mr. Wright
12 essentially minimizes his symptoms and concerns and tends
13 to present himself in an overly positive light, which you
14 just confirmed, isn't that exactly what Mr. Wright did
15 during his interviews with you and all his treatment
16 assignments?

17 A. No. I thought he had a genuine interaction.

18 Q. Now, you've indicated in your report you believe the
19 evaluations of Mr. Wright are biased, is that correct?

20 A. I think there is a tendency to support the program
21 and so yes, I think there is some bias at times in the
22 evaluations of these residents, yes.

23 Q. But, now you said you have had an opportunity to
24 review Mr. Wright's most recent annual review by Doctor
25 Gillen, correct?

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1 A. I read Doctor Gillen's report, yes.

2 Q. And in there doesn't he acknowledge certain areas
3 that Mr. Wright has learned and improved on in certain
4 areas such as learned some strategies to regulate and
5 control his emotions and behavior?

6 A. He's the first evaluation ---

7 Q. --- you have that ---

8 A. --- he's the first evaluation in the program where
9 he has pointed out some gains that our residents made.
10 Most of the others were very negative in terms of what
11 progress they made.

12 Q. I understand that's your perception of them Doctor
13 Watson. He also said that Mr. Wright had made progress
14 developing insights into the role several dynamic risk
15 factors played in his opinion, is that correct?

16 A. He gave him credit for having made some progress,
17 yes.

18 Q. So, the bottom line is Doctor Gillen gave, and again
19 we can disagree on the things that were said in previous
20 reports but it's clear that Doctor Gillen actually does
21 note progress that Mr. Wright has made, is that correct?

22 A. He does. He does. The only thing I would fault is
23 if he didn't look at the material that Mr. Wright had
24 available to show what kinds of assignments he completed
25 and how much progress he had made.

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1 Q. Well, how do you know he didn't do that, Doctor
2 Watson?

3 A. It's not in his report. It's not listed as a source
4 of information.

5 Q. Since it's not in his report he didn't review it,
6 correct?

7 A. I'm assuming ---

8 Q. --- that's -- okay ---

9 A. --- I'm assuming since it's not a source he didn't
10 review it, no.

11 Q. Okay. You said you reviewed multiple years. So if
12 it's not in your report you didn't -- since it's not in
13 your report you didn't review it, correct?

14 A. If it's not listed as a source I wasn't able to
15 review it, no.

16 Q. But you did say that you reviewed some notes from --
17 with regard to Mr. Wright.

18 A. I couldn't hear your question.

19 THE COURT REPORTER: I couldn't either.

20 Q. [Ms. Shupe] I'm sorry; is this better?

21 A. It's better.

22 Q. You also said that you reviewed treatment notes from
23 Mr. Wright's time at the treatment program, is that
24 correct?

25 A. I reviewed the group therapy notes only. I didn't

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1 review any case manager notes or any other comments staff
2 might have made about his participation.

3 Q. Did you ever attempt to reach out to any of the
4 treatment providers to get their impressions?

5 A. I was never given permission in the past to do that
6 and I'm not asking now. I felt like I had no opportunity
7 to talk to case managers out there.

8 Q. But you did not ask, is that correct?

9 A. I've asked at previous times and was told that I
10 could not do that.

11 Q. Did you ask our office if we could facilitate it?

12 A. No ma'am, I didn't.

13 Q. Now you go through and out of all of multiple years
14 of notes that you reviewed you picked out 16 of those
15 notes that you say indicate he's made so much progress,
16 is that correct?

17 A. I've only looked at the last three years of notes.
18 They didn't send me any notes prior to 2018.

19 Q. Excuse me a second.

20 [Whereupon, Ms. Shupe reviews documents]

21 Q. Okay. So you've had them for the past three years,
22 correct?

23 A. No, ma'am. I just got the notes in June of this
24 year.

25 Q. I mean ---

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1 A. --- I just got the notes ---

2 Q. --- I mean you've had those ---

3 A. --- in June of 2000 ---

4 Q. --- you got three years of notes to review, correct?

5 A. I didn't get all of 2020 notes. I got most of the
6 notes for 2018, 2019 and those were the only ones they
7 sent me.

8 Q. So you had the treatment notes from 2019, correct?

9 A. As of June of this year. I did not have these notes
10 when I was meeting with Mr. Wright.

11 Q. But you had them at the time that you prepared your
12 report?

13 A. Certainly. Certainly.

14 Q. All right. Now, your report does not mention an
15 October 19th outburst in the group session where he was
16 challenging the very existence of pedophilia and claiming
17 none of his actions were pedophilia. You don't mention
18 that do you?

19 A. I didn't mention it but if I'd had the notes when I
20 was interviewing Mr. Wright I would have questioned him
21 about that remark.

22 Q. Well you had the ---

23 A. --- I have not -- with Covid-19 I've had no
24 opportunity to get back out there and talk about any
25 entries that might have concern.

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1 Q. But you had the 2019 treatment notes, correct?

2 A. I saw that in the notes, yes.

3 Q. And you had those notes -- did you have those notes
4 before you interviewed Mr. Wright on the 5th of February?

5 A. Ms. Shupe, I didn't ---

6 Q. --- 2020?

7 A. I didn't get the notes until June of this year, June
8 of 2020. I did not have those notes available to me.

9 Q. So you made an entire evaluation and reached certain
10 conclusions when you didn't have all of the documents
11 that you think you need, didn't you?

12 A. I would have liked to have as many documents as
13 possible. But again, I just got the group notes June of
14 this year. I've had no opportunity to question Mr.
15 Wright about any of the entries in those notes.

16 Q. But you have read the annual review reports,
17 correct?

18 A. I couldn't understand you.

19 Q. You have read the annual review reports, correct?

20 A. The ones that were given to me, yes.

21 Q. Okay. And did you note, notice in some, in at least
22 one of those and possibly two and then Doctor Gillen's so
23 maybe three of those annual review reports they indicated
24 that Mr. Wright --

25 [Whereupon, there were technical issues with Ms.

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1 Shupe's video]

2 MR. FALK: It looks like our screen is frozen.

3 THE COURT: Ms Shupe, if you could -- yes, you just
4 froze up on us. I see a little triangle indicating she's
5 got a low bandwidth where she is. So let's see if we can
6 get her back on.

7 Ms. Shupe, if you can hear me you might want to log
8 off and try to log back on; that might help, and we'll
9 continue.

10 [Off the record momentarily with technical issues]

11 THE COURT: We could hear you for just a moment or
12 hear somebody.

13 MS. SHUPE: Your Honor, what we were using went off
14 for awhile. We've got it back on.

15 THE COURT: I can hear you fine but I just can't
16 see you.

17 MS. SHUPE: I am going to log out, Your Honor, and
18 log back in and see if that will help.

19 THE COURT: Okay. It probably will. Sounds good.

20 MS. SHUPE: Okay. Be back in just a few minutes.

21 [Off the record momentarily]

22 THE COURT: I can see you now. I can see and hear
23 you.

24 MS. SHUPE: Oh, okay.

25 THE COURT: You might not, you might be good to go.

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1 Sometimes other people on your network might be pulling
2 bandwidth; who knows. But anyway please continue.

3 MS. SHUPE: We have a hot spot that supposedly is
4 our bandwidth so, and that just turned off, Your Honor.
5 But we've got it back on. Can everyone hear me? Can the
6 court reporter hear me okay?

7 THE COURT REPORTER: Yes, I can now.

8 Q. [Ms. Shupe] Okay. Let me try and figure out where
9 we were, Doctor Watson. So you did not -- you don't
10 include anything in your August 2020 report about those
11 treatment notes that you got in June of this year do you?

12 A. No, I've got several entries in my report about what
13 was said in those group notes.

14 Q. Okay. But you don't mention any group notes that
15 were specifically referenced in the most recent annual
16 review which you received two weeks ago about the -- that
17 he can have. So did you fail to include that?

18 A. Again ---

19 Q. --- just -- go ahead.

20 A. I didn't get Doctor Gillen's report until a couple
21 of weeks ago and my report had been issued a month prior
22 to that.

23 Q. Okay. So -- but now in a two and a half year period
24 based on the notes, the dates of the notes that you
25 mentioned in your report you reviewed those treatment

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1 notes over that period of time, correct?

2 A. I reviewed the notes primarily from 2018 through
3 2019 up until early 2020.

4 Q. Okay. And -- so those that you reviewed you've
5 picked out 16 that you believe are positive for Mr.
6 Wright, is that correct?

7 A. I thought the notes were informative, yes; positive
8 and informative.

9 Q. But there were numerous notes throughout that time
10 period that stated he did not -- was not an active
11 participant.

12 He copied work from other residents as his own and
13 he did not engage in group, would not acknowledge --
14 would back down when his offenses were discussed. Did
15 you just ignore all of those, Doctor Watson?

16 A. There were no notes that I reviewed that said that
17 he ever copied anybody else's treatment work.

18 Q. Well, you read the annual review reports correct?

19 A. I've read the reports from Doctor Gillen. But Kevin
20 Wright never indicated to me that he represented his work
21 as actually somebody else's. And I didn't see any group
22 notes that indicated he ever did that.

23 Q. So basically you're going on what Mr. Wright told
24 you about how he's completed his homework assignments and
25 overlooked the references and annual review reports

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1 indicating he had befriended other residents and used
2 their work as his own.

3 Q. Ms. Shupe, he's had four different case managers
4 within the last two years. There would be no way to
5 interview some of these collaterals because they're no
6 longer with the program. I found Mr. Wright to be a
7 fairly reliable reporter based on my contact with him.

8 Q. You would not have needed to talk to those case
9 managers. You could have read the annual reviews
10 couldn't you?

11 A. No. I don't think the annual reviews include that
12 kind of information all the time.

13 Q. Well, yes sir they do. There are at least two of
14 them and maybe three that reference that problem and
15 concern. But you did not think that was important enough
16 to put in your report.

17 A. I don't recall those problems being mentioned in
18 those reports. And I certainly didn't commit them to
19 memory.

20 Q. Okay. Doctor Watson, your report states that Mr.
21 Wright maintained good eye contact which made him appear
22 quote not appear overly deceptive end quote. That's in
23 your report, correct?

24 A. That's under I guess behavioral observations. Yes.

25 Q. Yes. So that indicates that Mr. Wright was

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1 deceptive to a certain degree, is that correct?

2 A. No, ma'am. I didn't see him as being an overly
3 deceptive individual.

4 Q. I understand not overly deceptive. But that
5 indicates there was some deception.

6 A. Again, I wouldn't ---

7 Q. --- someone can be ---

8 A. --- I either form an opinion whether somebody is
9 being deceptive or not being deceptive and I didn't find
10 him to be overly deceptive.

11 Q. And so the word overly you're just saying it didn't
12 matter because you just said he's not deceptive, is that
13 correct?

14 A. I just didn't find him to be a deceptive individual,
15 no.

16 Q. Well, according to your own 2011 evaluation Doctor
17 Watson deception is part of Mr. Wright's personality,
18 isn't it?

19 A. No, ma'am. I don't think deception is part of his
20 personality. I think with any kind of inmate sexual
21 resident they're not going to always tell the truth 100
22 percent of the time.

23 I mean I worked a contract in Corrections so I'm
24 real familiar with inmates being deceptive. But this
25 population does not always tell the truth 100 percent of

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1 the time.

2 Q. Well, but I'm asking you about your 2011 evaluation,
3 Doctor Watson. You found that he had a tendency to
4 essentially minimize his symptoms and concerns and
5 present himself in an overly good way. Those were your
6 findings, Doctor Watson. So ---

7 A. --- can I ---

8 Q. --- do you now say -- go ahead.

9 A. Can I respond to that? He talked about his
10 inadequacies. He talked about his thoughts with these
11 children.

12 He mentioned negative aspects of his functioning.
13 He didn't just try and paint a very glowing picture of
14 himself. He talked about his ---

15 Q. --- where is that in your report? Where is all that
16 mentioned in your report, Doctor Watson?

17 [Whereupon, the witness reviews document]

18 A. Well, I talk about him belonging to a sub-set of
19 offenders on the second recommendation. And I have got
20 lots of ---

21 Q. --- would that be page 12 or page 14, Doctor Watson?
22 That's your findings and recommendations. You said
23 number two. Is that at the top of page 14 of your
24 report?

25 A. Well, I'm just saying that he talked about himself

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1 in a negative way. Victim number six I talk about his
2 reasoning for turning toward children rather than having
3 relationships his adult age.

4 He talked about feeling more accepted as a person
5 under victim number six and could escape negative
6 thoughts by approaching children rather than approaching
7 his similarly aged peers.

8 I can't imagine how many times he mentioned to me
9 about feeling inadequate, worthless when he got rejected
10 by them. The girl who was 16 years of age it happened
11 about a month before his offending in February of 2009.

12 Q. Let's talk about that Doctor Watson. That's what he
13 told you triggered you looking for children to have some
14 intimate relations with.

15 And by that I'm not saying vaginal intercourse I'm
16 saying the type of things that he did. If you reviewed
17 Doctor Knight's report he referenced that he told --
18 well, let me put it this way; I'm sorry.

19 He told you this relationship ended because he
20 walked in on her having sex with his best friend,
21 correct?

22 A. He mentioned to me that he caught her, yes, having
23 sex with his best friend.

24 Q. Okay. And what he told Doctor Knight is different.
25 If you reviewed that report he told her that he had, that

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1 the relationship ended because she moved away.

2 A. I couldn't quite hear you ---

3 Q. --- so that's very different.

4 THE COURT REPORTER: I'm sorry; repeat your
5 question please ---

6 Q. [Ms. Shupe] --- she told Doctor -- is this better?

7 A. It's better, yes.

8 Q. He told Doctor Knight in the pre-commitment stage
9 that the relationship with that girl ended when he was --
10 when she moved away, is that correct?

11 A. Well, he may have. I don't recall that in her
12 report. But, if he did tell her that that would be a
13 discrepancy.

14 Q. And he also told I believe it was Doctor Swan that
15 he had three victims -- three relationships and one of
16 them was when he was in middle school.

17 One of them was a fairly long-term relationship with
18 a peer aged female and it ended when she moved away. The
19 first one ended because he lost interest. The second one
20 ended because he -- she moved away.

21 There was a third one that he was in when he was
22 incarcerated, before he became incarcerated. So none of
23 the relationships that he has revealed to any of these
24 evaluators line up with what he told you. That's only
25 come in later. Is that ---

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1 A. --- he --

2 Q. --- go ahead.

3 A. He mentioned to me sexual activity that started at
4 age six or seven. He mentioned that he was victimized by
5 some people from time to time.

6 But I think the crucial relationship that was
7 important to him was the relationship he had that ended
8 in February of '09.

9 Q. And that's what he reported to you, correct?

10 A. That's what he reported to me, yes.

11 Q. Okay. And would you agree with me if he told Doctor
12 Knight that the relationship ended because the girl moved
13 away that would be what he told you would not be the
14 same, correct?

15 A. That would be discrepant, yes.

16 Q. Okay. Let's go back to these notes that you made
17 about his behavior and said that he received a behavioral
18 write-up for being in possession of a magazine that
19 contained a picture of a child, correct?

20 A. That's what he told me, yes.

21 Q. And isn't it true if you've read the annual review
22 reports that in May 2018 he was written up for possession
23 of six magazines and a news article; all containing
24 pictures of children at various ages.

25 A. Ms. Shupe, I did not have the annual review

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1 summaries. That was not made available to me. All I had
2 were ---

3 Q. --- but you do ---

4 A. --- all I had was the group therapy notes. I had
5 none of those summaries available to me.

6 Q. Did you try to update your report after you received
7 them, Doctor Watson?

8 A. I thought the material would be coming to me in June
9 and the only thing that came to me were the group therapy
10 notes. I didn't have access to any of that other
11 material.

12 Q. You had access to the annual review reports,
13 correct?

14 A. No ma'am, I didn't.

15 Q. You had ---

16 A. --- no ma'am, I didn't ---

17 Q. --- you never got those?

18 A. I didn't have any access to any annual treatment
19 summaries by the staff.

20 Q. I'm not asking you about annual treatment summaries,
21 Doctor Watson. I'm asking you about the annual review
22 reports.

23 A. I had the annual review reports but I didn't have
24 the annual treatment summaries. That was part of the
25 treatment plan.

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1 Q. Well, but you said you reviewed treatment plans,
2 correct?

3 A. There were just a couple of pages where a treatment
4 plan was documented. But it didn't look like your
5 typical treatment plan with which I'm familiar.

6 Q. So you know about the six magazines and a news
7 article containing pictures of children?

8 A. I asked him about the contraband and the behavioral
9 notices. He did not -- I think he mentioned -- he did
10 not mention to me being in possession of a magazine or a
11 book that contained numerous images of children. No,
12 that was not shared with me.

13 Q. Okay. Your behavioral note four on page seven talks
14 about a charge involving contraband sharing a floppy disk
15 with another resident, correct?

16 A. He mentioned that, yes. That was his disclosure.

17 Q. Did you do any investigation into what that
18 contraband was?

19 A. No, ma'am.

20 Q. So ---

21 A. --- didn't have an opportunity ---

22 Q. --- if there was -- if one of the annual review
23 reports that you looked over stated it was the contraband
24 included pictures of women in G strings, a picture of
25 children, pornographic movie titles and descriptions;

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1 some of which described deviant content. Did you not see
2 that in the annual review report you reviewed?

3 A. No. I don't recall seeing that, no. I do not
4 recall seeing it ---

5 Q. --- all right -- your report on page nine, number
6 six, page nine number six, you state he missed no group
7 meetings nor has he refused an assignment, correct?

8 A. That's what he shared with me, yes.

9 Q. Isn't it true; now that was in February of 2020
10 correct, when he shared that with you?

11 A. No, no. He shared that with me over the course of
12 four contacts.

13 Q. Okay. But that would include February of 2020
14 correct?

15 A. That was my last contact, yes.

16 Q. Okay. And you have now read or had an opportunity
17 to read and review Doctor Gillen's annual review report,
18 correct?

19 A. I have, yes.

20 Q. And isn't it true that Mr. Wright actually had five
21 unexcused absences from group in the review period that
22 Doctor Gillen talked about?

23 A. I saw that and I had no opportunity to question Mr.
24 Wright about that because I didn't have that document at
25 the time I was evaluating him.

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1 Q. Okay. And again you have not, you did not see in
2 the annual review reports any indication that the
3 homework assignments he gave you as his work may well
4 have been something he got from another resident and
5 presented it as his own?

6 A. I hadn't ---

7 Q. --- you didn't see that in the annual -- go ahead.

8 A. No, I never recall reading something like that in
9 the annual review, no.

10 Q. Okay. I'm trying to get through this; I know we've
11 been going awhile. You talked about you did your own
12 Static-99R assessment, correct?

13 A. That's correct.

14 Q. And you came up with a three, is that correct?

15 A. That's correct.

16 Q. Where is that stated in your report that you
17 performed your own Static?

18 A. I didn't do it for my report. I did it to check the
19 Static scorings of the other evaluators.

20 Q. But if it was so important that you had it in an
21 entire section don't you think it's important to say that
22 you verified the three on your own?

23 A. Not necessarily, no.

24 Q. All right. Let's move to the dynamic risk factors.
25 Tell me where in your report you talk about Mr. Wright's

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1 dynamic risk factors?

2 A. I'm not sure I talked specifically about the 13
3 dynamic risk factors but clearly he doesn't endorse all
4 of them. He has no hostility towards women.

5 He's not, he doesn't have a lifestyle of
6 impulsivity. But with the 13 stable factors he meets a
7 few of them but he certainly doesn't meet all of them.

8 Q. But someone doesn't have to meet all of them to be a
9 sexually violent predator isn't that true?

10 A. Well, if you've got a few, if you've got a few
11 dynamic risk factors you should be able to manage those
12 through out-patient care.

13 So often times when you've got a good sex offender
14 group the leader of that group will form a Stable-07 on
15 some of those individuals to see if the dynamic factors
16 have changed in any way to indicate if ---

17 Q. --- that not my -- that wasn't my question, Doctor
18 Watson. My question was a person doesn't have to have
19 all 13 of the risk factors to be considered a sexually
20 violent predator do they?

21 A. I'm not sure that's in the state's statute. I
22 wouldn't consider that you have to have all 13 either but
23 I don't know. Everybody's got dynamic risk factors.

24 Q. Would you consider seven dynamic risk factors a
25 pretty good number of them?

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1 A. That's about half ---

2 Q. --- it's over half.

3 A. That's about half of those listed in the Stable-07,
4 yes. They list 13 of them and that's about seven; about
5 half.

6 Q. The reviews, the reports, evaluations and reports
7 regarding Mr. Wright have identified the seven dynamic
8 risk factors.

9 And they include, and I'm going to ask you if you
10 agree with every one of them, they say that he has sexual
11 preoccupation. Sexual preoccupation; do you agree with
12 that?

13 A. Not now, no. I don't think he's sexually
14 preoccupied right now.

15 Q. And the last contact you had with him was February
16 2020, correct?

17 A. That's correct.

18 Q. All right. They've also said that he has a sexual
19 preference for pubescent or pre-pubescent children, is
20 that correct? Did you find that?

21 A. The PPG data that Doctor Knight collected showed his
22 strongest arousal for pubescent children, not pre-
23 pubescent. It did indicate some pre-pubescent arousal
24 but most of it was in pubescent girls. So I think he's
25 got some arousal for pre-pubescent children at that time,

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1 yes.

2 Q. Wasn't his, weren't most of his victims pre-
3 pubescent?

4 A. They were.

5 Q. They said that they found that Mr. Wright had
6 offensive supported attitudes. Do you agree?

7 A. Offensive supported attitudes I think he used to but
8 he no longer has that aptitude.

9 Q. Because he told you he didn't, correct?

10 A. No, he's worked on, he's worked the program, looked
11 at his distortions and made some progress towards
12 treatment ---

13 Q. --- well, Doctor Watson you would agree that some
14 progress is what we want to see, correct?

15 A. That's correct. And I think he's made some
16 progress.

17 Q. And he's been given credit for progress in the most
18 recent annual review, correct?

19 A. Doctor Gillen gave him some credit, yes.

20 Q. Okay. So making progress is not the measure that
21 we're talking about is it?

22 A. I think what we're talking about is whether he's
23 safe to be at large and I think he's safe to be at large.

24 [Whereupon, technical issues with Ms. Shupe's video]

25 THE COURT: Ms. Shupe, you just went to a low

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1 bandwidth signal again. We'll wait a minute for you to
2 get back on.

3 [Off the record momentarily]

4 THE COURT: We'll wait a minute for you to get back
5 on.

6 [Off the record momentarily]

7 MR. WRIGHT: Your Honor, while we're waiting can I
8 run to the restroom real quick, please?

9 THE COURT: Yes. Why don't we take a recess.
10 That's a good idea. We'll take about a five minute
11 recess everybody while we wait for Ms. Shupe to get back
12 on.

13 MR. WRIGHT: Thank you.

14 THE COURT: We'll be at ease.

15 [Whereupon, Court is in recess from 11:44 a.m. until
16 11:50 a.m.]

17 THE COURT: Is Doctor Watson back in his seat?
18 We'll give him a minute. There he is.

19 MR. FALK: He was checking the parking meter again.

20 THE COURT: All right. Welcome back, Doctor
21 Watson. Ms. Shupe, you can resume your cross-
22 examination.

23 MS. SHUPE: Thank you, Your Honor. And I
24 apologize.

25 CROSS-EXAMINATION (RESUMES)

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1 BY MS. WATSON:

2 Q. Okay. I think we left off, Doctor Watson, at
3 offensive attitude. And you indicated that he had
4 resolved or he had worked on those and made progress,
5 correct?

6 A. Yes, ma'am. That's correct.

7 Q. And they, the evaluators that have done all these
8 evaluations over the years have found that he has an
9 emotional congruence with children would you agree?

10 A. I do.

11 Q. And they found that he had a lack of emotionally
12 intimate relationships with adults. Would you agree?

13 A. Very few of those, yes.

14 Q. And they found that he exhibits poor problem
15 solving, is that correct?

16 A. I think he did when he entered the program but I
17 think that's gotten, it's improved over time.

18 Q. And you -- and they also identify is demonstrating
19 resistance to rules and supervision. Would you agree?

20 A. Not really. I think a lot of the behavioral
21 infractions that he got at the program, the Wellpath
22 program, were probably pretty miniscule.

23 I wasn't aware of the thumb drive. I didn't have a
24 chance to question him about that. But I think some of
25 the notices he received were fairly minor.

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1 Q. How about the relationship that he continued to have
2 with another resident after he was told that it was a bad
3 idea and they actually physically separated them.

4 Do you consider that a -- you don't consider that a
5 violation of rules and regulations?

6 A. I think I know the resident you're talking about and
7 I think that was more of a friendship than any kind of
8 sexual contact between the two of them. He denied he had
9 any sexual contact since he's been in the program.

10 Q. Well that ---

11 A. --- I'm real familiar with the one you are
12 referencing because I've worked with that individual and
13 I'm aware of him being in the program.

14 Q. But that again is -- they note, they have clearly
15 said that he's had a, that it was because of a sexual
16 relationship.

17 Their concern as reflected in the records was they
18 felt like it was a negative influence and having negative
19 influences in his life was a trigger for him to reoffend.
20 Did you see that in the records?

21 A. I'm not sure this individual now at this point in
22 time is such a negative influence. I can understand the
23 staff's concern about his history but I think Mr. Wright
24 saw him as just a friend he could talk to; somebody he
25 could relate to. He's going to have to develop some

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1 skills on the outside and be able to relate and interact
2 with a wide variety of people. Some of those individuals
3 might be antisocial.

4 So I understand the negative influence but I think
5 he was feeling lonely and wanted somebody he could talk
6 to in the program. And he approached this individual and
7 shared things with him.

8 Q. And Doctor Watson you talk a lot about him feeling
9 lonely and having little self-esteem and did not feel
10 worthy and terms like that.

11 You indicate on page 13 of your report that his
12 targeting of children was in response to some strong
13 emotional feelings that involve loneliness, acceptance
14 and a boost to his sense of self-worth. Isn't that
15 correct?

16 A. That's correct. Yes.

17 Q. And on page nine -- section nine, page 11 you note
18 that Mr. Wright comes across as emotionally sensitive,
19 emotionally sensitive with little self-esteem to fall
20 back on. Is that correct?

21 A. Yes. That's my assessment of him.

22 Q. So, Doctor Watson isn't his present state of mind or
23 at the time that you, the last time you spoke to him
24 exactly the same as when he offended? Isn't that true?

25 A. No, I don't think so, no ma'am. I think he's made

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1 quite a bit of gains in the program, he's learned a lot
2 about behavior.

3 Q. He still has problems with self-esteem. He still
4 has problems with loneliness. And those are things that
5 you identified as triggers or risk-factors for him. Is
6 that correct?

7 A. He may always have problems with self-esteem but he
8 can manage those given a certain set of skills. He's not
9 going to be turned into a perfect human being in this
10 particular program. He might always have some dealings
11 of loneliness that he has to contend with that fact.

12 Q. And the key is that he manages them, he is able to
13 manage them to the point that he is safe to be at large,
14 correct?

15 A. That's correct.

16 Q. Okay. Doctor Watson; let's talk about your
17 comprehensive mental evaluation. In that evaluation you
18 did not talk to treatment providers or other doctors that
19 had done annual reviews did you?

20 A. No, I didn't know I had any permission to talk to
21 any of the staff at the program.

22 Q. In fact, you relied almost exclusively on what Mr.
23 Wright said and what he showed you as his own work in
24 treatment isn't that correct?

25 A. No, ma'am. I made my own observations ---

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1 Q. --- that's what you relied on.

2 A. I made my own observations ---

3 Q. --- pardon me ---

4 A. --- of Mr. Wright. I also reviewed all of the work
5 he had done in the program.

6 Q. And you -- and there is some question whether it was
7 his work and that's reflected in some of those reports
8 you reviewed, isn't that true?

9 A. The documents that I reviewed that he gave me
10 indicate pretty much one handwriting and I think it's
11 probably his handwriting.

12 Q. He still could have obtained material from other
13 residents and copied it on his own, couldn't he?

14 A. I do not see him as that deceptive, no.

15 Q. And merely possessing a lot of articles and
16 pamphlets which you said showed some motivation to
17 continue in treatment it doesn't show a commitment to
18 treatment, does it; merely possessing them?

19 A. I think the group therapy notes show that he's
20 committed to treatment because he's attending groups.

21 Q. Except for the five unexcused absences he had in the
22 last review period?

23 A. You know to have five unexcused absences over seven
24 years I think is still a pretty remarkable record.

25 Q. Isn't it true, Doctor Watson, that your entire

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1 report is premised on the fact that you don't believe Mr.
2 Wright should have ever been committed, isn't that right?

3 A. I agree with Doctor Gehle that he did not need that
4 high-risk population that amounts to the worst of the
5 worst offenders that the program is designed to treat,
6 no. I think it was inappropriate for him.

7 Q. And you then in order to reach that conclusion you
8 completely dismissed six other mental health
9 professionals assessments concluding that he should be in
10 and remain in their treatment program, don't you?

11 A. Yes. I disagree with those assessments, yes.

12 Q. And you also dismiss the findings of twelve jurors
13 who heard and weighed the testimony of Doctor Gehle that
14 you agree with and Doctor Knight that you do not agree
15 with about their differing opinions and found beyond a
16 reasonable doubt Mr. Wright is a sexually violent
17 predator as defined by the Act, isn't that true?

18 A. Yes, I would disagree with that assessment.

19 Q. Okay. Given the fact that you don't believe that
20 he, Mr. Wright, ever should have been committed how can
21 you opine that his condition has so changed if you don't
22 believe his mental abnormality made him a risk to
23 reoffend from the start?

24 A. I think he's made a lot of gains in the program. I
25 think he's learned a lot of material. And so I think he

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1 ---

2 Q. --- given your -- I'm sorry.

3 A. The fact that he's been in the program and managed
4 to gain from treatment makes him less of a risk in the
5 community; that would be one of the protective factors.

6 Q. But Doctor Watson given your opinion that he should
7 never have been committed you were predisposed to find he
8 should be released weren't you?

9 A. No, ma'am. No, ma'am. I tried to do an objective
10 evaluation.

11 Q. But from the beginning you didn't think he should
12 have been committed, correct?

13 A. No, I didn't, I didn't -- I thought he was
14 inappropriately admitted, yes. I thought he shouldn't
15 have been civilly committed.

16 Q. And you had that in your mind as you performed this
17 evaluation, didn't you?

18 A. Well, that was part of my thinking about his case,
19 yes because I don't think that he is the worst of the
20 worst.

21 And if you look at comparisons when I was running
22 the program we had an individual that came in from Ocone
23 County that put 46 stitches in a ten month old infant.
24 Now, in my mind that's the worst of the worst. I don't
25 think Mr. Wright falls in that category.

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1 Q. Doctor Watson, that's completely irrelevant, isn't
2 it?

3 A. Not really. I'm just trying to keep the ---

4 Q. --- what some other resident may or may not have
5 done in their offenses has no relevance to whether Mr.
6 Wright is safe to be at large does it?

7 A. I'm just saying he doesn't fall in that group that
8 should be deemed the worst of the worst. That analogy
9 would describe somebody that in my mind represents a very
10 dangerous offender.

11 Q. Well, would you agree that we can find people out
12 there if we look hard enough that are -- didn't do as
13 much as Mr. Wright but they were found to have a mental
14 abnormality and likely to reoffend.

15 A. You'd have to give me ---

16 Q. --- would you agree with that?

17 A. You'd have to give me an example ---

18 Q. --- assessing him in general. You know you did this
19 program for four years from '16, and there are some that
20 are committed that may have done less than Mr. Wright.

21 A. I'm not aware of anybody that has his background in
22 history when I was running the program.

23 Q. Okay. Just a moment, please. I'm going to mute
24 just for a moment.

25 [Whereupon, Ms. Shupe reviews documents]

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1 MS. SHUPE: Your Honor, that's all we have. Thank
2 you, Doctor Watson.

3 THE WITNESS: Thank you, Ms. Shupe.

4 MS. SHUPE: And it was good to see you as I said.

5 THE WITNESS: Good to see you.

6 THE COURT: All right. Mr. Falk, any redirect?

7 MR. FALK: Yes.

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1 REDIRECT EXAMINATION

2 BY MR. FALK:

3 Q. Doctor Watson, how many forensic interviews have you

4 taken in your career?

5 A. I'd estimate 500 or more.

6 Q. Okay. And how many SVP evaluations --

7 THE COURT REPORTER: Mr. Falk, I'm sorry you were

8 breaking up. I did not hear your question.

9 Q. [Mr. Falk] I asked him how many annual review

10 evaluations he may have given over his career?

11 A. I didn't really track it but I probably went to 30

12 to 35 annual review exams with the AG's office when I was

13 the acting Director.

14 Q. Okay. And you had first evaluated him in 2011, is

15 that correct?

16 A. I think I saw him coming through Corrections, yes.

17 Q. Okay. And if you had impressions of him in 2011 are

18 they relevant to his current condition in 2020?

19 A. Not particularly because when I saw him in 2011 they

20 were looking for high I.Q. scores. I.Q. has no relevance

21 to whether he is safe --

22 Q. Okay. And certainly since 2011 he has been in and

23 out of SCDC, is that correct?

24 A. Yes. He has been in SCDC.

25 Q. He spent time in Corrections and he spent so many

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1 years in this program, is that correct?

2 A. Seven years in this program and about two years in
3 Corrections, yes.

4 Q. Now you said that you had a chance to read Doctor
5 Gillen's report?

6 A. I did.

7 Q. Is there anything in Doctor Gillen's report that
8 would make you --

9 THE COURT REPORTER: Mr. Falk, I'm sorry; you're...

10 MR. FALK: I'll try and get over. I just don't
11 like to read over his shoulder but I think...

12 THE COURT REPORTER: I understand. It's just hard
13 to hear you; I'm sorry.

14 Q. [Mr. Falk] All right. You said you've had an
15 opportunity to look at Doctor Gillen's report?

16 A. That's correct.

17 Q. Was there anything in Doctor Gillen's report that
18 would want to make you change your report?

19 A. The only question about his report is the Static-99R
20 score of four.

21 Q. Okay.

22 A. It's my understanding that Mr. Wright did not have
23 any stranger victims. And so if this score -- if he
24 didn't have any stranger victims his score would actually
25 be three.

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1 Q. Okay.

2 A. So his risk of recidivism would be more likely --

3 THE COURT REPORTER: Would be more likely? The
4 last part of your answer.

5 THE WITNESS: The risk of recidivism would be more
6 like the typical offender if his score was three.

7 Q. [Mr. Falk] And it's still your opinion today that if
8 he were released he is not likely to reoffend, is that
9 correct?

10 A. That's correct.

11 Q. And you think that -- you would agree that there are
12 two components here. There is mental abnormality and
13 personality abnormality that is most likely to be
14 affected, is that correct?

15 A. That's correct.

16 Q. And would you agree that over the course of his time
17 in the program his likelihood to reoffend is less?

18 A. That's correct.

19 Q. And that tells --

20 THE COURT REPORTER: --- didn't get your last
21 question Mr. Falk. I'm sorry; I don't know. There is
22 some crackling sound.

23 MR. FALK: Tell me what you got last?

24 THE COURT REPORTER: Your very last question was
25 all broken up.

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1 Q. [Mr. Falk] Okay. I think I asked you that there are
2 two components. There is you have to have some type of
3 mental abnormality; some type of personality and there
4 has got to be a likelihood to reoffend, is that correct?

5 A. That's correct.

6 Q. And is it your opinion that while he has been in
7 this program, these six or seven years however long he
8 has learned stuff that has lessened his likelihood to
9 reoffend?

10 A. That's correct.

11 Q. And that's identification of risk factors and
12 identification of cognitive distortion.

13 A. That's correct.

14 MR. FALK: I have no further questions.

15 THE COURT: And just so I'm clear, I'm not sure if
16 Joy could hear it, but you said identification of risk
17 factors and you said that's correct. And what's the last
18 thing he said Mr. Falk?

19 THE WITNESS: Cognitive distortions.

20 THE COURT: Cognitive and distortions. Thank you
21 for clearing that up. Ms. Shupe, any limited recross to
22 what he was just redirected on?

23 MS. SHUPE: No, Your Honor.

24 THE COURT: All right. Doctor Watson, you may step
25 down from the witness stand so to speak.

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1 THE WITNESS: Thank you.

2 [Whereupon, the witness is excused and exits the
3 witness stand]

4 THE COURT: Mr. Falk, do you have any other
5 witnesses you would like to call at this time?

6 MR. FALK: No, Your Honor.

7 THE COURT: All right. Ms. Shupe, any witnesses
8 from the State?

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1 MS. SHUPE: Yes, Your Honor. At this time we would
2 call Doctor Christopher Gillen.

3 THE COURT: All right. Doctor Gillen, welcome.
4 I'm going to ask that you please raise your right hand.

5 [Whereupon, the witness is duly sworn by the Court]

6 THE COURT: All right. Mr. Gillen [sic], you can
7 put your hand down. If you will, please state your full
8 name and spell your last. And Ms. Shupe you may go
9 ahead after that.

10 THE WITNESS: My name is Christopher Thomas Allen
11 Gillen. My last name is spelled G-I-L-L-E-N.

12 - - - - -

13 DR. CHRISTOPHER GILLEN,
14 Having been first duly sworn,
15 Was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SHUPE:

18 Q. Doctor Gillen, I appreciate you making yourself
19 available for this rescheduled hearing. Where are you
20 employed Doctor Gillen?

21 A. I'm currently employed with South Carolina
22 Department of Mental Health as part of the forensic
23 evaluation service.

24 Q. How long have you been employed with the Department?

25 A. Just under one year. I started my employment there

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1 is October 2019.

2 Q. What does your work at the Department involve?

3 A. It involves conducting a variety of court-ordered
4 evaluations to include pre-commitment cases under the
5 Sexually Violent Predator or SVP Act as well as annual
6 review evaluations.

7 My job duties also include a competency to stand
8 trial evaluations. However, my work to date has
9 exclusively focused on sexually violent predator work.

10 Q. Do you know how many annual reviews you have done to
11 date, Doctor Gillen?

12 A. Within South Carolina I have completed 19 annual
13 review evaluations.

14 Q. Okay. Well, let's talk about your education. Just
15 give us your education in a nutshell.

16 A. I completed my Doctor of Philosophy in 2018 from the
17 University of Southern Mississippi and that was in
18 Clinical Psychology. In addition I also received a
19 Master's Degree in Psychology and a Bachelor of Science
20 degree in Psychology; both from Carleton University in
21 Ottawa, Canada.

22 In addition to those trainings I completed a
23 specialized one year postdoctoral fellowship in forensic
24 psychology up in Madison, Wisconsin at the Sand Ridge
25 Secure Treatment Center, which houses the sexually

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1 violent persons under Wisconsin's statute as well as
2 Mendota Mental Health Institute, which is their main
3 forensic psychiatric hospital.

4 As part of my work on that fellowship I was trained
5 how to complete SVP evaluations to include both annual
6 reviews and pre-commitment cases, as well as experience
7 in conducting sex offender treatment with individuals
8 civilly committed as SVP's in the state of Wisconsin.

9 Prior to that forensic fellowship experience I
10 completed a one-year American Psychological Association
11 approved clinical internship at the University of
12 Tennessee Health Science Consortium.

13 As part of that training experience I received
14 training in a variety of forensic assessment context
15 including what we call transfer evaluations, competency
16 to stand trial evaluations with adults on an outpatient
17 basis, criminal responsibility evaluations as well as
18 court-ordered domestic violence risk assessment
19 evaluations in Shelton County, Memphis Tennessee.

20 Q. Okay. Well, I know you said that you did some
21 fellowships and the like with sexually violent predator
22 programs. In that experience were you doing evaluations
23 of them for commitment or annual review evaluations?

24 A. Yes. Part of the training and experience with San
25 Ridge Secure Treatment Center, or SRSTC, involved

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1 training and doing sexually violent person evaluations;
2 their statute is worded differently so they are called
3 sexually violent persons there. But it was completing
4 evaluations for those individuals and they were annual
5 review evaluations.

6 Q. Were you ever called to Court to testify about
7 those?

8 A. I was not called to testify in Wisconsin, no.

9 Q. How many times have you testified here in South
10 Carolina Doctor Gillen?

11 A. On one occasion.

12 Q. Now, have you co-authored or published articles
13 related to aspects of forensic psychology?

14 A. I have.

15 Q. And so you have been qualified as an expert in one
16 case in South Carolina so far, is that correct?

17 A. Yes, that's correct. It was an annual review
18 hearing related to a sexually violent predator evaluation
19 that I completed up in York County.

20 MS. SHUPE: At this time Your Honor I would move, I
21 would offer Doctor Gillen as an expert in forensic
22 psychology.

23 THE COURT: All right. Any objection to this
24 gentleman being used as an expert in the field of
25 forensic psychology from Mr. Falk? Go ahead now Mr.

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1 Falk, I can hear you. Go ahead.

2 MR. FALK: Your Honor, may I have a few questions
3 on voir dire?

4 THE COURT: Sure.

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VOIR DIRE

BY MR. FALK:

Q. Your doctoral fellowship, Doctor Gillen, your doctoral fellowship that you completed in September 2019 did not really have an emphasis on sexually violent predators, is that correct?

A. No, that is incorrect.

Q. Okay. As you described it on your C.V. it says competency to stand trial, violence risk assessments with adults. What did you mean to say by violence risk assessments?

A. So that included the six month rotation over at Mendota Mental Health Institute, which is the main psychiatric forensic hospital for the state of Wisconsin. That rotation as part of the fellowship did not involve sexually ----

Q. --- okay --

A. --- violent persons, yes ---

Q. --- so you ---

A. --- however, the previous six months did involve extensive training and working with the SVP population including treatment with individuals that were civilly committed as well as training on how to complete and conduct SVP evaluations; particularly focused on the annual review evaluations of those individuals.

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1 Q. So between December 17, 2018 and March 15, 2019
2 approximately three months you did a rotation that would
3 appear to focus on risk assessments?

4 A. Specifically it was a three month rotation on how to
5 conduct and complete sexually violent person evaluations
6 for the state of Wisconsin which included risk assessment
7 as well as part of those evaluations, yes.

8 Q. Well, how many evaluations did you do during that
9 three month period?

10 A. During the three month period in Wisconsin I
11 completed one evaluation and really the fellowship is
12 designed to have extensive training and experience in all
13 areas related to SVP examinations.

14 That includes extrapolation methods, how to access
15 dynamic risk factors as various tools, extensive training
16 on Static risk assessment measures as well as both
17 structured and unstructured training experiences with the
18 psychologist who were working as part of the evaluation
19 unit.

20 So in that sense how the training model works for
21 that three month rotation is very much about an extensive
22 experience on how to do the evaluations rather than
23 trying to do as many evaluations as possible.

24 Q. Sure. And you did three month -- as part of your
25 six months of this time that you spent at San Ridge

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1 Secure Treatment facility three of the months were really
2 devoted to therapy, is that correct, for the ---

3 A. --- yes, both individual and group sexual offender
4 specific treatment of individuals committed as sexually
5 violent persons.

6 Q. Okay. Because your degree is in clinical
7 psychology, is that correct?

8 A. It is.

9 Q. How does that differ from forensic psychology?

10 A. Well, forensic psychology is a sub-field within
11 psychology. I'm a licensed psychologist and my Ph.D. is
12 in clinical psychology. I've received the additional
13 training as part of that postdoctoral fellowship.

14 Specifically designed for forensic psychology that
15 fellowship experience is approved by the Board for
16 Forensic Psychology as well.

17 Q. Is it fair to say that most of your work
18 academically and through fellowships has focused more on
19 juvenile offenders?

20 A. There has been a mix. The clinical training program
21 at the University of Southern Mississippi subscribes to a
22 generalist practitioner model.

23 And I did receive training on working with adults
24 that included both course experience as well as clinical
25 experience with various adult populations as well as on

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1 internship, which is a part of the degree requirements.
2 I believe on every location throughout that year I had
3 experience working with adults as well in a clinical
4 capacity.

5 Prior to my degree in clinical psychology when I was
6 at Carleton University I was exposed to forensic
7 psychology more broadly and that also included
8 experiences with adults specifically actually sex
9 offenders.

10 Now, that was more from a course prospective play I
11 enrolled in a sex offender specific course that was
12 offered through the forensic psychology program at
13 Carleton University. That was what my Master's degree
14 specialized in was forensic psychology.

15 So I have extensive experience of forensic
16 psychology training even as an undergrad I received the
17 Honors Thesis award specifically for forensic psychology
18 for my research work within that field.

19 And that thesis did not involve children; it was
20 looking at adults, looking at psychopathic traits in
21 adult populations.

22 Q. On the subject of psychopathy is it fair to say that
23 most of your publications have focused on adolescent
24 psychopathy?

25 A. Many of them have, yes.

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1 Q. Can you point to me the publications that
2 specifically address any issues that come up in sexually
3 violent predator cases?

4 A. I have not published any peer review research on SVP
5 cases. However, we are about to submit an article for
6 peer-review publication specifically involving sexually
7 violent persons in the state of Wisconsin.

8 That isn't listed on my C.V. because it is not yet
9 published so I didn't want to mislead the Court by
10 including it.

11 However, that is a paper that we are just about to
12 submit and that specifically looks at polygraph
13 examinations and how those influence SVP evaluator
14 decision-making. Again, that is a research project that
15 I am working on and specifically addresses SVP
16 population.

17 Q. Is it fair to say Doctor that your conference
18 presentations have also focused on adolescent
19 psychopathy?

20 A. That was my primary area of research in addition to
21 investigating more general forensic assessment measures
22 as well for the use in the Court.

23 Q. So when you started doing annual reviews was there
24 anybody assigned to sort of check your work?

25 A. Yes.

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1 Q. How did that process go?

2 A. So I started work in October 2019 at DMH and I was
3 assigned cases and I was supervised by multiple DMH
4 psychologists throughout that time that include Doctor
5 Rozanna Tross, Doctor Michelle Jones, as well as Doctor
6 Rachel Carter on evaluations that I completed.

7 That was prior to me obtaining licensure in the
8 state of South Carolina. When I started work I was
9 licensed in the state of Wisconsin but I hadn't obtained
10 licensure in South Carolina until I think January of this
11 year.

12 So they supervised my work. That included both
13 sitting in on the interviews that I was conducting with
14 residents or individuals that were up for pre-commitment
15 cases. They supervised my reports as well as my Static
16 scoring and supervised that process.

17 At that point my supervisor Doctor Kelly Gothard
18 after a series of reports that were completed being that
19 my work was sufficient and that I was able to practice
20 independently under my license completed these
21 evaluations starting in 2020.

22 Q. So what month was all that?

23 A. I want to say it was around February or January of
24 this year. I'm not sure of the exact time.

25 Q. So as different reports that Doctor Tross sort of

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1 co-signed with you what's the significance of that? If
2 there is a report, an annual review report that is signed
3 by both you and Doctor Tross why would that come up?

4 A. Well, as I previously explained my early work that
5 was conducted through the Department of Mental Health I
6 was working under the license and supervision of other
7 DMH psychologists at that time.

8 So they were involved in the process both in terms
9 of sitting in on the interview for some of those cases.
10 As I explained earlier you know reading through the
11 reports, discussing and consulting on the cases that's
12 what that means.

13 Again, I didn't have a license in the state of South
14 Carolina for those early evaluations. So in that sense
15 they were signing off as the individual that had the
16 license.

17 Q. How many of the 19 annual review evaluations how
18 many have you done since you've been licensed?

19 A. I want to say approximately 17. I think the annual
20 reviews there have been 19 total. And I believe Doctor
21 Tross and Doctor Jones signed off on two of those. So 16
22 or 17; I'm not sure on the exact number.

23 Q. Okay. So when Doctor Tross signed off on a review
24 that you prepared on February 11th, 2020 would that mean
25 that you weren't licensed yet or that you hadn't been

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1 given the permission yet to work on your own?

2 A. Not necessary. So that evaluation if I remember
3 correctly I had obtained my license at the time the
4 report was signed. However, I believe at the time it was
5 started I don't think I had officially been given my
6 license yet. But I'm not 100 percent sure on it.

7 Essentially the rate limiting factor with this is
8 going to be Doctor Kelly Gothard who is our supervisor in
9 DMH in forensic evaluation services. She gives the all
10 clear when she feels evaluators are ready and able to do
11 the job independently.

12 After that evaluation as Doctor Gothard told me that
13 I was no longer needed to work alongside other
14 psychologists and that she felt comfortable and confident
15 that I was able to do the work to a satisfactory degree
16 on my own independently.

17 Q. Of the whatever the number is, 16 or 17, since
18 you've been -- well, since February 11th and July 21st
19 how many evaluations do you think you've done?

20 A. Since February 11th to July; I'm sorry?

21 Q. Yes, to July 21st?

22 A. I'm not sure on the exact number, Mr. Falk.

23 Q. Well, how many have you done recently?

24 A. Again, thinking from February up until the current
25 moment I'm thinking ---

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1 Q. --- let me re-ask my question. How many from July
2 until today have you done?

3 A. Oh man, I really don't know the exact number off the
4 top of my head. I can give you a ballpark number if that
5 would suffice ---

6 Q. --- sure.

7 A. Somewhere around ten; maybe less, maybe more.

8 Q. Okay. So the majority -- is it fair to say that a
9 majority of the AR, annual review evaluations that you've
10 conducted have been since you did Mr. Wright's on July
11 21st?

12 A. Again, I'm not sure. I'd really have to go back and
13 check on the dates.

14 Q. What is the commitment standard in Wisconsin?

15 A. In Wisconsin it's a quantitative threshold for
16 commitment.

17 Q. I'm curious. I mean is it still the same
18 definition?

19 A. It's very similar but there are differences. The
20 main difference is that through statute the commitment
21 criteria is that the individual is more likely than not,
22 and through case law it's been determined that is more
23 than 50 percent.

24 So they are looking for very specific absolute
25 recidivism number from the evaluator in order to make

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1 their determination. The judge or jury will then use
2 that information in order to make their decision whether
3 they are more likely than not.

4 Q. And when you were working at San Ridge you were kind
5 of working under those guidelines of what the Wisconsin
6 commitment standard, is that correct?

7 A. Yes.

8 MR. FALK: Your Honor, I have no further questions
9 but I'm going to object to his admission as an expert but
10 I'll leave it to the Court.

11 THE COURT: Okay.

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VOIR DIRE

BY THE COURT:

THE COURT: Doctor Gillen, you said you were qualified one other time in the state of South Carolina thus far up in York County, is that correct?

THE WITNESS: That is, Your Honor.

THE COURT: Do you recall who the judge was in that case?

THE WITNESS: I do not.

THE COURT: Okay. Doctor Gillen, are you aware of the statute in South Carolina? We've discussed Wisconsin a lot. Have you familiarized yourself just dealing with the statutes in South Carolina ---

THE COURT REPORTER: --- Judge, I'm sorry. There is some feedback coming from somewhere. I'm having trouble hearing you.

THE COURT: Okay. Let me mute these other people. Okay. Doctor Gillen, we discussed Wisconsin's statute and your familiarity and training in that state. Have you taken time to familiarize yourself to the South Carolina statutes and requirements set forth in our Sexually Violent Predator Act?

THE WITNESS: I have, Your Honor.

THE COURT: And have you been able to conform your opinions in this case with those provisions of South

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1 Carolina law?

2 THE WITNESS: I have, Your Honor.

3 THE COURT: Okay. Based on your criteria, you know
4 your training, certainly your degrees and your experience
5 thus far, the fact that you have been qualified at least
6 one time in South Carolina so far I will over the
7 objection of the petitioner find you qualified in the
8 area for which the State is seeking to solicit expert
9 testimony from you which is in the broad field of
10 forensic psychology. So I will allow you to testify in
11 that area. So Ms. Shupe, please continue your direct.

12 MS. SHUPE: Thank you, Your Honor.

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1 DIRECT EXAMINATION (resumes)

2 BY MS. SHUPE:

3 Q. Okay Doctor Gillen, as part of your duties at DMH
4 were you assigned to complete an annual review of Kevin
5 Wright?

6 A. Yes.

7 Q. And did you -- prior to being given that assignment
8 had you had any previous contact with Mr. Wright?

9 A. I did not.

10 Q. And what is your evaluation protocol in doing an
11 annual review evaluation?

12 A. In addition to meeting with the resident for a
13 clinical interview I'll do an extensive file review.
14 That will include the original commitment documents which
15 also include any sort of criminal records, past warrants;
16 files of that nature.

17 Information files from the South Carolina Department
18 of Corrections are included in that as well as any sort
19 of potential hospital records an individual may have
20 received prior to their commitment.

21 In addition to those records I do a thorough review
22 of the Sexually Violent Predator Treatment Program
23 facilitated by Wellpath records that are provided to me.
24 Those include the individual's treatment assignments,
25 group notes, case management notes, treatment plans,

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1 annual treatment summaries as well just to list a few of
2 the information.

3 In addition to that information at times I would
4 also be able to contact collateral sources as well as
5 refer prior annual review reports as well as the pre-
6 commitment reports.

7 Q. And did you interview Mr. Wright as part of your
8 evaluation?

9 A. I did for approximately three hours.

10 Q. And did that take place on July 10th, 2020?

11 A. I believe so but I don't have the date in front of
12 me.

13 Q. But it was sometime in July?

14 A. Yes, that's correct ---

15 Q. --- is that correct?

16 A. Yes.

17 Q. Did Mr. Wright tell you about his offenses of the
18 six prepubescent girls he molested?

19 A. Yes, he did.

20 Q. Did you tell you why he started molesting these
21 children?

22 A. He did. He provided accounts for each of the six
23 identified victims. They provided a similar theme of
24 various reasons that included feelings of betrayal,
25 feelings of loneliness, fear of rejection and perceived

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1 rejection which caused him to reach out and sexually
2 offend against children. He also talked about feeling
3 trusted at the level of children as one of the reasons
4 why he felt emotionally close and emotionally trusted by
5 children.

6 In addition to some of those factors he endorsed
7 having several offensive sort of attitudes supportive of
8 sexually offending against children.

9 Those included believing children wanted to engage
10 in sex with him or that they liked sex or wearing certain
11 types of clothing that he believed indicated they were
12 interested in sex with him.

13 He also indicated a difficulty controlling his
14 sexual arousal prior to sexually offending against
15 children. In two of the cases when I was talking with
16 him he explicitly endorsed a sexual attraction to two of
17 the victims.

18 According to Mr. Wright's report those victims had
19 started to develop pubertal features but he denied any
20 sexual attraction to four victims which did not have any
21 pubertal development --

22 THE COURT REPORTER: I'm sorry; the last part of
23 your answer again Doctor Gillen, there really is some
24 noise coming from somewhere; I'm just not sure. Just
25 give me the last part of your answer again please.

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1 THE WITNESS: I believe what I was saying was he
2 endorsed a sexual attraction to children. Two of his
3 victims which has pubertal or beginnings of pubertal
4 development however he denied a sexual attraction as a
5 reason for his offending with the younger children who
6 did not have pubertal development.

7 MS. SHUPE: Did you get that Madame Court Reporter?

8 THE COURT REPORTER: I did. There's just some
9 constant feedback that I hear. But yes, thank you.
10 Please continue.

11 Q. [Ms. Shupe] Doctor Gillen, what behavior issues has
12 Mr. Wright had at the Sexually Violent Predator Treatment
13 Program?

14 A. He's received several incident reports over the
15 years. On 2014 I believe he was cited for having
16 contraband material including files with women in G
17 strings.

18 That also included pictures of children or a picture
19 of children as well as some sexually deviant material
20 that was included.

21 More recently in 2018 he was given incident reports
22 and cited for interpersonal relationship with a peer at
23 the program that was deemed problematic and
24 inappropriate; specifically he was found in possession of
25 letters which contained a romantic or contained romantic

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1 content from that individual as well as 2018 there were
2 several newspapers and magazines that were confiscated
3 from his possession that had pictures of children.

4 Looking at this ---

5 THE COURT: --- real quick Doctor Gillen it really
6 sounds like there is a vacuum in either yours or Ms.
7 Shupe's office. It is a strange...

8 THE WITNESS: I'll try muting me and see if it is
9 me.

10 THE COURT REPORTER: Judge, there is one person
11 that is not muted. I don't know if she's in the meeting.
12 I don't see next to Ms. Jacqueline Dye I don't know if
13 that's...

14 THE COURT: She's muted.

15 THE COURT REPORTER: Oh, she is? It didn't show up
16 on my screen. Okay.

17 THE COURT: Yes.

18 THE WITNESS: So when I was muted I was still
19 hearing that vacuum sound as well so I'm not sure if it's
20 me.

21 THE COURT: I don't know. Ms. Shupe, can you mute
22 yourself for one second so we can do a test?

23 MS. SHUPE: Certainly.

24 [Whereupon, Ms. Shupe complies]

25 THE COURT: It's Ms. Shupe. Okay, you can unmute

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1 yourself.

2 [Whereupon, Ms. Shupe complies]

3 THE COURT: All right. Ms. Shupe?

4 MS. SHUPE: Can you hear, Your Honor?

5 THE COURT: I can hear you. I don't know what it
6 is but maybe it's catching a breeze from the HVAC or
7 something, Ms. Shupe. But I think maybe it's fixed now.
8 So please continue.

9 MS. SHUPE: I had a fan going which we have now
10 turned off. That might have been the problem.

11 THE COURT: That was it.

12 Q. [Ms. Shupe] Okay Doctor Gillen, you were talking
13 about some of the behavioral issues that Mr. Wright has
14 had in the program. And the most recent what happened or
15 what was there in the recent review that you did for 2019
16 to 2020?

17 A. There were two substantiated incidents which took
18 place during the review period you specified both in
19 2019.

20 One involved an exchange of contraband material
21 which was caught on video between Mr. Wright as well as
22 the other resident I previously mentioned staff noting a
23 problematic relationship.

24 Prior to that incident they actually were physically
25 separated and they were still able to pass this

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1 contraband material when they passed each other in the
2 hall. In addition to that there was a depiction of a
3 child in his possession which was confiscated.

4 Again similar types of problems that have been
5 recurring over his time in the Sexually Violent Predator
6 Treatment.

7 Q. Okay. And which of all those behavioral issues did
8 you find most concerning and why?

9 A. As I previously alluded to I'd say the two most
10 recent offenses are problematic given that there has been
11 external constraints that were placed on Mr. Wright to
12 avoid contact with this individual yet he still had a
13 substantiated incident report that reflects as I'll talk
14 about later some resistance to rules and supervision that
15 these problems are continuing.

16 The second part is going to be the depictions of
17 children. Based on my review of the record that would
18 have been his third occurrence of having this problem.

19 And given his offense history he's been sanctioned
20 for this on multiple occasions and the fact that that is
21 reoccurring to me is problematic.

22 Q. Okay. Doctor Gillen, what are the Static-99R and
23 the Static-2000R?

24 A. They are actuarial tools designed to assess risk for
25 sexual recidivism.

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1 Q. And when you perform an evaluation do you rely on
2 Static scores done by other doctors in previous
3 evaluations?

4 A. I do not.

5 Q. What was the score that you gave Mr. Wright on the
6 Static-99 and the 2000R?

7 A. So, on the 99R he received a score of four. On the
8 2002R he received a score of five.

9 Q. And how do y'all combine those and come up with a
10 risk assessment?

11 A. So how the measures are designed is an individual
12 score on each measure is compared to a reference group of
13 individuals who also have that score.

14 It's been compared within a specific timeframe how
15 many of those individuals with that score sexually
16 reoffended; specifically how many individuals were
17 charged or convicted of a new sexual offense within that
18 timeframe.

19 And that's how an absolute risk number is generated
20 is based on that reference sample. That score is then
21 also used to get a relative risk category for the
22 individual based on a common risk language that's used --

23 Q. Does the Static-99 or the Static risk assessment
24 only include in the study that supports them only include
25 offenders who reoffended after being sanctioned for

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1 another sexual offense?

2 A. So it includes offenders that they followed within
3 that time period. It does not just include individuals
4 who reoffended or --

5 THE COURT REPORTER: Or what ---

6 Q. [Ms. Shupe] --- I'm sorry; what was that?

7 THE WITNESS: I said or who were detected
8 recidivating.

9 Q. [Ms. Shupe] Does it make any allowances for
10 unreported offenses?

11 A. It does not.

12 Q. So did the score and corresponding risk likely
13 underestimate the risk for purposes of determining an
14 individual's risk to reoffend?

15 A. The absolute risk rating that is derived from the
16 score is likely an underestimation given that it only
17 follows a five year period and it only counts with
18 charges and convictions.

19 Literature is clear there is still a sizeable
20 population of sexual offenses that goes unreported and
21 that sexual offending does not desist after a five year
22 period or it doesn't abruptly end I should say.

23 Q. All right. We talked about the Static risk
24 assessment. What are dynamic risk factors?

25 A. As opposed to static risk factors which are largely

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1 unchangeable and historical to an offenders past dynamic
2 risk factors are those which are empirically related to
3 sexual recidivism. However, those can be changed or
4 augmented through treatment.

5 Q. And what dynamic risk factors apply to Mr. Wright?

6 A. There are several dynamic risk factors that apply to
7 Mr. Wright. Those include a sexual preference for pre-
8 pubescent or pubescent children, sexual preoccupation,
9 dysfunctional and sexualized coping, poor problem
10 solving, as well as resistance to rules and supervision
11 to name a few.

12 Q. And are these risk factors that Mr. Wright needs to
13 work on in treatment?

14 A. Yes; first and foremost his sexual preoccupation to
15 pre-pubescent and pubescent children. So, during the
16 course of this current review period records I reviewed
17 indicated he denied that pedophilic disorder was a
18 disorder or that his sexual behaviors were a product or
19 influenced by that diagnosis.

20 So, in addition to denial he hasn't learned any
21 specific arousal management techniques in his treatment
22 to date or at least to the time I reviewed his record
23 that would allow him to manage that deviant arousal when
24 he is exposed to high risk situations out in the
25 community. Similarly although he's reporting an

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1 increased sexual arousal at the time when I met with him
2 for the interview he implicated difficulty controlling
3 his sexual arousal in his sexual offenses and hasn't
4 developed any specific arousal management techniques in
5 treatment to specifically address that dynamic risk
6 factor.

7 Another key area for him is lack of intimate
8 emotional relationships and emotional congruence with
9 children. He reported during the interview that these
10 were resolved and historical issues in his life.

11 However, when pressed on why that was the case he
12 talked a little bit about treatment motivation, provided
13 some vague or superficial responses as to why those were
14 now historical.

15 The fact that he didn't talk about any specific
16 strategies he's developed to work on those when you take
17 a look at the behavioral record on those issues it paints
18 somewhat of a different picture.

19 As I previously alluded to he's engaging with that
20 problematic individual still in the SVP treatment program
21 during this review period.

22 In addition he mentioned trying to form
23 relationships with staff members and talk to staff
24 members. That's directly contradictory to what is
25 reported in the record about his engagement and social

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1 interaction with staff on the unit. Similarly he talked
2 about no longer being at the level of children like he
3 was in the past but didn't provide any rationale or
4 specific reason why that particular dynamic risk factor
5 has changed.

6 And really given though his failure of those factors
7 in his sexual offending history I believe that those are
8 still relevant for him. Similarly, with dysfunctional
9 and sexualized coping I do note in my report that he has
10 learned some coping skills in treatment that was an area
11 of strength for him.

12 He was able to identify specific coping skills that
13 he has learned in treatment. He talked about acceptance
14 as being another skill that he has learned; those are all
15 great.

16 However, even by his own admission those skills have
17 not helped him target some of the specific emotions that
18 were most directly related with his offending to include
19 feelings of perceived rejection, loneliness, fear of
20 rejection.

21 These specific problems and difficulty managing
22 those emotions was one of the reasons that led him to
23 sexually act out against children. And the current
24 coping skills he's developed at this time have
25 insufficiently addressed those. And something to work on

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1 in treatment specifically is about identifying those
2 types of thoughts, being able to recognize them
3 potentially as distortions, challenge them and
4 restructure them.

5 Independently doing that in high risk settings in
6 the community is what is going to be important for
7 someone like Mr. Wright.

8 Lastly, poor problem solving. Again, he has made
9 some progress in this area but problem solving
10 encompasses a lot of different areas; one of those areas
11 is being able to recognize that a problem exists and
12 having some insight and knowledge about historical
13 factors.

14 Mr. Wright has done a good job in this respect with
15 some recent progress. He seems to understand some of the
16 factors that were involved in his sexually offending to
17 the exclusion of that sexual attraction to children as I
18 mentioned earlier.

19 But where he still needs room for improvement in
20 this domain is being able to apply those risk factors to
21 his current behavior, future risks; so being able to take
22 that next step forward.

23 Also, being able to come up with a wide variety of
24 potential solutions to manage high-risk situations that
25 are problematic. Just to give you one example for that

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1 he was able to recognize some potential barriers in the
2 community; for example a tendency to be stubborn or feel
3 that he's ignored or to become more blatant when times
4 get tough.

5 That shows some insight so that's good, however he
6 wasn't able to articulate how he would overcome those
7 barriers out in the community outside of relying on
8 external supports and constraints.

9 And that's problematic given the limited individual
10 tools to specifically target and manage even arousal.
11 Those to me are some of the biggest concerns for Mr.
12 Wright right now.

13 Q. You said you reviewed the treatment records. What
14 do those Wellpath records feel about Mr. Wright's
15 treatment and one in particular his consistency in
16 participating in group sessions during the period that
17 you reviewed?

18 A. During the period that I reviewed I would best
19 describe Mr. Wright's participation in treatment as
20 variable. There is some positive and there is some
21 negative.

22 On the positive side he is largely attending his
23 treatment groups outside of those five unexcused absences
24 that were documented in the record. At times he is
25 providing relevant commentary in group. He's engaging in

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1 the discussion. There are a few indications that he was
2 able to link up some of his feedback with his offense
3 history while he is in treatment. That is positive.

4 On the negative side however, there were multiple
5 and several instances spanning the review period that
6 talked about minimal engagement. He was asked by staff
7 to try and increase the consistency of his participation
8 and comments and feedback in group on occasions
9 throughout this review period.

10 In addition to that there were a few notable
11 problems that happened in this review period. In October
12 of 2019 when it was either a peer or facilitator
13 challenged him in group about some sexually problematic
14 behaviors he shut down emotionally, didn't engage and
15 refused to participate in that session.

16 To me that's particularly problematic not just
17 because it's directly dealing with the behaviors of why
18 he's in the treatment program, it's important for his
19 treatment advancement to talk about those issues.

20 But again it gets back to another dynamic risk
21 factor we talked about previously about going back in
22 avoiding, being hesitant not reaching out and asking for
23 help or being receptive to feedback about issues that are
24 critically important for him. To me that was very
25 problematic as well as externalizing blame, assigning

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1 blame to some of his treatment providers for his slow
2 pace of treatment rather than trying to make internal
3 changes to address some of those issues were also noted
4 in the record.

5 Q. Specifically, how did Mr. Wright respond when the
6 group discussions turned to discussing his own offenses?
7 Was there anything significant about that part of it?

8 A. Yes, as previously mentioned he stopped
9 participating in that session.

10 Q. Did he actually get up and walk out at one point?

11 A. I'm not sure if that happened during this review
12 period. I'd have to refer to my notes. From what I
13 remember of writing it he disengaged from the session.
14 But I'm not sure if he physically removed himself from
15 it.

16 Q. When you interviewed Mr. Wright in July did he admit
17 he was sexually attracted to pre-pubescent children?

18 A. He denied that sexual attraction during the
19 interview I had with him.

20 Q. And now you've indicated that during the session you
21 reviewed Mr. Wright actually had some progress in some
22 areas, correct?

23 A. He did.

24 Q. And you've talked about the ones that he progressed
25 in but what just a little to pull it all together what

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1 are the problem areas that he needs to continue to work
2 on to avoid reoffending?

3 A. As previously indicated it is going to be
4 specifically developing arousal management techniques
5 through treatment that are going to be directly relevant
6 to a sexual attraction to pre-pubescent and pubescent
7 children as well as managing some of that sexual arousal
8 when it becomes too difficult to handle.

9 Currently right now in the treatment program he's
10 not exposed to children. He doesn't have access to
11 children. When he gets back out into the community that
12 is going to be a risk factor for him that he hasn't had
13 to deal with in the treatment program.

14 And he is going to need to develop skills to both
15 manage his attraction to those individuals and manage an
16 increased sexual arousal that occurs when he is in the
17 proximity of those individuals.

18 Specifically developing strategies and skills to
19 really hone in on those feelings of perceived rejection,
20 betrayal, feelings of inadequacy those were directly risk
21 relevant for Mr. Wright.

22 And those are areas that still have not been
23 adequately addressed with his current coping tools that
24 he has, further working on problem solving and going
25 beyond and simply avoiding high-risk situations and

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1 relying on others to further develop coping skills.

2 Those are all things that he would be able to do

3 throughout the Sexually Violent Predator Treatment

4 Program that I believe are still necessary and are

5 directly risk relevant for him.

6 Q. Does Mr. Wright have the mental abnormality of
7 pedophilia?

8 A. He has a diagnosis of pedophilic disorder.

9 Q. Okay. And that's under the new DSM 5 which that's
10 the terminology they use in the DSM 5, correct?

11 A. It is.

12 Q. Did Mr. Wright groom any of his victims in any way?

13 A. He did. So according to certain records there is an
14 indication of grooming with all six of his victims.

15 Grooming refers to preparatory actions that an individual
16 engages in to create opportunities for sexual offending.

17 So, several different grooming strategies were noted
18 in the records; those included spending time with
19 individuals, coming to the defense of individuals who are
20 being picked on or mistreated to try and develop trust
21 just to name a few.

22 Another central one I believe was directly related
23 to at least two of his sexual victims and potentially
24 four was him paying for a sleepover birthday party where
25 he sexually offended against either two or four victims.

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1 The records are a little unclear about when some of those
2 offenses occurred but between two and four victims on the
3 sleepover party that he paid for.

4 THE COURT: Ms. Shupe, I don't want to cut you
5 short. I want you to be as thorough as you feel that you
6 need to be but I have reviewed these expert reports at
7 length and we're going on past two hours getting on the
8 three hour mark soon.

9 I think at one point your office had indicated this
10 was a 45 minute to one hour hearing. So not to cut you
11 short but just to let you know I have read these reports.
12 I am familiar with a lot of this information you're
13 getting out of him.

14 And I'm not trying to rush you too much but I do --
15 I don't have another hearing but I do have a meeting at
16 1:15. If you feel like we're going to be going past that
17 could you let me know?

18 MS. SHUPE: No, Your Honor. I think he has
19 testified about many of the things I was going to ask him
20 specifically about the dynamic risk factors that Mr.
21 Wright exhibits.

22 THE COURT: And that's fine ---

23 MS. SHUPE: --- and ---

24 THE COURT: --- if you want to continue. I'm just
25 trying to get a time estimate and Mr. Falk I might let

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1 you chime in here too. About how much longer do you
2 anticipate needing -- you haven't even had the
3 opportunity to cross him yet, Mr. Falk. How long do you
4 think that will take?

5 MR. FALK: I don't know. I've got maybe 20
6 questions.

7 THE COURT: Okay.

8 MR. FALK: You know, I don't know, 30 minutes
9 probably.

10 THE COURT: Okay. Did you say about 45?

11 MS. SHUPE: Your Honor?

12 THE COURT: Okay. Yes, ma'am?

13 MS. SHUPE: I'm going to in light of the fact that
14 you have already reviewed all of these documents I'm
15 going to skip right to the ultimate questions that I need
16 to ask Doctor Gillen and then that should take a very,
17 very short period of time.

18 THE COURT: Go ahead.

19 Q. [Ms. Shupe] Doctor Gillen, do you have an opinion to
20 a reasonable degree of psychological certainty regarding
21 Mr. Wright's overall progress in treatment?

22 A. I do.

23 Q. And what is that opinion?

24 A. My opinion is that his mental abnormality has not so
25 changed that he is safe to be at large. And if released

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1 he is likely to engage in acts of sexual violence.

2 Q. So you have -- do you have -- your opinion to a
3 reasonable degree of psychological certainty is that Mr.
4 Wright needs to remain in the program for further
5 treatment, is that correct?

6 A. I believe he still meets criteria as a sexually
7 violent predator.

8 MS. SHUPE: I believe, Your Honor, I can end it
9 there.

10 THE COURT: All right Mr. Falk, please begin your
11 cross.

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CROSS-EXAMINATION

BY MR. FALK:

Q. -- floppy disk that you wrote about in your report
that has the ---

THE COURT REPORTER: --- Mr. Falk, we missed the
first part of your question. You were muted, I think.

THE COURT: Yes. Begin again. Go ahead, Mr. Falk.

Q. [Mr. Falk] When I look at your report you talk about
one of his behavioral infractions while at the program
and that was this floppy disk that was found, is that
correct?

A. I'm not sure if it was a floppy disk but it was some
sort of digital material that was confiscated back in
2014.

Q. Okay. So -- and that was pretty soon after his
admission into the program wasn't it?

A. Approximately a year.

Q. Yeah, okay. And the contraband, the disciplinary
infractions, the current ones are one that occurred on
June 11th, 2019, is that correct?

A. I'm not sure on the exact date but both
substantiated infractions occurred in 2019.

Q. Do you have your report in front of you?

A. I can pull it up, yes.

[Whereupon, the witness reviews document]

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1 A. I have the report ready, Mr. Falk.

2 Q. Okay. So the first paragraph on page six.

3 A. Okay yes, I have that right here.

4 [Whereupon, the witness reviews document]

5 Q. And that refers to an infraction on June 11th, 2019
6 is that correct?

7 A. Yes.

8 Q. Because you had indicated there were two problematic
9 things in the current review period. And that was one of
10 them, is that correct?

11 A. That was one of them ---

12 Q. --- the disciplinary infractions.

13 A. Yes, and there are two substantiated incidents, yes.

14 Q. Okay. And he was observed on tape receiving a red
15 object, is that correct?

16 A. Let's see.

17 [Whereupon, the witness reviews document]

18 Q. Second line.

19 A. Yes, that's correct.

20 Q. Okay. We don't know what that object was do we?

21 A. It wasn't specified in the records.

22 Q. Okay. And so it could have been a ketchup package
23 could it not?

24 A. It could have been a variety of things.

25 Q. Right. And then in the next paragraph you talk

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1 about an incident that occurred on November 2nd, 2019 is
2 that correct?

3 A. It is.

4 Q. And there it is described as a depiction of a child.
5 What does that mean?

6 A. Well, that's what the records described it as; a
7 depiction of a child.

8 Q. So that could have been a drawing, is that correct?

9 A. Again, it's unclear from the record exactly what it
10 was.

11 Q. Okay. And you did not have an opportunity to
12 actually see this contraband, is that correct?

13 A. That's correct.

14 Q. And your report also shows that -- well, what's your
15 understanding of a care level at the facility?

16 A. The care level is going to be related to behavior
17 that one is exhibiting in the program and is directly
18 related with institutional privileges that a resident is
19 able to have.

20 Q. And you had indicated that on April 25th, 2019 his
21 care level was raised from a level three to a level four,
22 is that correct?

23 A. I'm sorry; could you repeat the page number?

24 Q. It's on that page six; it's the third paragraph at
25 the very end.

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1 A. Yes, that is what it says from level three to level
2 four on April of 2019 and then remained at level four
3 throughout the review period that I had.

4 Q. And you have no reason to believe that his care
5 level was demoted do you?

6 A. No, I have no reason to believe that.

7 Q. The fact that his care level remained at a four is
8 that not some indication of the relative seriousness or
9 not seriousness of these institutional infractions?

10 A. What it speaks to is the consequences that he
11 received by the behavioral management panel he received
12 verbal warnings at the panel.

13 Regarding the relative seriousness of those
14 incidents again to me I think they're serious because it
15 reflects a pattern of behavior which has happened not
16 just during this review period but happened beforehand
17 and despite there being physical restrictions on some of
18 that behavior.

19 I mean for example with this incident with the red
20 object I mean is a ketchup packet all that significant?
21 No, but it's not the item that was potentially passed.
22 It's that he was physically separated from this
23 individual.

24 There is extensive records indicating that the
25 treatment staff did not want Mr. Wright spending time

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1 with this individual. And despite that physical
2 separation there is this video evidence of him still
3 engaging with him. That to me is what is concerning
4 about it; not the object itself.

5 Q. But there is nothing -- there is nothing in the
6 reports to indicate that there had been any type of
7 sexual conduct between the two individuals is there?

8 A. Not that I specifically reviewed. The indication of
9 that was that the other resident was sending Mr. Wright
10 romantic letters that he had in his possession.

11 Q. Because certainly if there was sexual contact
12 between the two that would be something that would be
13 written up would it not?

14 A. That's a possibility.

15 Q. You don't think that's a serious enough infraction
16 that it would be written up if it was observed?

17 A. I would assume that if that was something that was
18 observed that would be written up.

19 Q. How did you reach this score of four on the Static
20 99?

21 A. So a score of four, I can tell you exactly...

22 [Whereupon, the witness reviews document]

23 Q. Do you have a scoring sheet in front of you?

24 A. I do now, yes. But to answer your question when I
25 evaluate every resident I have a copy of the scoring

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1 manual open and I go through each and every single item
2 in the scoring manual one by one and that's how I scored
3 in each of these cases.

4 Q. Okay. Where did he get his four points?

5 A. So his age at release from his index offense if he
6 were to be released at the present time when I evaluated
7 him it would be age 29; that's a score of one. Has he
8 ever lived with a cohabitating or romantic partner that
9 is also a score of one.

10 A score of one is also received for having an
11 unrelated victim as well as having a stranger victim.
12 Sum those together and it equals a score of four.

13 Q. Okay. And what indications do you have that he's
14 had a stranger victim?

15 A. There is indication in the records as well as some
16 of the other annual reviews that are consistent with that
17 one of the victims at the sleepover party he was
18 unfamiliar with at the time of the sexual offense and
19 that is why that individual is listed as a stranger.

20 Q. What particular victim was it? You just know their
21 initials or you do you know the indictment numbers
22 associated with that individual?

23 THE COURT: I don't want any names disclosed.
24 Thank you.

25 MR. FALK: No, Your Honor ---

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1 A. --- I purposely -- sorry; go on Mr. Falk.

2 Q. [Mr. Falk] I was just saying it's hard to say victim
3 one, two, three, four, five, and six if everybody is not
4 using the same numbers.

5 And I didn't know if you had access to the petition
6 where it shows each of his victims there is an individual
7 indictment associated with that victim.

8 A. So I don't have the individual indictment numbers
9 listed in my report. However, if I refer you to page
10 four of the report it is the ten-year old female who Mr.
11 Wright had not previously met before the offense.

12 I think it's also important to keep in mind about
13 how to score the victim items on the Static-99R and
14 2002R. And that's based on any credible evidence deemed
15 by the evaluator.

16 Based on my review of the records I believe that
17 that was credible evidence and that is why I gave him a
18 point on that item.

19 Q. Did you have an opportunity to look at the other
20 annual reviews that were prepared in this case?

21 A. I did.

22 Q. Are you aware that Doctor Tross evaluated him as a
23 three?

24 A. I am.

25 Q. What do you know different that Doctor Tross knew?

1 A. It's not a question of knowing what's different. I
2 also think it's important to get some clarification about
3 what the Static measures are.

4 In every psychological tool that we have there is a
5 standard error of measure with every assessment; and that
6 includes with individuals who are certified and trained
7 on using the measure.

8 In the case of the Static-99R the standard error of
9 measurement is one and a half points. That means two
10 different evaluators who are both trained and both
11 certified to use the measure on average will differ in
12 their scores by one and a half points.

13 So a one point difference actually for Mr. Wright's
14 case is not unusual and is actually within that standard
15 error of measure of the Static-99R.

16 Q. But would you agree that the one point can be
17 significant as how it discusses or how it describes
18 somebody's relative risk ratio and their recidivism rate?

19 A. Yes, it would be indicated with a different absolute
20 recidivism rate. And in the case of Mr. Wright it does
21 change his risk category from above average risk to
22 average risk.

23 Q. Because isn't it true that the recidivism rate
24 associated with a four is about eleven percent?

25 A. It is. But again, this is just for my own method of

1 doing these evaluations. The absolute recidivism
2 estimate isn't as important as considerations of a
3 relative risk category.

4 And in particular it is going to be those dynamic
5 risk factors that we previously discussed, the treatment
6 compliance issues that were previously discussed as well
7 as community supports and future plans. That to me is
8 really where these things swing in terms of an
9 individual's likelihood to recidivate.

10 But when we're talking about a difference between a
11 three or a four I'm comfortable saying here on the stand
12 that had he scored a three my opinion would not be
13 different.

14 Q. Because that would be 28 percent decrease in
15 actually in the recidivism rate; the likelihood of
16 recidivism it goes from 11 percent to 7.9 percent.

17 Q. Within a five year timeframe and that's also only
18 looking at detected recidivism. So again the thing you
19 have to keep in mind with the Static tools is not only is
20 it only looking at one specific aspect of risks it
21 doesn't include other aspects of dynamic risk factors,
22 future plans, community supports.

23 But it's looking at a very specific timeframe and
24 it's only looking at detected cases. I mean Mr. Wright
25 is 29 years old. You know there is no indication that he

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1 is going to decease within the next five years from a
2 medical standpoint.

3 So again that's ultimately why I don't like relying
4 on absolute risk prediction from the Static alone;
5 particularly given the statute within South Carolina as
6 it relates to determining likelihood.

7 Q. Well, you would agree that -- you would agree that
8 the recidivism rate goes down with so many periods of
9 being in the community without reoffending, would you
10 not?

11 A. It does. Some of the research by Hanson will
12 suggest that after about ten years time there is somewhat
13 of a plateau if the individual does not reoffend after
14 that ten year period. But that does not guarantee that
15 an individual will not reoffend after ---

16 Q. --- and when you're talking about these risks you're
17 making a -- eleven percent; how do you describe that
18 comparison of recidivism rate that's compared to what?

19 What is the group that you're comparing -- you're
20 saying that Mr. Wright fits in a category is that
21 correct, and this category on average recidivate at this
22 rate, is that correct?

23 A. So that's based on the routine sample within the
24 Static development Norman samples. Individuals within
25 that category who had a score of four within a five year

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1 timeframe that percentage of those individuals sexually
2 reoffend. That's what that means.

3 Q. Okay. That routine sample how many members and what
4 percentage of that routine sample have had six years of
5 sex offender treatment can you say?

6 A. I'm not sure. It's made up of a variety of
7 different samples from around the world. It's very
8 difficult to say.

9 Q. So I mean before you had said that the Static could
10 underestimate the risk but in this case it could
11 overestimate the risk, is that correct, as you could be
12 compared to him.

13 I'm sorry, let me just repeat my question. You
14 would be comparing him who has had six years of treatment
15 verses people who had not had any treatment, is that
16 correct?

17 A. Well, not necessarily. There are treatment samples
18 that are included within the Static-99R. He's being
19 compared to individuals that have had treatment.

20 Q. All of whom have had treatment -- you said it's a
21 comparison across the world with different groups of
22 people. I thought that's what you said --

23 A. So, yes. It's a very diverse sample. There are
24 multiple samples from across the world some of which have
25 engaged in extensive sex offender treatment, some of

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1 which have not presumably; it's difficult to know the
2 exact breakdown or percentages.

3 Q. Okay. So, if it does not include all people who
4 have had six years of treatment could it not overestimate
5 his risk of reoffending?

6 A. So in terms of overestimating his risk for
7 reoffending the only thing that I've considered in my
8 evaluations as it relates to the Static specifically with
9 overestimating is when an individual is released there is
10 the possibility that they might have a quote unquote
11 target on their back which might make them less likely to
12 avoid un-detection.

13 So that may have an impact on potentially
14 overestimating risk. However, when you factor in the
15 fact that we're only looking at five year recidivism
16 rates and particularly from an absolute risk prediction
17 standpoint and detected crime I would say that it's more
18 than likely when we're looking at his lifetime risk from
19 an absolute recidivism standpoint I would say that it's
20 more likely an underestimate than it is an overestimate.

21 But again, just to caution I'm not relying on that
22 absolute recidivism number in making my ultimate
23 conclusion of whether Mr. Wright or really any other
24 sexually violent predator annual review evaluation isn't
25 going to be solely based on that five year recidivism

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1 estimate.

2 Q. Not to -- this too much, his rate, his relative risk
3 ratio as a four means he's twice as likely as the average
4 ---

5 A. --- not quite that is almost twice as likely.

6 Q. Okay. Twice as likely as what?

7 A. As the median sex offender. That would be an
8 individual with a score of two on the Static-99R.

9 Q. Okay. What is the absolute recidivism rate for the
10 median sex offender?

11 A. I am not familiar with it off the top of my head.

12 Q. Okay. And you would agree that if this ratio, if
13 this Static number is three that's down to a 1.39 percent
14 relative risk ratio?

15 A. I'm not sure. I'd have to refer to the manual.

16 Q. Do you have the manual handy? Would you accept that
17 I'm telling you that at a three it's 1.39? Does that
18 sound in the ballpark?

19 A. It sounds in the ballpark.

20 Q. Because a two would be a one, right? It would be
21 the same.

22 A. I believe that is correct, yes.

23 Q. Okay. And so a four is a two?

24 A. Just below.

25 Q. Yes. So it's somewhere inbetween and I'll submit

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1 that it is 1.39. And again I don't want to -- I'm not
2 going to go back over the form but you've indicated
3 several places in your review that he has been making
4 progress in treatment, is that not correct?

5 A. Yes. I believe he has made progress in multiple
6 areas that are directly risk relevant.

7 Q. Okay. Do you know whether or not he accepted -- are
8 you aware that some people go to the program and deny
9 that they ever committed any offenses?

10 A. There are residents that do that, yes.

11 Q. I guess y'all call them deniers?

12 A. That's not a term I would use.

13 Q. Okay. And do you know if the treatment program is
14 different for somebody who does not accept
15 responsibility?

16 A. I'm not sure on that.

17 Q. Do you know whether or not he immediately accepted
18 responsibility for his crimes saying that he did it?

19 A. Based on our conversation there are six identified
20 victims and he admitted to sexually offending against all
21 six of those individuals.

22 Q. Okay. And do you know how many different case
23 managers he's had over the six years that he's been
24 there?

25 A. I'm not sure on the exact number.

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1 Q. Is it more than one?

2 A. I believe so but again I'm unsure on the exact
3 number.

4 Q. Doctor Watson thought it was four. Do you have any
5 reason to believe it is a significantly different number?

6 A. Again, I'm not sure on the exact number.

7 Q. Is it not reasonable to -- would it not be
8 reasonable to be frustrated if you keep getting a new
9 teacher ever year and a half? If his case manager keeps
10 changing is it not reasonable to be frustrated by that
11 fact?

12 A. I'm not sure. I think different people can handle
13 that in different ways. It's tough to say.

14 MR. FALK: I'm almost done, Your Honor.

15 [Whereupon, Mr. Falk reviews documents]

16 MR. FALK: Your Honor, I have no further questions.

17 THE COURT: All right. Any limited redirect from
18 Ms. Shupe?

19 MS. SHUPE: I will attempt to be very, very short.

20 THE COURT: Okay. Go ahead.

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Probable Cause Motion-Dr. Christopher Gillen-Redirect Examination by Ms. Shupe

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REDIRECT EXAMINATION

BY MS. SHUPE:

Q. Doctor Gillen, you were asked specifically about the movement of Mr. Wright from case level three to care level four, is that correct?

A. --

Q. In light of his ---

THE COURT REPORTER: --- I didn't hear his answer.

MS. SHUPE: He said yes.

Q. [Ms. Shupe] Is the care level related specifically to their advancement in treatment itself or is it more related to behavior on the unit?

A. It's related to behavior on the unit and consequences from that behavior.

Q. So basically Mr. Wright got a pass in being promoted in spite of his disciplinary correct?

A. Yes. He received verbal warnings for those two substantiated incidents which did not restart a care level or send him back to a lower care level.

Q. Okay. And the fact that Mr. Wright has been in the program for six years that is only significant if he has been applying himself in the treatment for six years, correct?

A. Yes, that's correct. The research says that it is about living, treatment, practicing skills, implementing

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1 them in daily life rather than just simple attendance or
2 completing assignments; that's what most relevant.

3 Q. And you were asked a lot about the Static scores.
4 First of all, most of the evaluators prior to your
5 evaluation came up with a Static score of four, correct?

6 A. I'm not sure on the exact number of who had a four
7 and who had a three. I was really just focused on
8 scoring it independently myself.

9 Q. And you testified before and I just want to
10 reiterate please in light of the questions you were asked
11 that the percentage of reoffending the numbers like
12 eleven percent or whatever does not include un-reported
13 offenses, is that correct?

14 A. It does not, yes ---

15 Q. --- and that could mean that the score, the
16 percentage, is an underestimate -- an underestimation
17 couldn't it?

18 A. I think the best way to think about that is for the
19 Static in looking at a five year period following from
20 release and it's looking at charges and convictions in
21 the case of the 99R, charges and convictions; that's how
22 they are measuring recidivism.

23 So, when we're looking to decide whether someone is
24 likely to engage in acts of sexual violence again in the
25 period of their lifetime not only does that eleven

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1 percent not include dynamic risk factors, treatment
2 compliance, future plans, community support. It's not
3 taking into fact that the staff is also limited with the
4 timeframe as well as the detection. To me all of those
5 things are important when conceptualizing --

6 THE COURT REPORTER: I did not get the last part of
7 your answer. The very last part of your answer Doctor
8 Gillen I could not hear.

9 THE WITNESS: All those variables I discussed
10 previously are important in forming my opinion to answer
11 the ultimate question for the Court.

12 Q. [Ms. Shupe] Okay. Now you were asked about the
13 frustration from changes in case managers. The change in
14 case managers doesn't affect the treatment program
15 objectives, does it?

16 A. Not to my understanding.

17 Q. So they've got a treatment program that every case
18 manager uses and it is used regardless of who the case
19 manager is would that be fair?

20 A. I'm not sure on the exact ins and outs. I do know
21 that the treatment program that is employed at Wellpath
22 is fairly structured and manualized.

23 Q. And my last question Doctor Gillen is as recently as
24 October 2019 Mr. Wright denied being a -- having a
25 pedophilic disorder and denied that his conduct relating

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1 to these pre-pubescent children was pedophilic behavior.
2 How does that impact your decision or your assessment of
3 whether he is now safe to be at large?

4 A. It's directly connected within the dynamic risk
5 factors I previously discussed. To me it's not as much
6 of a denial as it directly translates into arousal
7 management skills to manage that dynamic risk factor.

8 And to me that's what is particularly problematic.
9 It isn't an issue of denial or acceptance in and of
10 itself. It's more about what it translates into in the
11 anger management.

12 Q. Wouldn't it be fair to say if he doesn't believe
13 that his treatment and that his behavior is pedophilic
14 then he is not likely to work to change that behavior, is
15 that fair ---

16 A. --- that's a possibility.

17 MS. SHUPE: That's all we have, Your Honor.

18 THE COURT: All right. And Mr. Falk, any limited
19 recross?
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RECROSS-EXAMINATION

BY MR. FALK:

Q. You're aware that at the Wellpath program you have to make certain presentations before your whatever his group leader in order to progress from one level to the next is that not correct, are you aware of that?

A. Yes.

Q. And are you aware that many people have had to re-do their presentations because they've gotten a new treatment provider and that treatment provider has not -- wants them to re-do their presentations? You are not aware of that fact?

A. That's not something specifically that I've heard about.

Q. And how many -- and you've done 19 of these?

A. Yes.

Q. And you've not heard that from any of the people providing -- that you've interviewed?

A. I've read in records about having to resubmit assignments and having to make edits on assignments according to the records.

Q. But not specific to group leader, right?

A. Not that I'm aware of.

Q. Okay. And you would agree that you don't have to finish Wellpath's program in order to be eligible for

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1 release. That's not a prerequisite for being no longer a
2 sexually violent predator, is that correct? You don't
3 have to complete the program, is that correct?

4 A. That is correct.

5 MR. FALK: I have no further questions.

6 THE COURT: Okay. Doctor Gillen, thank you for
7 joining us. You may step down from the witness stand so
8 to speak.

9 [Whereupon, the witness is excused and exits the
10 witness stand]

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1 THE COURT: Any other witnesses from the State?

2 MS. SHUPE: [No response]

3 THE COURT: Okay. What did you say, Ms. Shupe?

4 MS. SHUPE: No, Your Honor. No further witnesses.

5 THE COURT: Okay. All right. I'm happy to -- I'm
6 not sure that arguments are necessary at this point in
7 time. I'm happy to hear any summation that the attorneys
8 would like to give me or they can simply submit proposed
9 orders to the Court.

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1 MR. FALK: Your Honor, I just -- if the Court would
2 look at Chandler v State, that's an SVP case, 676 S.E.2d
3 676, 2009 Supreme Court case. It's the most recent case
4 I've found that Ms. Shupe may have found one, where it
5 describes the probable cause determination as one of the
6 State's requirements to show at that very first stage in
7 the process.

8 And I also think it has language that's relevant to
9 what we need to show at this stage of the process. I
10 mean is there enough for you to entertain a, is it
11 reasonable for you to suspect that there is a probability
12 that he no longer needs to be there.

13 I have provided an expert who is familiar with the
14 Sexually Violent Predator Program. He was the
15 administrator of the program for six years. He's met
16 with him over four different time periods. And it's his
17 opinion that he no longer meets criteria for commitment
18 to the program. I understand that the State's expert is
19 something different.

20 But balancing that as to who is right is really a
21 jury question for the jury to decide. But I think Doctor
22 Watson's testimony alone gets us over the burden or lets
23 us clear the hurdle of establishing probable cause.
24 You've got a well-qualified expert in this field who says
25 he no longer meets the definition for commitment.

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1 MS. SHUPE: Your Honor, we would just note that I
2 think at this point you have to consider the strength of
3 those two experts. And we have Mr. Falk on behalf of Mr.
4 Wright presented an expert who is qualified but did not
5 do a comprehensive evaluation.

6 Indeed he started with the premise that Mr. Wright
7 never needed to be in the program. And his entire
8 opinion about where he is today is based on that.

9 When you look at Doctor Gillen's report you see a
10 very, very detailed report, very -- and one thing that is
11 missing from Doctor Watson's report is a discussion of
12 the dynamic risk factors he concedes apply to Mr. Wright.
13 And each of those factors is discussed at length and
14 where Mr. Wright is on each of those factors is discussed
15 at length in Doctor Gillen's report.

16 So we would submit that the Court has to look at the
17 two things that were submitted and we submit that Mr. --
18 Doctor Watson's report and testimony is insufficient to
19 establish probable cause to order a trial.

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Probable Cause Motion-Summation Reply by Mr. Falk
October 2, 2020

1 MR. FALK: Your Honor, if I could just...

2 You also have to consider the experience as possibly
3 this expert's evaluation that he was given. And granted
4 you can write a 100 page report but if you don't have the
5 same experience level it doesn't necessarily mean it's
6 accurate.

7 You're comparing somebody who has done over 500
8 forensic interviews and I don't know how many, 30 or 40
9 he said annual reviews. And so you have to compare the
10 relative qualifications and the lack of experience in
11 this field that the State's expert had.

12 THE COURT: Okay. I appreciate ---
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1 MS. SHUPE: --- and in response, Your Honor.

2 THE COURT: Go ahead.

3 MS. SHUPE: If I could just say very quickly I
4 think the Court has to look at the actual evaluation that
5 was done. You can have a lot of experience and still not
6 do a comprehensive credible evaluation. And that's where
7 we are, Your Honor.

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1 THE COURT: I would like both sides to submit a
2 proposed order to me within ten days if possible. I'll
3 certainly review the case law that you cited Mr. Falk and
4 I'll review whatever is in your proposed order from both
5 sides and I'll make a determination upon review of those
6 orders. And all of the exhibits and memoranda are fully
7 incorporated into the record by virtue of this hearing.

8 So, if anybody needs anything else from my office
9 please reach out and let me know. Otherwise I'll look to
10 have those proposed orders emailed to my law clerk at
11 jmccoysc@sccourts.org within the next ten days.

12 MR. FALK: Your Honor, one point?

13 THE COURT: Yes?

14 MR. FALK: If these evaluations are going in it's
15 got to still remain under seal though.

16 THE COURT: Oh yes, all of this will be under seal,
17 yes.

18 MR. FALK: Thank you.

19 MS. SHUPE: Thank you, Your Honor.

20 THE COURT: All right. Thank you all. Take care.

21 MS. SHUPE: You too.

22 MR. FALK: Bye, bye.

23 *****END OF TRANSCRIPT OF RECORD*****

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State v Kevin Wright
Certificate of the Court Reporter
October 2, 2020

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is, to the best of my ability, a complete
Transcript of Record of the proceedings had, using WebEx
videoconferencing, and evidence introduced in the trial
of the captioned case, relative to appeal, in the Court
of Common Pleas for Charleston County, South Carolina on
the 2nd day of October, 2020.

I do further certify that I am neither of kin,
counsel, nor interest to any party hereto.

December 30, 2020

Joyce C. Rueger, CVR-M
Court Reporter

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES

SEXUALLY VIOLENT PREDATOR ANNUAL REVIEW REPORT
PURSUANT TO S.C. CODE ANN. § 44-48-110

Name:	Wright, Kevin Lamar
Date of Birth:	() 1991
Date of Commitment:	07/03/2013
County:	Charleston
Review Period:	February 2018 – February 2019
Date of Report:	03/27/2019
Evaluators:	Jeffrey M. Washelesky, Psy.D. Rozanna Tross, Psy.D.

Identifying Information

Mr. Kevin Lamar Wright is a 27-year-old male who is committed to the South Carolina Sexually Violent Predator Treatment Program (SVPTP) facilitated by Wellpath Recovery Solutions (formerly Correct Care Recovery Solutions or "CCRS") under the South Carolina Department of Mental Health (SCDMH). On 06/19/2013, a Jury concluded the "State has proven beyond a reasonable doubt that Respondent, Kevin Lamar Wright, is a Sexually Violent Predator" and concluded he should be committed to the SVPTP with SCDMH for "long-term control, care, and treatment." He was admitted to the program on 07/03/2013.

Reason for Evaluation

Pursuant to S.C. Code Ann. § 44-48-110, residents committed as SVPs receive a current "examination of [their] mental condition" once every year. This annual review report was requested to assist the Court in determining whether there is "probable cause to believe the resident's mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence."

South Carolina Code Ann. § 44-48-30 defines "mental abnormality" as *a mental condition affecting a person's emotional or volitional capacity that predisposes the person to commit sexually violent offenses*. "Likely to commit acts of sexual violence" is statutorily defined as *the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others*.

Notification

The undersigned informed Mr. Wright they were a postdoctoral fellow, supervised by licensed psychologists. The nature and purpose of the evaluation were explained to Mr. Wright at the beginning of the interview. He was advised he did not have to participate in the interview for the evaluation if he did not wish to, as it is a voluntary aspect of the annual review process. He was advised a report would be written and submitted to the court regardless of his participation. He was advised a review of available records and discussions with relevant collateral informants would be had as needed and any or all information gleaned from these sources could be used in the report submitted to the court. He was advised this information would also become part of courtroom testimony as well as his record and may be viewable to members of his treatment team and those affiliated with his legal case. Mr. Wright was advised any statements he made in the context of this evaluation were not confidential and could be made part of the report and/or become part of courtroom testimony and related records. Mr. Wright gave verbal assent to participate in the interview.

Sources of Information

1. Direct Evaluation and Interview with Mr. Wright by the undersigned on 02/21/2019
2. Wellpath Recovery Solutions treatment records
 - a. SVPTP Annual Treatment Summary Report, authored by Stephanie Skewes, Psy.D., dated 11/28/2018
 - b. Treatment Plan, dated 02/06/2019
 - c. Monthly Case Management Notes, various dates
 - d. Treatment Progress Notes, various dates
 - e. Weekly Group Notes, various dates
 - f. Resident Treatment Assignments, various dates
 - g. SVPTP Incident/Disciplinary Reports, various dates
 - h. Behavioral Management Hearing Dispositions, various dates
3. Original Commitment Documents
 - a. Charleston County Police Reports, various dates
 - b. Charleston Police Department Witness Statement, dated 12/11/2009
 - c. Charleston County Arrest Warrants/Affidavits, various dates
 - d. Charleston County Indictments, dated 07/12/2010
 - e. The Dee Norton Lowcountry Children's Center, Inc. Child and Family Trauma Assessments, undated
 - f. Charleston County Sentencing Sheets, dated 05/09/2011
 - g. Sexual Predator Synopsis Form, undated
 - h. Sexual Predator Referral Form, dated 01/19/2012
 - i. Probable Cause Determination, dated 02/21/2012
 - j. Petition Pursuant to Sexually Violent Predator Act, dated 03/09/2012
 - k. Order of Commitment, dated 06/19/2013
4. South Carolina Department of Corrections (SCDC) records, various dates
5. Pre-commitment Evaluation, authored by Marie E. Gehle, Psy.D., dated 11/08/2012
6. Pre-commitment Evaluation, authored by Susan C. Knight, Ph.D., dated 05/16/2013
7. Previous SVP Annual Review Evaluations
 - a. Authored by Amy C. Swan, Psy.D., dated 01/06/2016
 - b. Authored by Donna Maddox, M.D., dated 01/21/2017
 - c. Authored by Rozanna Tross, Psy.D., dated 03/06/2018
8. National Crime Information Center (NCIC), dated 01/23/2012
9. Charleston County Circuit Court Public Index, various dates

Brief Relevant History

The below information was obtained from available records, observations of Mr. Wright, and his self-report.

Mr. Wright previously reported he was born and raised in Charleston, South Carolina. He was primarily raised by his great-grandmother and mother. Mr. Wright reported to a prior evaluator his father was "constantly" in his life, though he told another evaluator his father "traveled a lot" resulting in intermittent contact. He informed a prior evaluator he has two younger brothers from different fathers, but told a different evaluator he has a younger half-brother and half-sister. Mr. Wright described himself as "spoiled." He denied a history of abuse or neglect as a child. He also reported he lied to get money during his childhood and adolescent years and engaged in "shoplifting several times during elementary school," but he was never detected.

Mr. Wright earned a high school diploma in 2009 taking "honor" and "advanced placement" courses. He reported earning grades of Bs and Cs. He denied significant disciplinary problems, though he told one evaluator he was suspended on several occasions for being "late." After entering SCDC, Mr. Wright was enrolled in general education diploma (GED) courses, as they did not have a record of his having earned a diploma. He earned the GED before the error was corrected.

He reported beginning to work at a fast food restaurant at 16 years old, but he quit six months later as it interfered with his schooling. At age 17, he began working at several summer camps and after school programs for children, including a summer camp with the City of Charleston, the Charleston Development Academy, and Wings for Kids. He worked with children between kindergarten and sixth grade (approximately 12 years old). He also worked at a dollar store for a period of time. After graduating high school, Mr. Wright enlisted in the U.S. Navy, but was arrested prior to starting basic training so his contract was terminated. While incarcerated, he worked as a "ward keeper" and as a teacher's assistant for the GED program. He told a previous evaluator his "ideal job" was to be a pediatrician because he works "so well with children." However, he later decided he wanted to be an elementary school teacher, as he believed he could have a greater impact on "a child's life" as a teacher than a pediatrician.

Mr. Wright denied any current or historical medical problems, hospitalizations, or physical and/or psychotropic medications. He reported suicidal ideation a few months after he was incarcerated (due to his charges), but denied problems since. He denied a history of substance use to include alcohol and other psychoactive/illicit substances.

Mr. Wright has never been married and does not have children. He reported he has had three committed relationships in his life, the first of which occurred when he was in the seventh grade with a female peer one year his junior. He indicated the relationship lasted two and a half years and ended because he "lost interest." He reported his second relationship occurred when he was 17 years old with a same-age female peer. This relationship lasted almost one year and ended when she "moved away." The third relationship occurred when he was almost 18 years old, with an 18-year-old female peer. This relationship lasted for six months and ended due to Mr. Wright's incarceration. He told previous evaluators he "always dated frequently." Of note, some of his recent treatment assignments reveal some of his relationships ended after his partner was unfaithful, which contributed to his beliefs he was "not good enough."

In a previous evaluation, Mr. Wright reported he learned about sex in school and had his first sexual experience prior to eighth grade. He said "it was more of a dare than an intimate thing..." He said he first masturbated in fifth or sixth grade, typically masturbated once a week or once every other week, and stated he masturbated two to three times a week between "middle school" and adulthood. Mr. Wright reported having 10 sexual partners, two of which were one-time encounters, though he denied they were strangers. In high school, he reported having sex three to four times a week. He denied having sex or masturbating while incarcerated. He said he got "deeper in the bible" and "wasting your seed of life is a sin." He denied having sexual fantasies.

Original Commitment Findings

Sexual Offense History

On or about 12/02/2009, Mr. Wright (age 18) was arrested and charged with Criminal Sexual Conduct with a Minor, First Degree and Lewd Act Upon a Minor after reports he "digitally penetrated" a 6-year-old female neighbor (K.S.) at a sleep over. The victim reported he had her "lay down with him" and touched her "under her underwear." She reportedly told him to stop and began to cry. She also reported trying to "run away" but Mr. Wright "was rubbing her chest and holding her." In subsequent interviews, the victim reported Mr. Wright "pulled her shirt up and pulled her legs apart." The victim "ran to the bathroom" but he "followed her, picked her up" and took her to the couch where he "pulled her pants down to her ankles and put his hand inside her underwear and inside her private part."

On or about 12/16/2009, Mr. Wright was arrested and charged with four counts Criminal Sexual Conduct with a Minor, First Degree and one count Lewd Act on a Child Under 16 for sexual assaults that occurred between July 2007 and November 2009 against a 10-year-old female (M.M.) known to him. She reported one incident where Mr. Wright put her on his lap, put his hands down her pants, and touched her vagina. On another occasion while sleeping at his house, he "got into the air mattress with her and touched her on

her vagina with his hand." On another occasion he "pulled down her skirt and leggings. He tried to touch her vagina with his private."

After learning of his arrest for the above sexual offenses, Mr. Wright's cousin spoke with her daughter, who, along with two other females, were at the same sleepover as the above victim.

Her 9-year-old daughter (A.H.) reported, while at the sleep over, Mr. Wright entered her room, climbed into her bed, and "put his hands" down her pants, pulled her pants down, and touched her vagina. He told her not to tell anyone or she would be in trouble. On 01/06/2010, Mr. Wright was charged with Criminal Sexual Conduct with a Minor, First Degree.

A 10-year-old female (T.M.) reported to her school guidance counselor that, while at the sleep over, Mr. Wright "touched her on her buttocks while she was [pretending to be] asleep on the couch." He stated he "placed his hand under her pajama and underwear." According to Mr. Wright, he had not met this victim prior to the night of the offense. He was charged with Lewd Act Upon a Minor.

A 5-year-old female (J.H.) reported, while at the sleepover, Mr. Wright was "digging in her private [vagina]. Using his finger under her underwear." He was charged with Criminal Sexual Conduct with a Minor, First Degree and Lewd Act Upon a Minor.

A 7-year-old female (A.G.) reported that on "several occasions" Mr. Wright touched her "breasts and vagina over her clothes." He was charged with two counts of Lewd Act Upon a Minor.

In total, Mr. Wright was charged with seven counts of Criminal Sexual Conduct with a Minor, First Degree, and six counts of Lewd Act Upon a Minor for sexually offending against six minor females between the ages of 5 and 10 (he was between the ages of 16 and 18). Mr. Wright was familiar with all of the victims except for one. On 05/19/2011, Mr. Wright pleaded guilty to six counts of Lewd Act on a Child Under 16 and was sentenced to a period of 10 years' incarceration, suspended to five years with five years' probation, and mandatory GPS monitoring.

Institutional Infractions

Records reveal Mr. Wright did not receive any disciplinary infractions during his period of incarceration with SCDC.

Original Evaluator Conclusions

Dr. Gehle

Mr. Wright was evaluated in June 2012 (report dated 11/08/2012) to determine if he met criteria to be considered a sexually violent predator. Dr. Gehle opined he met diagnostic criteria for *Pedophilia, Sexually Attracted to Females, Non-exclusive Type*. Dr. Gehle stated despite the presence of a relevant mental abnormality, "It does not appear that the likelihood to engage in future acts of sexual violence is 'significant' and does not seem to suggest that he is part of the 'extremely dangerous' group of sex offenders who require involuntary civil commitment in a secure facility for long-term control, care, and treatment." Dr. Gehle noted Mr. Wright "appears to have few risk factors for sexual reoffending that are not accounted for by the Static 99R."

Dr. Knight

Mr. Wright was evaluated a second time in February and April 2013 (report dated 05/16/2013) to determine if he met criteria to be considered a sexually violent predator. Dr. Knight opined Mr. Wright met criteria for *Pedophilia, Sexually Attracted to Females, Nonexclusive Type*, and that "such a diagnosis warrants treatment." She stated, "I consider Mr. Wright at risk for sexual reoffending recidivism and a candidate for treatment" and that this treatment "should be provided in a secure setting."

Treatment Progress

Prior Annual Review Conclusions

Mr. Wright's last annual review was completed by Dr. Tross on 03/06/2018. According to Dr. Tross, Mr. Wright was approaching treatment as if it was a "checklist of tasks to complete rather than a learning process that requires self-discovery, understanding, acquisition of new skills, and implementation of skills." She stated he attempted to control and/or dictate his course of treatment, was often dismissive of the feedback he received, and questioned why he was asked to do something rather than comply. Dr. Tross indicated Mr. Wright demonstrated significantly distorted thinking to include offense-supportive attitudes, entitlement, and personalization, and did not appear to be able to apply treatment concepts to his individual circumstances. She further said he lacked appreciation for his own risk and the inappropriateness of his offending behaviors.

Current Treatment Progress

According to his Annual Treatment Summary Report, authored by Dr. Skewes, dated 11/28/2018, Mr. Wright is enrolled in Phase 2.1: Disclosure, Conventional track. Early in the review period he demonstrated limited engagement in group, but has increased his motivation in recent months. Lately, he has maintained consistent group attendance and completes therapeutic assignments as required. He is currently a CARE Level 3 after being demoted from a Care Level 5 (see below).

During the 2017 – 2018 annual review period, Mr. Wright's relationship with another peer was first indicated by staff and peers as being inappropriate. Mr. Wright was made aware of others' feelings about this relationship, but Mr. Wright denied the existence of an inappropriate relationship. Since then, he has continued to engage with this peer, despite staff warning, which resulted in Mr. Wright being infraacted. In December 2018 it was discussed during group that Mr. Wright was spending a significant amount of time with the resident, who was a non-group member. It was suggested the other resident could be grooming Mr. Wright, as records reveal the resident had previously identified Mr. Wright as being within his "arousal window" due to his "the mental limitations." Additionally, staff mentioned, "Mr. Wright has a history of associating with individuals who are much older than him, and who seem to express a sexual interest in him." According to staff, Mr. Wright "appeared to foster these relationships for his own personal gain (e.g., getting assistance with his treatment work, passing others' treatment work off as his own or legal advice), all as a means of getting discharged from the program prematurely." When questioned in group about the relationship, Mr. Wright did not deny the accusation, but denied the relationship was inappropriate in anyway. According to Mr. Wright, the other resident was helping him with his treatment work, but when offered assistance by a number of group members, Mr. Wright declined their offers. Approximately one month later this concern was revisited, as Mr. Wright's treatment disengagement became the focus of discussion in group. Multiple group members continued to express their concern about a suspected inappropriate relationship, but Mr. Wright stated, "No disrespect, but I am not obligated to speak to anyone if I do not want to. My focus is on my treatment and going home." As he continued to be questioned by group members, Mr. Wright was described to present with a "tense posture" and short responses.

After his last annual review, Mr. Wright reported feeling disappointment he was not recommended and was reminded his relationship with the resident, who was identified as a negative influence, and he was encouraged to continue to his treatment independently. Mr. Wright continued to deny an inappropriate relationship and stated the other resident was a "role model." Staff encouraged Mr. Wright to separate from the resident on multiple occasions. As stated above, Mr. Wright has been having the discussion about the inappropriate relationship since at least 2017.

In May 2018, Mr. Wright was found to have unauthorized material in his room (see below). Shortly after, he was moved to another unit after it was determined he and the other resident were not responding to the recommendation from staff to terminate their relationship. After Mr. Wright was transferred to a different unit, he and the resident continued to communicate with each other by passing materials back and forth.

Mr. Wright was found to be in possession of several letters alleged to be from the other resident; the letters were romantic in nature. Additionally, treatment assignments that belonged to the other resident were in Mr. Wright's possession and it was again suggested Mr. Wright was passing the other resident's treatment assignments off as his own. After these materials were found a 60-day no-contact order was put in place and there has been no indication Mr. Wright has been in contact with the other resident.

A review of his treatment assignments reveals Mr. Wright demonstrated increased insight into where his negative beliefs about him being inadequate likely stem from. He shared information in his Adolescent Block of his Life History that discussed feeling unwanted by others, not being able to trust women because they hurt him in the past, and that he would get hurt if he became too close to others. He discussed having "no sense of direction" at 18 years old, having low self-worth, and he stated he allowed sex and how he performed sexually to define who he was. He said feeling inadequate around age-appropriate peers led him to "feel more comfortable around children." He also discussed his first sexual experiences in his treatment assignments. He reported having his first sexual experience at 6 years old with a female classmate who "initiated it." According to Mr. Wright, during art class the girl touched his penis and he touched her vagina. They were seen by their art teacher while touching each other. Mr. Wright stated this "planted the seed of my sexual curiosity that led to the beginning of my sexual preoccupation." He also shared information about a female cousin who performed oral sex on him when he was 7 or 8 years old. He indicated the cousin was three years his senior. Mr. Wright stated the oral sex led to kissing and fondling each other." He continued,

This led to the sexual games I played in the neighborhood, such as Spin the Bottle, Dare or Double Dar, and Hide and Ride. This started at the age of 9 until I was 12 years old. I was exposed to pornography on two occasions... This is also where I my [*sic*] offense supported attitudes of keeping secrets, being sneaky, sex means love and my ability to sexually objectify females began... I became sexualized before my time. It planted the root for my sexual curiosity.

Mr. Wright reported his sexual curiosity "heightened" because he "went from just wanting to see and touch their breasts, butt, or vagina, to wanting to have sexual intercourse with them." He stated he began performing oral sex on females around this time because "oral sex usually led" to sexual intercourse. With regard to his attraction towards children, Mr. Wright revealed in a treatment assignment he maintained employment in positions that required him to have access to children. He said, "I [begin] to see children in a provocative manner." He said he realized "changes" (i.e., an attraction to children) on days the children would swim. He disclosed he began to have "arousing thoughts towards children," which led him to "seek emotional connections with children and that feelings were being reciprocated by the children." He also recognized he did not have an emotional connection with an age-appropriate peer at the time of his offending behaviors. However, he struggled to explain how his victims reciprocated his feelings and his understanding of his sexual preference for children is underdeveloped. It was further noted that although Mr. Wright is learning additional information about his cognitive distortions and dynamic risk factors, he is at a basic level, as some of his treatment assignments demonstrate misunderstood concepts. For example, he shared that the dynamic risk factors most related to a coping log he completed were "addressing lack of emotional intimate relationships with adults and emotions congruence with children because I am relating to the family of the nine inmates who died in the riot and expressing myself openly and honestly to my support team in society as well as on the unit."

A review of Mr. Wright's most recent treatment plan, dated 02/06/2019, reveals that during the treatment plan meeting one month ago, Mr. Wright, with regard to the other resident, stated "this is a distorted perception" on the part of staff. He shared he does not associate with people who have sexual interests in him and then said he "does not have a choice but to associate with people older than him," given his age.

Generally speaking, Mr. Wright's participation in treatment has gradually increased over the past review period. He challenges others in group, but is noted to continue to struggle with relating group discussion to his own offending behaviors. According to staff, "Mr. Wright's knowledge of his problematic behaviors has not consistently translated to his behavior on his unit." He was noted to disregard feedback with regard to the above mentioned peer, and he demonstrated other offense-related behaviors (e.g., having pictures of children, see below). Further, he is noted to be "making progress in understanding the factors that contributed to his behaviors, but has difficulty implementing replacement behaviors to get his needs met in an appropriate and healthy manner."

Overall Behavior

On 05/03/2018, during a room search, Mr. Wright was discovered to have six magazines and a newspaper article "all containing pictures of children of various ages." A cardboard box, two bottles of hair dressing, and one bottle of sports wave grease were also found. He was found guilty of Possession of Anything Not Authorized, which resulted in a loss of Care Level (from 5 to 4).

On 05/11/2018, Mr. Wright received an incident report for "sharing food that was saved and brought in from the Level 5 cookout on 05/11/2018." He was observed on camera with food concealed in a napkin. He and another resident began to eat together. The disposition of this is unknown.

On 07/17/2018, he was convicted of Attempt, Conspiracy, or Attempting Conspiracy to Commit a Crime or Facility Violation after he was observed receiving a folder that was brought and given to him from another resident of another unit (the same resident he was observed eating with above). This resulted in a loss of Care Level 4 to Care Level 3.

On 07/18/2018, he was convicted of Possession of Anything Not Authorized after he was found with multiple letters from another resident (same resident as above). He was able to maintain his Care Level 3, but a no-contact order was placed between Mr. Wright and this resident for a period of 60 days.

Interview

Mental Status Examination and Behavioral Observations

The undersigned met with Mr. Wright in an interview room at Forensic Evaluation Services. The interview lasted approximately two hours and five minutes.

Mr. Wright is a 27-year-old man who appeared his chronological age. He was cooperative, polite, attentive, engaged, and motivated throughout the interview. He presented to the interview in a standard SVPTP jumpsuit and his grooming and hygiene were adequate. No behavioral abnormalities were observed. He is of average height and of thin build. He was fully alert and oriented (i.e. aware of time, place, and situation). His eye contact was good. His speech rate, volume, and rhythm were within normal limits. His speech and thoughts were linear, goal directed, and organized. Mr. Wright readily answered all questions posed to him. His attention and concentration was adequate. His short- and long-term memory was intact. He described his mood as "good." His affective range (i.e. observable presentation of mood) was within normal limits. He denied recent or current suicidal or homicidal ideation; he denied a history of such. Mr. Wright did not present with any current observable mental health symptoms or concerns and did not appear to be responding to internal stimuli (seeing or hearing things). No delusional thoughts (uncommon firmly fixed beliefs) were observed or noted. His judgment was moderate and he exhibited compromised insight into his risk for re-offense.

Interview Discussion and Responses

Mr. Wright discussed his thoughts and feelings about his last annual review. He disagreed with Dr. Tross' conclusions and stated, "I don't see treatment as a checklist. I just showed her an assignment I did and she thought I was rushing through my treatment assignments." According to Mr. Wright, this assignment was

a "relapse prevention/sex offense cycle" handout that had been given to him by a former case manager. Mr. Wright stated he was not sure where the handouts came from, but reported they were not assignments he received in group. Mr. Wright also reported he does not "control and dictate" things and denied being dismissive to feedback from others. He said, "If something [in group] does not apply to me I'm not going to say that it does. I'm not going to agree to something that's false." He then went on to give an example of how he did not understand his molestation was a form of victimization until he came to the SVPTP and a peer told him he was "forced" into his victimization. He said, "I don't see it as force, I see it as manipulation." He gave another example about how he used to work with children and a peer said Mr. Wright "intentionally bumped into kids at the pool." Mr. Wright said this was "not true" and the peer only said this because "that's what [the peer] did."

Mr. Wright stated he is "doing better" now that the residents have moved to the new facility. He said treatment is "coming along very well." He said his "community allows me to demonstrate my coping skills," and he discussed how he is able to de-escalate situations and self-soothe in the moment to avoid conflict. He stated group is going well and is "more structured and organized." He denied having any difficulties with staff or peers.

When discussing his dynamic risk factors he appeared to be offering information in the form of rote memorization. That is, he was using pneumatic devices to remember names/order of the risk factors. Further, his understanding of them was limited and superficial. For example, when discussing dysfunctional coping, Mr. Wright simply offered coping skills he could use if needed. He said he is no longer emotionally congruent with children because he now sees "kids as kids, not peers or equals." Mr. Wright stated he needs to continue working on his communication skills in treatment. He said he could "always use" more coping skills so he can have "multiple tools at my disposal."

When discussing what contributed to his sexual offenses, Mr. Wright said, "It was a fear of rejection, betrayal, and abandonment." He said he felt betrayed by his girlfriend and other female peers, who made him feel "unwanted, inadequate, ugly, and a piece of shit." He then said, "Interacting with children was the opposite. They gave me attention and showed me affection." He said his offenses were a "projection" of his own molestation. With regard to his relapse prevention plan, he stated he plans to reside at Shield's Ministry, register "like I'm supposed to," work for a cleaning service, stay connected with his support team, be "mindful of my surrounding," and have "limited contact with children." He indicated he would reach out to his support team (mother, father, younger brother, aunt, and cousin) if he "starts feeling bad emotions." With regard to his self-reported risk for re-offense, he said "there's always a risk for re-offense" and "there's always room for improvement." He rated himself a 3 on a scale of 1 – 10 (1 being the lowest). He described his "worst case scenario" for re-offense as "babysitting." He indicated if he were to be asked to babysit in the future he would tell people "I don't do that no more" and that it is "not my responsibility."

A significant aspect of the current interview with Mr. Wright revolved around his purported inappropriate relationship with another resident (Mr. R.). Of note, it took Mr. Wright approximately one hour and 30 minutes to acknowledge any relationship, aside from a supportive friendship, with the resident, or mention the resident by name.

Mr. Wright stated he met Mr. R. in July 2017. He said they were not in groups together, but he needed assistance with a new law library computer and Mr. R. "knew what he was doing." Mr. Wright said he learned Mr. R. was "knowledgeable about the legal system" and he helped him with "court stuff." He said they would do sit-ups, watch television, eat, and "do activity events" together. He reported having "similar interests" as Mr. R., as they both wanted to start their own businesses. Mr. Wright said he gets "information and [Mr. R.'s] life experience" out of this relationship and said he believed Mr. R. "got my life experiences" out of the relationship. He continued, "We come from different generations so we help each other out." He said he began asking Mr. R. questions about his treatment assignments if staff was not available to assist. He reported Mr. R. gave him "honest feedback."

Mr. Wright discussed write-ups he received over the past review period, most to do with Mr. R., and contented many of the accusations were “made up or alleged,” or a form of retaliation from staff. According to Mr. Wright, he had some “problems” with a Captain in the past because the Captain would “talk to certain individuals” and “flirt with staff.” He indicated he and the Captain had an “issue” because the Captain “liked” a staff person who “had an issue with a person I was associating with [Mr. R.], so the Captain had a problem with me.” He reported a different staff person told him the Captain did not like him and that he and anyone else who “associated with” [Mr. R.] should be written up “for anything.” Mr. Wright said he filed a complaint with DMH and the Court (in May or June 2018) and “hasn’t had an issue [with the Captain] since.” However, he said the final “issue” he had with the Captain was in August 2018 when the Captain tried to ban him from religious services. According to Mr. Wright, he was accused of passing a note during services to the [Mr. R.], but Mr. Wright denied this and said the Captain “made it up.” Mr. Wright said he was accused of eating food from a cook out, but denied the misconduct. When confronted with the incident report that says he was observed on camera eating food from the cook out, Mr. Wright said he was eating a fish sandwich he had made. He said he received “empty folders” from another resident who lived on a different unit, but clarified this resident was not Mr. R. He said he “didn’t even know it was coming to me.” Mr. Wright said he “allegedly” was in possession of letters from Mr. R., but he said “I didn’t have any letters.” It was not until he was confronted with copies of the letters in which Mr. Wright became more forthcoming with information regarding his relationship with Mr. R.

Mr. Wright denied ever being told multiple times by staff that his relationship with Mr. R. was inappropriate. He said, “Three group members was jealous of our relationship. The three of them might have found me attractive because they all had male victims.” He then said they might have wanted to “sabotage” him or make him “look bad,” because they saw Mr. R. as “competition for my attention.” According to Mr. Wright, he and Mr. R. were separated in May 2018, but he “wasn’t given a reason” why. When asked why he believed he was moved to a different unit he said, “Because of the Captain.” He said he had “absolutely no idea” why they would have been separated. Mr. Wright indicated he and Mr. R. maintained communication once they were housed on different units because he “didn’t see the harm in us talking.” He said he received the no-contact order in August 2018 and has not communicated with Mr. R. since.

When discussing the letters he “allegedly” had in his possession, Mr. Wright said staff assumed the letters were from Mr. R. but could not prove it because “his name isn’t on them.” Mr. Wright told the undersigned the letters were written by a female friend who lives in the community. He denied the letters had a romantic tone, even when confronted with copies of the letters. After continued encouragement, Mr. Wright confirmed the letters were written by Mr. R. He admitted the letters “might” sound romantic, but he contended Mr. R. never attempted any sexual behaviors with him. Mr. Wright did not seem to understand why his relationship with Mr. R. was inappropriate. After a discussion, he could verbalize how he could potentially be negatively affected by his relationship with Mr. R. He said, if Mr. R. were grooming him like staff suggest, he would feel “used and betrayed.” He was then able to connect how those feelings paralleled the feelings he experienced while he sexually offended and how a continued relationship with Mr. R. could increase his risk for re-offense. He also said he will not engage with Mr. R. in the future now, as he “understands” potential consequences of the relationship.

After this discussion, Mr. Wright contended he is not using Mr. R.’s treatment assignments and that he completes his own work. He indicated Tiffany Jones “made it up” because she “has a problem with pedophiles and wants to keep us locked up.” He said, “Everyone has vindictive motives.”

Relevant Diagnostic Formulation (DSM-5)

Pedophilic Disorder, Sexually Attracted to Females, Non-Exclusive Type

Mr. Wright continues to meet diagnostic criteria for *Pedophilic Disorder, Sexually Attracted to Females, Non-Exclusive Type*. By his own account, he noticed a sexual preference for prepubescent children around the

age of 15 or 16. Official records reflect he began sexually acting on these urges and fantasies at the age of 16 or 17, as he was detected at the age of 18 and victim accounts suggest he had been sexually offending for at least two years. His known offenses involve females between the ages of 5 and 10. He also reported having simultaneous age-appropriate sexual relationship, which further suggests his offending was out of a sexual preference for the age group, rather than sexual deprivation, curiosity, or lack of opportunity with same-age peers.

Risk Assessment

The key factors empirically supported through the research as contributing to sexual offense recidivism are typically divided into static and dynamic factors. Static factors (e.g., offense and victim characteristics) are relatively fixed aspects of an offender's history and therefore do not change with treatment interventions, environmental changes, or in terms of relationship to risk. Dynamic, or sometimes referred to as psychologically meaningful factors (e.g., relationship status, deviant sexual interests, and compliance with supervision), are changeable and amenable to treatment and/or environmental manipulations and can help mitigate risk if adequately managed or intervened upon. Assessment of both static and dynamic factors is involved in determining risk for sexual re-offense.

Static Risk Factors

The following items have been empirically supported in the literature as contributing to sexual recidivism: having prior sexual offenses, having deviant sexual interests, psychopathy, being young at the time of offending, having stranger and/or unrelated victims, having male victims, never having been married or in a committed relationship, and violating the conditions of release and/or treatment (Witt & Conroy, 2009). Mr. Wright has prior sexual offenses, deviant sexual interests (e.g., sexual preference for pubescent children), was young at the time of his offending (e.g., age 16 when first sexually offended), has stranger/unrelated victims, and has a history of violating conditions of treatment (e.g., inappropriate relationships with peers in the SVPTP).

The Static-99R and Static-2002R are actuarial risk assessments designed to assess risk of sexual recidivism for adult males who have already been charged with or convicted of at least one sex offense against a child or non-consenting adult. They are intended to position offenders in terms of their relative degree of risk for sexual recidivism based on commonly available demographic and criminal history information, which has been found to correlate with sexual recidivism in adult male sex offenders. The scores characterize the individual's relative risk for sexual recidivism in terms of how unusual it is and in terms of how it compares to risk presented by the typical offender. The recidivism estimates were derived from new charges and reconvictions of groups of individuals; as such, these estimates do not directly correspond to the recidivism risk of an individual offender. The Static-2002R differs from the Static-99R in that it addresses persistence of sexual offending, deviant sexual interests, and general criminality. When used together, these two instruments add incremental validity (an evaluator's ability to explain an outcome) to risk prediction. Authors of the Static-99R and Static-2002R now suggest using both instruments when assessing risk prediction in high stakes evaluations, to include Sexually Violent Predator evaluations.

Mr. Wright's score of 4 on the Static-99R places him in the Level IVa or Above Average Risk category of being charged with or convicted of another sexual offense relative to other adult male sex offenders. This level is described as those who "would be perceptibly higher than the typical offender." In routine samples with the same score as Mr. Wright, the five-year sexual recidivism rate was 11.0%. The confidence intervals for this estimate is between 10.0 and 12.1%. This means out of 100 sexual offenders with the same risk score, between 10 and 12 would be charged with or convicted of a new sexual offense after five years in the community. Conversely, between 88 and 90 would not be charged with or convicted of a new sexual offense during that time.

Mr. Wright's score on the Static-2002R (5) places him in the Level IVa or Above Average Risk category and places his five-year sexual recidivism rate at 13.8% (with confidence intervals of 12.2 and 15.6%).

Collectively, Mr. Wright's risk falls in the Above Average range, with confidence intervals between 10.0 and 15.6%.

Dynamic Risk Factors

The following items have been empirically supported as contributing to sexual recidivism: having a sexual preoccupation; a sexual preference for prepubescent or pubescent children; sexualized violence; multiple paraphilias; offense-supportive attitudes; emotional congruence with children; a lack of emotionally intimate relationships with adults; lifestyle impulsiveness; exhibiting poor problem solving; demonstrating resistance to rules and supervision; grievance/hostility; and having negative social influences (Mann, Hanson, & Thornton, 2010). Additionally, there are several factors found to have significant predictive value for sexual recidivism but which have less empirical support to date. These are hostility towards women; Machiavellianism; possessing a callousness/lack of concern for others; and displaying dysfunctional coping.

Based on a review of his history, offense patterns, treatment records, and self-report, Mr. Wright exhibits marked difficulty with the following:

Sexual Preoccupation:

Mr. Wright's sexual history (e.g., sexual behaviors with others at a young age, masturbation multiple times a week, sexual intercourse three to four times a week in high school) suggest a sexual pre-occupation. Mr. Wright became incarcerated shortly after high school and stated his masturbatory acts decreased upon incarceration as a result of being "saved." Although Mr. Wright has not engaged in any overt sexual behaviors since entering the SVPTP, it is important to note he does not have access to his preferred victim pool (i.e., prepubescent children) while in confinement. It would follow he would likely not engage in sexual behaviors while in confinement and this does not necessarily reflect progress with regard to controlling his sexual preoccupation. Further, there is insufficient evidence to suggest Mr. Wright is able to articulate how he is able to manage his sexual thoughts/feelings aside from his religious beliefs. Mr. Wright would benefit from continuing to explore how his sexual preoccupation contributed to his sexual offenses and more active ways of mitigating sexual thoughts and feelings when they arise in order to reduce his risk for re-offense when in the community.

Sexual Preference for Prepubescent or Pubescent Children:

Mr. Wright openly discloses a sexual preference for prepubescent children, which he first noticed at the age of 15 or 16. Mr. Wright currently states this risk factor is adequately mitigated as he "sees kids as kids;" however, he is unable to explain how he was able to shift his mindset from viewing them as "peers and equals" to children who cannot consent to sexual behaviors. Mr. Wright needs continued work with regard to accepting his sexual preference as something that does not simply "go away," but rather, something he must actively control from day-to-day.

Offense Supportive Attitudes:

Mr. Wright believed his victims were his peers and equals, and this attitude/belief contributed to and condoned his actions. He minimized his behaviors against his victims and struggled to understand how his actions affected others. Mr. Wright continues to demonstrate offense supportive attitudes in the SVPTP as evidenced by his inappropriate relationship with another resident. Despite being told on multiple occasions to terminate the inappropriate relationship, Mr. Wright was unable or unwilling to see how harmful his relationship with this resident could be, and he continued to engage with the resident. His cognitive distortions contributed to him excusing his actions with regard to this resident and denying any wrong doing despite evidence to the contrary. It seems as if when Mr. Wright was explicitly informed as to why his relationship with this resident was inappropriate and how it paralleled aspects of his sexual offenses, he could appreciate the significance of the relationship. Mr. Wright should continue to learn how this

relationship reflects the same attitudes/beliefs/cognitive distortions present earlier in his life, which led up to and contributed to his sexual offenses.

Emotional Congruence with Children:

Mr. Wright discussed having minimal self-worth as a result of his unsuccessful relationships with age-appropriate peers. He stated he felt betrayed, used, and "not good enough." He shared how he did not feel this way with children and felt accepted by them, which contributed to his sexual offenses. Similar to other risk factors, Mr. Wright requires continued work with regard to this. Although he currently reports seeing children as children, Mr. Wright could benefit from further exploring how his emotional needs were met with his child victims and how to achieve emotional satisfaction with age-appropriate peers in order to adequately mitigate his risk for re-offense.

Lack of Emotionally Intimate Relationships with Adults:

As stated above, Mr. Wright reported having conflictual intimate relationships with peers his age, which resulted in him experiencing negative emotions and defeatist attitudes. Mr. Wright continues to demonstrate this risk factor in the SVPTP as evidenced by his relationship with Mr. R.. As noted, Mr. Wright had been told multiple times by staff and peers this relationship was inappropriate. Despite being separated from each other, Mr. Wright continued to have contact with the resident. Although the relationship was not explicitly conflictual (within the relationship at least), objectively, it has led to continued difficulties for Mr. Wright with regard to his treatment progress. Mr. Wright currently reports having a better understanding of how and why this relationship was inappropriate, but he would benefit from further processing this relationship in order to better understand how it could have negatively impacted him and his success in the treatment program, as well as reduce the likelihood of him unwittingly becoming involved in another inappropriate relationship that could increase his risk for re-offense.

Poor Problem-Solving:

Mr. Wright's history suggests he has demonstrated difficulties in appropriately identifying solutions to day-to-day problems and he continues to use ineffective problem-solving skills. Although Mr. Wright requires continued work with regard to learning and implementing appropriate ways in which to navigate and respond to daily problems, he also requires significant assistance with regard to being able to identify when a problem arises. To illustrate, Mr. Wright appeared genuine in that he was unable to appreciate the problematic nature of his relationship with Mr. R.. This is a salient problem for Mr. Wright in that he fails to appreciate red flags, which could contribute to continued risk for sexual re-offense.

Resistance to Rules and Supervision:

Despite Mr. Wright's legal history, there is limited data to suggest a significant difficulty with rule breaking or external control, as evidenced by minimal infractions in SCDC and the SVPTP. Further, the infractions in which he accrued while in the SVPTP are limited to his interactions with Mr. R.. Regardless, Mr. Wright appears to brush off the opinions of staff and peers, as well as institutional rules, as it relates to Mr. R., suggesting a general resistance to following regulations. However, this resistance appears more related to his inability to identify and reduce problematic situations as opposed to a characterological trait in which he disregards rules simply because he can. Mr. Wright would benefit from focusing on his own treatment, which, in turn, would likely reduce his likelihood of being infraacted as he has demonstrated the ability to remain conduct clear in the past.

Dysfunctional Coping:

Mr. Wright seemingly requires attention from others in order to manage negative feelings he experiences, which typically arise from his conflictual interpersonal relationships. He demonstrates a cycle of feeling rejected from others and seeking out relationships with others to fill the void. However, this is impulsive on his part and he seems desperate to reduce negative emotions in any way possible. Further, when this

information is shared with Mr. Wright he becomes defensive and minimizes his actions. Mr. Wright would benefit from learning and implementing appropriate ways in which he could independently manage the negative emotions he experiences as to not rely upon others to do it for him.

Conclusion

Mr. Wright experienced a set-back with regard to his treatment progress over this past year, largely as a result of his continued inappropriate relationship with another resident. Due to this, Mr. Wright has demonstrated a number of active dynamic risk factors, which increases his risk for re-offense. Most concerning about his relationship with the other resident is Mr. Wright's inability and unwillingness to see the relationship as inappropriate. Although he currently reports the relationship with the other resident has been terminated, it would behoove him to maintain no contact with this resident for the duration of his continued treatment. As Mr. Wright's relationship with this resident has been terminated, Mr. Wright can now again focus solely on his treatment. His last annual review stated Mr. Wright approached treatment as a "check-list of tasks" as opposed to meaningful work intended to mitigate risk. Though he disagrees with the assertion, Mr. Wright would benefit from truly delving into his treatment in order to progress with his identified treatment goals instead of simply completing what is required of him because that is the expectation. Independent work on his therapeutic assignments, as well as continued participation in group and with his case manager, can assist Mr. Wright in better understanding the dynamic risk factors he currently presents with, internalizing them, and actively mitigating them. Completing tasks for the sake of completing them is an ill-advised approach towards treatment, and Mr. Wright needs to spend considerable time meaningfully and thoughtfully participating in his treatment as to reduce his likelihood of engaging in sexual violence when he is ultimately released from the SVPTP.

In consideration of all of the information described above, it is the undersigned's opinion Mr. Wright's present mental condition has not so changed that he is now safe to be at large and he remains likely to engage in acts of sexual violence if released.

Respectfully submitted,


Jeffrey M. Washelesky, Psy.D.
Postdoctoral Fellow

3/27/19

Date


Rozanna Tross, Psy.D.
Chief Psychologist
Supervisor

3/27/19

Date

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE**

ANNUAL REVIEW
Pursuant to §44-48-110

Name: Wright, Kevin Lamar
Date of Birth: [REDACTED] 1991 (age 29)
Date of Commitment: 07-03-2013
Date of Admission: 07-03-2005
County: Charleston
Review Period: 03-01-2019 to 06-18-2020
Date of Report: 07-21-2020
Evaluator: Christopher Gillen, Ph.D.

IDENTIFYING INFORMATION AND REASON FOR EVALUATION

Kevin Wright, a 29-year-old male, was committed to the Sexually Violent Predator Treatment Program (SVPTP) facilitated by Wellpath under the South Carolina Department of Mental Health (SCDMH) after adjudication as a Sexually Violent Predator (SVP), pursuant to statute.

This evaluation is being completed pursuant to South Carolina Code §44-48-110, which provides for individuals committed as SVPs to have a current annual examination attesting to their mental condition. This evaluation is provided to assist the Court in determining whether there is probable cause to believe that the:

- a) individual's mental abnormality or personality disorder has so changed that the person is safe to be at large
- b) and, if released, [the individual] is not likely to commit acts of sexual violence.

South Carolina Code §44-48-30 defines mental abnormality as *a mental condition affecting a person's emotional or volitional capacity that predisposes the person to commit sexually violent offenses*. "Likely to commit acts of sexual violence" is statutorily defined as *the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others*.

NOTIFICATION

The nature and purpose of this evaluation were explained to Mr. Wright at the beginning of the interview. He was advised of his rights to refuse to be interviewed or respond to any question. He was informed of the lack of confidentiality of this interview, and that anything he disclosed could be included in a report to the Court, the Attorney General's office, his attorney, and his treatment team. He was further instructed that a report for the Court must be prepared, even if he chose not to participate in the interview. Mr. Wright demonstrated an adequate understanding of the purpose of the evaluation and the limits of confidentiality and agreed to proceed with the evaluation.

SOURCES OF INFORMATION

1. Sexual Behaviors Clinic and Lab (SBCL) Sexual Behaviors Consultation Evaluation Report by Susan C. Knight, Ph.D., ABPP, signed 05-16-2013;

2. Forensic Psychological Evaluation by Marie E. Gehle, Psy.D., dated 11-08-2012;
3. Prior Annual Review reports:
 - a. Donna Schwartz-Watts, M.D., dated 07-08-2014 and 01-21-2017;
 - b. Amy C. Swan, Psy.D., dated 01-06-2016;
 - c. Rozanna Tross, Psy.D., dated 03-06-2018; and
 - d. Jeffrey M. Washelesky, Psy.D., and Rozanna Tross, Psy.D., dated 03-27-2019;
4. Wellpath treatment records to include:
 - a. Annual Treatment Summary reports, dated 01-05-2018, 11-28-2018, and 05-05-2020;
 - b. Treatment Plans;
 - c. Monthly Case Management Notes;
 - d. Weekly Group Notes;
 - e. Incident/Disciplinary Reports;
 - f. Behavioral Management Hearing Dispositions;
5. Original Commitment Documents to include:
 - a. Consent Order for Evaluation from the Charleston County Court of Common Pleas, filed 04-30-2012;
 - b. Petition Pursuant to Sexually Violent Predator Act and related exhibits, dated 03-09-2012;
 - c. Sexually Violent Predator Act Prosecutor's Review Committee Probable Cause Determination, dated 01-19-2012;
 - d. South Carolina Department of Corrections (SCDC) incarceration and treatment records to include disciplinary records;
 - e. South Carolina Criminal History records to include arrest warrants, victim statements, and indictments;
6. Videoconference Interview of Mr. Wright on 07-10-2020, for approximately three hours.

RELEVANT HISTORY

Family and Developmental History

According to the Forensic Psychological Evaluation (FPE), Mr. Wright was raised by his biological parents and grandparents and he denied a history of abuse or neglect as a child. The SBCL evaluation indicated he denied a history of conduct problems and the FPE noted he was not arrested or involved in the legal system as a juvenile. However, Mr. Wright reportedly lied to get money as a juvenile, per the FPE. Prior annual reviews also stated he engaged in shoplifting when he was in elementary school, but was not detected by law enforcement for these offenses.

Academic History

Mr. Wright received his high school diploma in 2009, per the FPE. He reported taking "honors" and "advanced placement" courses and earned average grades (i.e., "B's and Cs"). When he was incarcerated, the SCDC did not have a copy of his diploma and he was enrolled in GED classes. Prior to correction of this error, he completed his GED. Although he denied a history of behavior problems at school during the FPE, Mr. Wright endorsed being suspended "a couple of times in high school" for tardiness, per the SBCL report.

Employment History

As indicated in the FPE, Mr. Wright worked several part-time jobs in high school, including at a fast food restaurant and discount store. He also reportedly worked with children at several summer

camps and after school programs (e.g., a summer camp for the City of Charleston, the Charleston Development Academy, and Wings for Kids). According to the 2019 Annual Review, the children he worked with in these positions were in kindergarten up to 6th grade (i.e., approximately age five to 12). According to an April 2019 treatment assignment, Mr. Wright denied pursuing these jobs and stated they were offered to him; however, he reported he started to perceive children in a “provocative” manner when he worked at these jobs. According to the FPE, he signed a contract to enlist in the U.S. Navy upon graduation from high school; however, he was arrested prior to starting basic training. He denied any employment related problems, per the SBCL report.

SCDC records noted Mr. Wright worked as a ward keeper for the duration of his incarceration. During the FPE, he described also working as a teacher’s assistant in the SCDC GED program. No employment-related difficulties were documented in SCDC records. During the interview, he denied employment in the SVPTP during the current review period.

Relationship History

Mr. Wright was never married and did not maintain a cohabitating romantic relationship prior to his incarceration in the SCDC. According to the FPE, he endorsed having one long-term romantic relationship prior to his arrest that lasted one-and-one-half years.

Substance Use, Medical, and Mental Health History

Mr. Wright denied a history of substance use during the FPE; however, he reported marijuana use at age 14 or 15, per a 2019 Polygraph Report. At the time of the FPE, he denied ever losing consciousness, sustaining a head injury or seizure, or experiencing any chronic medical conditions. As indicated in the FPE, he denied prior mental health treatment. Since he entered the SVPTP, he has not been prescribed any medications to treat a chronic medical or mental health condition.

Sexual Offense History

Mr. Wright was convicted of sexual offending against six female children between the ages of four and 10. Per records, he was 16 to 18 years old at the time of these offenses. Although he committed and was charged and convicted of these offenses at different times, he did not sexually reoffend after he was first detected by law enforcement around December 2009.

Mr. Wright reportedly sexually assaulted a female child, a family friend, between July 2007 and March 2009. The child was approximately nine and 10 years old at the time. According to records, the child reported one incident where Mr. Wright put her on his lap, put his hands down her pants, and touched her vagina. On another occasion while she was sleeping at his house, he “got into the air mattress with her and touched her on her vagina with his hand.” At a different time, he “pulled down her skirt and leggings” and “tried to touch her vagina with his private.” He was charged with Criminal Sexual Conduct with a Minor in the First Degree (four counts) and Lewd Act Upon a Minor for these incidents after his arrest around 12-16-2009.

During the interview for the current evaluation, Mr. Wright indicated he sexually offended against this child on three separate occasions between January 2009 and June 2009 because she gave him attention and made him feel “wanted and needed.” He also noted offending against this female helped satisfy his “emotional needs” that were neglected by his girlfriend. He indicated feeling “devastated” and “betrayed” by his girlfriend and that these emotions contributed to his sexual offending behavior. He reported being sexually attracted to the victim because she had some pubertal development. He disclosed fondling her breasts and vagina on each occasion, “pressed”

his penis against her vagina over and/or under her clothes on two different occasions, and performed oral sex and put the victim's breasts in his mouth on one occasion.

From November 2008 or July 2009 to November 2009, Mr. Wright reportedly sexually offended against a seven-year-old female by fondling her breasts and vagina over her clothes on "several occasions." Records stated he was related to the victim (i.e., the victim's mother and he had the same cousin). He was charged with Lewd Act Upon a Minor (two counts) around 03-22-2010.

During the interview, Mr. Wright reported fondling this victim's vagina over her clothes and rubbing her chest over and under her clothes on two occasions between February and March 2009. He reported offending because he felt "something was wrong" with him and because he believed the victim liked him and enjoyed his sexual behavior. During the interview, he identified this thinking as distorted. He denied any sexual attraction to this victim.

Although records were somewhat ambiguous, it appears Mr. Wright sexually offended against four girls who attended a sleepover party around 11-13-2019. The adult supervising the party reportedly left the house for approximately two hours and Mr. Wright supervised the children in her absence.

One victim from the sleepover was a six-year-old female neighbor of Mr. Wright. She reported he fondled her and digitally penetrated her vagina. She told him to stop and cried during the assault. She also indicated he "was rubbing her chest and holding her up" when she tried to run away. When the victim was able to run to the bathroom, he followed her, picked her up, and brought her to the couch; he continued to sexually assault her on the couch. He was charged with Criminal Sexual Conduct with a Minor in the First Degree and Lewd Act Upon a Minor around 12-02-2009.

The second victim from the sleepover was the nine-year-old daughter of his cousin. Mr. Wright reportedly climbed into the victim's bed, put his hands down and removed her pants, and touched her vagina. He also masturbated himself under his clothes in front of the child and showed her a picture of a vagina with pubic hair. He told the victim not tell anyone what occurred or she would be in trouble. He was charged with Criminal Sexual Conduct with a Minor in the First Degree and Lewd Act Upon a Minor around 01-06-2010.

The third victim from the sleepover was a 10-year-old female who Mr. Wright had not previously met before the offense. The victim indicated he "touched her on her buttocks while she was [pretending to be] asleep on the couch." He also reportedly placed his hand "under her pajama and underwear." He was charged with Lewd Act Upon a Minor around 01-29-2010.

The fourth victim was a five-year-old female. Mr. Wright reportedly got into the bed with her and "two other juvenile females." He put his hands down her underwear and digitally penetrated her vagina (i.e., "digging" in her "private"). He was charged with Criminal Sexual Conduct with a Minor in the First Degree around 03-22-2010 and Lewd Act Upon a Minor around 07-12-2010.

During the interview, Mr. Wright provided a different timeline and accounting of his offenses against these four victims. He indicated he offended against the nine-year-old female in July 2009 while he was babysitting her. He described rubbing the vagina of the girl and masturbating in front of her. Prior to the offense, he reported feeling rejected by a female peer and being sexually aroused by this peer after looking at her nude photographs. According to Mr. Wright, the victim "jumped"

on his lap while he was aroused. He then thought about the victim being naked and offended against her because he could not control his arousal. He denied any sexual attraction to the child.

Mr. Wright reported during the interview offending against the five-year-old female in August 2009 while he was babysitting the victim. He indicated fondling the back, buttock, and vagina of the girl after he awoke in his bed with an erection and noticed she was “lying on top” of him. He attributed his behavior to feelings of inadequacy he experienced prior to the offense and cognitive distortions that the victim enjoyed his sexual behaviors. He also framed his offense as opportunistic and a desire for “immediate [sexual] gratification.” He denied a sexual attraction to the victim.

During the interview, Mr. Wright indicated he offended against the six- and 10-year-old females in November 2009 at the sleepover. He stated the sleepover was part of his cousin’s birthday party that he paid for. According to him, he paid for the party because he wanted to help his cousin financially; he denied paying for the party to create an opportunity to offend. He described being sexually attracted to the 10-year-old female because of her “athletic build” and the shape of her buttock. He reported “groping” the buttock of the child because he felt inadequate, was attracted to her, and “wondered how her butt felt.” Later that evening, he indicated touching the vagina of the six-year-old female on two occasions. At that time, he interpreted the victim’s behavior (i.e., putting her buttock against his lap while they were sleeping on the couch) as her desire to have sex with him. He reported becoming aroused; however, he denied a sexual attraction to her.

Mr. Wright pleaded guilty to six counts of Lewd Act on a Child Under 16 on 05-19-2011 for his offenses against these six victims. He was sentenced to a period of 10 years of incarceration, suspended to five years and five years of probation, and mandatory GPS monitoring.

Incarceration and Institutional Behavior History

According to SCDC records, Mr. Wright did not receive any infractions while he was incarcerated. However, he has received more than a dozen citations for problematic behavior in the SVPTP.

In 2014, Mr. Wright was cited for abuse of mail privileges, abuse of computer privileges, contraband, and multiple counts of passing contraband between residential units. According to SVPTP records, he received packages containing contraband, including computer disks and sexually explicit writings, that he intended to send to another resident and used a computer to create contraband. Some of this material included pictures of women in G-strings; a picture of children; and pornographic movie titles and descriptions, some of which described deviant content. For example, staff confiscated descriptions for films such as *Sex Slaves of the SS*, *Rape is a Circle*, *Satan’s School for Lust*, *Chained Girls/Daughters of Lesbos*, and *Orgasm Torture in Satan’s Rape Clinic* that described themes of “sexploitation,” rape, and sexually violent and sadistic behavior.

In 2018, Mr. Wright was cited for Possession of Anything Not Authorized on two occasions. First, he was infringed after six magazines and a newspaper article “all containing pictures of children of various ages” was found in May 2018. In July 2018, he was found to be in possession of multiple letters from a resident which were described as having romantic content.

In addition to these incidents, Mr. Wright was convicted of several other institutional rule violations during past review periods. For example, he was cited for Violation of Book Order Procedure (2014, 2015); Insolence, Disobeying Staff Directive, and Violation of Mail Monitoring (2015); and Attempt, Conspiracy, or Attempting Conspiracy to Commit a Crime (2018).

Mr. Wright received three incidents reports during the current review period. On 06-11-2019, he was observed receiving a red object from the peer implicated in the above-mentioned July 2018 incident. The charge of Possession of Anything Not Authorized was substantiated at a subsequent Behavior Management Panel (BMP) meeting based on video evidence and he received a verbal warning. When asked about this incident during the interview, he denied any wrongdoing or receiving the item from the other resident. He indicated a staff member falsely accused him of the behavior because this individual "has had issues with" Mr. Wright and this peer since 2017.

On 11-02-2019, Mr. Wright was cited for Possession of Anything Not Authorized after several contraband items in his room were confiscated, including a card with a depiction of a child. The charge was substantiated at a BMP meeting and he received a verbal warning. During the BMP meeting, he denied knowledge of the card. He speculated it may have been a picture of a baby angel he had in his possession for an extended period of time. During the interview for this evaluation, Mr. Wright stated, "I don't know anything about that," when asked about the incident report. Following feedback from the examiner about the BMP report, he denied ever seeing the card and speculated staff confiscated a greeting card he received in the mail or was given to him by another staff member. He was unable to explain why he had such material in his possession despite previously receiving consequences for similar behavior in the SVPTP.

Mr. Wright was also given an incident report on 11-01-2019 for Attempt or Attempting Conspiracy to Commit a Crime or Facility Rule Violation after he allegedly requested to receive a contraband item (i.e., a three-outlet converter). The charge was dismissed as unsubstantiated at a subsequent BMP meeting. Despite the aforementioned incidents, Mr. Wright's CARE Level, which reflects a resident's behavior and institutional privileges, increased from Level 3 to Level 4 on 04-25-2019 and remained at Level 4 throughout the current review period.

Sex Offender Treatment History

Prior to his commitment to the SVPTP in 2013, Mr. Wright did not participate in sex offender treatment in the community or the SCDC. Several problems were noted in SVPTP records with his treatment participation in prior review periods. Per the 2018 Annual Review, he was described as approaching treatment as if it was a "checklist of tasks to complete" instead of learning about and applying concepts and developing skills to reduce his risk. That evaluation also indicated he attempted to control or dictate the course of treatment and was dismissive of feedback. Mr. Wright was also previously described as developing inappropriate relationships in order to get discharged from the SVPTP prematurely. For example, he was noted to use relationships outside his treatment group to use others' work as his own. When confronted about this, he denied the problematic nature of his relationships and continued to refuse assistance from his group members.

According to his most recent annual review, Mr. Wright maintained consistent attendance in treatment, completed therapeutic assignments, and his participation reportedly increased during the review period. However, difficulties applying treatment to his offending, disregarding feedback, and becoming dismissive were also noted. Consistent with past behavior, he was found to be in possession of several peers' assignments and it was suggested he again attempted to use their work as his own. During the 2019 Annual Review, he indicated his facilitator fabricated these accusations because she "has a problem with pedophiles and wants to keep them locked up."

During the current review period, Mr. Wright's treatment has been marked by several positive and problematic developments. SVPTP records indicated he completed all requirements associated

with Phase 2.1, including multiple finalized treatment assignments, and started Phase 2.2 of treatment around 01-08-2020. Although he had approximately five unexcused absences from his treatment groups, his attendance was otherwise consistent. His participation, however, was described as variable throughout the review period. Although there were instances where he actively participated and meaningfully contributed to group discussion by relating his comments to his offending and risk factors, recurrent and frequent instances of limited participation were documented throughout 2019 and 2020. Facilitators also prompted him to increase the consistency of his engagement on multiple occasions. When he chose to participate, records noted the feedback Mr. Wright provided was not always relevant, was focused more on his peers than himself, and he struggled to consistently relate group discussion to his offending or dynamic risk factors. In March 2019, he missed a scheduled assignment presentation because was unprepared.

Of particular concern were instances where Mr. Wright emotionally shut down when challenged about his sexual behaviors in group. In October 2019, for example, he terminated participation in group when challenged about his statement denying the existence of pedophilia or that his offenses should be characterized as pedophilic. He also blamed others for the pace of his treatment progress. For example, an August 2019 treatment plan indicated he attributed his slow pace of treatment completion to his case manager. Specifically, he stated she “picks and choose who she wants to present an assignment. If that person wasn’t ready, no body [sic] else was given the opportunity to present in their place.”

ORIGINAL COMMITMENT AND PRIOR EVALUATION CONCLUSIONS

Mr. Wright was diagnosed with “Pedophilia, Sexually Attracted to Females, Non-exclusive Type” and was opined to *not* meet criteria as a SVP, per the FPE. A second opinion was requested by the Attorney General’s office following the FPE. According that evaluation (SBCL report), Mr. Wright was provided the same diagnosis; however, he was opined to meet criteria as a SVP. Since he entered the SVPTP in 2013, he completed five annual review evaluations. In each evaluation, he was opined to meet criteria as a SVP and was diagnosed with variations of Pedophilic Disorder, as in the FPE and the SBCL report.

CLINICAL PRESENTATION

The evaluator met with Mr. Wright on 07-10-2020 via videoconference. He was adequately dressed and groomed and appeared to understand the nature of the meeting. His speech was organized and goal-directed. He demonstrated appropriate expressive and receptive language skills; however, the examiner asked him to repeat his responses to some questions because of his dialect. His attention and concentration were good and his short-term memory and recall of remote events was adequate. He presented as calm throughout the evaluation. He denied current suicidal or homicidal ideation.

Diagnostic Formulation

A paraphilia, per the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5), denotes “any intense and persistent sexual interest other than interest in genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners.” A Paraphilic Disorder “is a paraphilia that is currently causing distress or impairment to the individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to others.” Such disorders are marked by recurrent sexual fantasies, urges, or behaviors of the paraphilic interest over a period of at least six months. Consistent with past evaluations, there is evidence Mr. Wright has sexual interests in prepubescent children consistent with Pedophilic Disorder.

Pedophilic Disorder is a Paraphilic Disorder involving sexual activity with prepubescent children, usually 13 years old or younger. Although he denied sexual attraction to prepubescent children during the interview, Mr. Wright was convicted of sexual offenses against six female children between the ages of four and 10 from 2007 to 2009 when he was aged 16 to 18. Based on his descriptions, four of these children lacked pubescent features. Per the SBCL report, Mr. Wright displayed clinically significant arousal to some prepubescent female stimuli during a penile plethysmograph (PPG) administration. He also endorsed an attraction to prepubescent girls in some past annual reviews. Per the SBCL report, he reported attraction to girls between the ages of nine and 13 and to some prepubescent physical features (e.g., hairless genitals). Based on available records, there is evidence of sexual arousal towards prepubescent females in his offenses over the course of at least six months. Thus, he meets criteria for Pedophilic Disorder. Because his sexual relationships and interests involved pubescent and adult females and female prepubescent children, the specifiers Nonexclusive Type and Sexually Attracted to Females were added to this diagnosis.

RISK ASSESSMENT

Static and Dynamic Risk Factors

The key factors empirically supported through the research as contributing to sexual offense recidivism are typically divided into static and dynamic factors. Static factors (e.g., offense and victim characteristics) are relatively fixed aspects of an offender's history and are limited to change with treatment or environmental changes. Dynamic factors (e.g., relationship status, deviant sexual interests, and compliance with supervision), are changeable and amenable to treatment and/or environmental manipulations and can help mitigate risk if adequately managed or intervened upon.

Static Risk Factors

Mr. Wright's known history and offense patterns reflect he has multiple static risk factors empirically related to sexually offending. These are his age, never having a cohabitating romantic relationship, and having unrelated and stranger victims.

The Static-99R and Static-2002R are actuarial risk assessment measures designed to assess risk of sexual recidivism for adult males who have been charged with or convicted of at least one sex offense against a child or nonconsenting adult. Both scales are intended to position offenders in terms of their relative degree of risk for sexual recidivism based on available demographic and criminal history information that has been found to correlate with sexual recidivism in this population. Scores characterize an individual's relative risk for sexual recidivism in terms of how unusual it is and in terms of how it compares to risk presented by the typical offender. The recidivism estimates were derived from new charges and reconvictions of groups of individuals.

Both scales assess static risk factors; however, the Static-2002R uniquely addresses persistence of sexual offending, deviant sexual interests, and general criminality. Together, these scales add incremental validity to risk prediction. Authors of these scales suggest using them together when assessing risk prediction in high stakes evaluations, to include SVP evaluations. However, both scales were not constructed for specific use in the field of SVP examinations, do not provide lifetime recidivism estimates, and only account for detected recidivism. Further, these scales were not designed to solely capture sexually violent recidivism as defined by South Carolina statute.

Mr. Wright's score of 4 on the Static-99R places him in the Level IVa or Above Average Risk category of being charged or convicted of another sexual offense relative to other adult male sex

offenders. This level is described as “perceptibly higher risk than the typical offender.” Individuals in routine samples with a similar score as Mr. Wright’s were almost twice as likely to sexually recidivate upon release compared to the median sex offender, with a five-year sexual recidivism rate of 11.0% (95% Confidence Interval = 10.0% to 12.1%).

Mr. Wright’s score on the Static-2002R (5) also places him in the Above Average Risk category and places the five-year sexual recidivism rate at 13.8% (95% Confidence Interval = 12.2% to 15.6%) based on the routine sample. Offenders in this sample with his score were also almost twice as likely to sexually recidivate upon release compared to the median sex offender.

Dynamic Risk Factors

The following factors have been empirically-supported as contributing to sexual recidivism: having a sexual preoccupation, a sexual preference for prepubescent or pubescent children, sexualized violence, multiple paraphilias, offense-supportive attitudes, emotional congruence with children, a lack of emotionally intimate relationships with adults, lifestyle impulsiveness, exhibiting poor problem solving, demonstrating resistance to rules and supervision, grievance/hostility, and having negative social influences (Mann, Hanson, & Thornton, 2010). Additionally, there are factors found to have significant predictive value for sexual recidivism but which have less empirical support to date. These are: hostility towards women, Machiavellianism, possessing a callousness/lack of concern for others, and displaying dysfunctional coping.

Based on Mr. Wright’s history, offense dynamics, self-report, and treatment records, several of these dynamic risk factors present as historical and/or ongoing areas of concern. One such risk factor is a sexual preference for prepubescent children. As discussed previously, he offended against six girls under age 11 since he was 16 years old. Per his descriptions during the interview, four of these girls did not have secondary sexual characteristics associated with puberty. Although he denied during the interview any attraction to children, accounts of his sexual interests have varied widely across evaluations. For example, he endorsed an attraction to children during the SBCL evaluation and displayed some physiological arousal to prepubescent stimuli during a PPG examination conducted for that report. In his most recent annual review, Mr. Wright also disclosed noticing a sexual attraction to the children he worked with when he watched them swim and described how this arousal led him to seek out emotional connections with children.

Consistent with records, Mr. Wright reported engaging in grooming behavior prior to offending against the girls. This included paying for a sleepover party for his cousin where he offended against multiple girls. SVPTP records indicated he reported grooming children by spending time with them, showing an interest in things they liked, and coming to their defense when they were in trouble in order to gain their trust. He denied during the interview these preparatory actions were designed to facilitate sexual offending. He stated he engaged in these behaviors with most of his victims to be “nice;” cultivate emotional, rather than sexual, connections; and because he wanted the girls to be “happy.” Nevertheless, given the extensiveness of his grooming behavior and its relation to his offending, this behavior appears to underscore his sexual attraction to children.

Throughout the current review period, Mr. Wright has expressed minimal insight into this risk factor. During the interview, he denied the relevance and applicability of his sexual attraction to children in his offending. Similarly, an October 2019 group note stated he reported not believing in pedophilia or that his behavior should be labelled as motivated by pedophilic interests. Most troubling, he reportedly denied any distortions with these beliefs, suggesting an inability or

unwillingness to address problems related to this risk factor in treatment. Underscoring his limited insight, Mr. Wright has yet to explore his sexual attraction to children in treatment or learn specific arousal management strategies necessary to control his deviant arousal. Further, he continued to have pictures and images of children confiscated from his possession in the SVPTP, despite repeated sanction. During the interview, he was unable to explain why these problems kept occurring. Thus, his sexual preference for prepubescent children remains an ongoing risk-relevant concern that should be targeted in treatment to reduce his risk for re-offense.

Sexual preoccupation is another significant dynamic risk factor for Mr. Wright. During the interview, he described difficulty coping with his “sexual needs” and reported masturbating and/or having sex several times per week at the time he offended. Further underscoring this risk factor, in some past evaluations he endorsed a history of sex with prostitutes and casual acquaintances and frequently viewing pornographic materials.

Conversely, Mr. Wright described his sex drive as “normal” during the interview. He reported masturbating two or three times per week and indicated rarely thinking about sex. He attributed these changes to realizing sex was no longer a need like “food, water, or shelter” and to his treatment. When asked how treatment reduced his sexual preoccupation, Mr. Wright stated it helped him develop motivation to change and a better understanding of himself and what was important. In this sense, he did not describe learning about or using any arousal management strategies to control his sexual compulsivity and did not identify such skills as potential options to help manage his arousal in the community. Given his historic difficulty managing this factor, his limited skills pose concerns. Therefore, despite his self-reported decrease in sexual preoccupation, this risk factor remains relevant in contextualizing Mr. Wright’s risk to offend.

Mr. Wright has displayed a lack of intimate relationships with adults and emotional congruence with children. Consistent with his accounts during the interview, records indicated he struggled trusting, communicating, and developing intimate relationships with same-aged peers and viewed his romantic relationships as purely sexual. During the interview, he also reported being unable to form emotional connections with same-aged peers and feared rejection from these individuals at the time he offended. Conversely, he stated during the interview he viewed children as his equal, trusted and felt more comfortable with children than his peers, and formed emotional connections with children more easily than adults. He implicated these factors in his sexual offending.

Further underscoring emotional congruence with children, the FPE and the SBCL report described Mr. Wright as childlike and preferring activities typically related to children, such as watching children’s cartoons. The SBCL report noted he referred to his victims as “friends” and denied this was unusual because he worked extensively with children. His goals at that time also involved professions working with children (e.g., elementary school teacher and pediatrician). In treatment assignments completed during the current review period, he reported he was attracted to the “care free, vibrant nature” of children and maintained a belief that children better “understand and accept” him than adults. Even after he was challenged by the facilitators about this latter statement, records noted he did not recognize his thinking was supportive of emotional congruence with children. Thus, despite improved insight into the role of this risk factor in his offending history, he struggled to identify the ongoing presentation of this domain during the current review period.

Exacerbating these concerns, Mr. Wright largely framed his lack of intimate relationships with adults and emotional congruence with children as historical and resolved issues. For example, he

stated during the interview he developed healthy relationships with adults in the SVPTP marked by “mutual respect,” trust, and “understanding of boundaries” and he was no longer emotionally close to children. When asked how he accomplished these changes, he reported improving his ability to speak to peers about his problems, realizing children were not at his “level,” and developing relationships with staff. Contrary to this latter report, a March 2020 treatment plan noted Mr. Wright engaged in minimal conversation with staff on the unit.

Problems with Mr. Wright’s relationships were also noted throughout his time in the SVPTP. As indicated in prior annual reviews, staff noted he displayed a history of associating with older residents who had a sexual interest in him (see Sex Offender Treatment History), despite repeated feedback regarding the inappropriate nature of these relationships. As indicated in the 2019 Annual Review, he framed staffs’ perceptions of these relationships as “distorted,” accused them of fabricating problems, and indicated he did “not have a choice” to engage in relations with older men given his young age. He received a 60 day no-contact order and was physically separated from one peer during the previous review period due the recurrent nature of these problems.

During the current review period, Mr. Wright received an incident report for passing an unauthorized item with this peer. This occurred after Mr. Wright and this peer were transferred to separate units in an attempt to limit their contact. Consistent with the interview, records from this review period indicated he described this relationship positively and continued to deny the presence of any problems. Given his difficulty understanding and managing these risk factors and their association with his offending, a lack of intimate relationships with adults and emotional congruence with children remain risk-relevant concerns for Mr. Wright.

Mr. Wright has also demonstrated dysfunctional and sexualized coping. During the interview, he identified experiencing inadequacy, rejection, and betrayal prior to his offenses and used sex as a way to cope with these beliefs. As indicated in the 2019 Annual Review, he required attention to manage emotions following conflict and engaged in a cycle of feeling rejected and seeking out relationships to cope. At the time he offended, these relationships were with children. In a treatment assignment completed during this review period, he also reported a history of avoidance coping and “stuffing emotions” because he believed showing emotions was a sign of weakness.

In addition to developing some insight into the role of these factors in his offending, Mr. Wright appears to have learned some strategies to regulate his emotions and behavior. SVPTP records indicated he used acceptance to cope with problems he could not control and he identified several independent coping skills (e.g., listening to music, reading, exercising, and meditating) during the interview that he reported using in the SVPTP to regulate his emotions and behavior.

However, Mr. Wright indicated these skills were not helpful in addressing his sense of inadequacy or perceived rejection. This is important because he identified these beliefs as being centrally involved in his offending. He reported during the interview relying on talking to his support network to cope with these thoughts. When asked how he would cope with these thoughts in the community if he was unable to talk to his support team, he stated he would remind himself that he “isn’t that person anymore” and think of the trouble his offending caused the victims, their families, and himself. While this understanding may help deter offending, it does not address the perceptions of inadequacy, rejection, or betrayal he implicated in his offending. Mr. Wright should therefore work on identifying and challenging these distorted perceptions in treatment in addition to learning other coping skills he can use to manage this risk factor. Given these concerns and the

relation of dysfunctional and sexualized coping in his offending, this dynamic risk factor remains a relevant treatment need for Mr. Wright.

An additional risk factor involved in Mr. Wright's offending was poor problem solving. Problem solving entails recognizing problems, understanding cause and effect, considering alternatives, and choosing prosocial options. Overall, he has made progress developing insight into the role several dynamic risk factors played in his offending (e.g., sexual preoccupation, emotional congruence with children, and sexualized coping); however, he continued to deny the existence of one of his most salient risk factors, a sexual preference for prepubescent children. SVPTP records from the current review period also noted he struggled to independently identify his risk factors in treatment assignments and apply his insight regarding his offense history to his current functioning, behavior, and manifestation of his dynamic risk factors. Importantly, he has yet to develop sufficient strategies in treatment to mitigate the risk posed by many of his risk factors.

During the interview, Mr. Wright largely focused on several ways to avoid contact with children and reliance on external constraints and supports to prevent sexual recidivism. His descriptions of independent skills to prevent recidivism were somewhat vague (e.g., "challenge distortions") and he struggled to specify how or in what contexts he would use these skills to prevent recidivism. When discussing obstacles to remaining offense-free in the community, he identified believing he was "cured" and hiding from his support team due to his "kind nature." Not only did he struggle to identify tools he could use to overcome these barriers, Mr. Wright did not appear to understand how they could impact his risk for recidivism. These difficulties reflect ongoing problems with problem solving. His dismissal of feedback designed to improve his compliance to SVPTP rules further reflects poor problem solving and ongoing resistance to rules and supervision. Thus, these factors remain treatment needs central to conceptualizing Mr. Wright's risk to reoffend.

Mr. Wright appears to have made progress in treatment addressing his offense-supportive attitudes. Consistent with records, he identified several distortions during the interview he used to justify his sexual offending. He thought his behavior was harmless and believed his victims wanted and enjoyed sex. He reported having this belief because he enjoyed his sexual experiences that occurred at a young age. He indicated thinking a victim wanted to engage in sexual behaviors with him because she smiled at him. He also perceived children as seductive at the time he offended and thought they were interested in sex when they wore tight or revealing clothing. In treatment assignments completed during this review period, Mr. Wright stated he believed it was appropriate to sexually objectify others, including children, at the time he offended because he believed everyone thought about sex. Records also noted he previously perceived his offending as consensual because many of his victims continued to be around him after he offended.

Although SVPTP records from this review period noted he minimized his offenses and appeared to blame his girlfriend for why he sexually offended, Mr. Wright has made progress identifying and challenging many of the core thoughts underlying his offenses. He identified each of the aforementioned beliefs as distortions and did not express other thoughts supportive of offending during the interview. For example, he denied children could be interested in or consent to sex and indicated children should learn about sex from parents using conventional sexual education methods. These types of attitudes, rather than minimization of specific crimes, are most predictive of risk to reoffend. Thus, these changes reflect improvement managing this risk factor.

Overall, Mr. Wright has made progress developing insight into the role of several of his dynamic risk factors at the time of his offending. This understanding and ability to identify and restructure offense-supportive attitudes are particularly noteworthy changes. However, Mr. Wright has several active dynamic risk factors which have yet to be satisfactorily addressed in treatment. Not only has he continued to deny the role of his sexual interest in children in his offending, he lacks arousal management strategies and other independent skills needed to consistently and effectively control many of his identified risk factors in the community. His reliance on avoiding high-risk situations and using external constraints and support to manage his risk highlights these concerns and suggests the need for ongoing treatment to help attenuate the risk posed by these factors.

Other Risk-Relevant Factors

An offender's treatment compliance, future plans, and sources of community support are risk-relevant considerations in addition to the aforementioned static and dynamic risk factors. Treatment compliance is displayed when an individual regularly attends and actively participates in sex offender-specific treatment (e.g., contributes meaningfully to group, completes assignments, and practices learned skills) and is motivated for prosocial change. Regarding future plans and support, resources or aspects of one's environment that mitigate recidivism risk or help individuals better manage stressful situations are pertinent domains. These include factors such as prosocial connections, environmental stability, and professionally-provided support. Thus, assessment of treatment compliance, community support, and future plans are made in addition to the assessment of static and dynamic risk factors.

Treatment Compliance

As indicated in the Sex Offender Treatment History subsection, past annual reviews noted Mr. Wright approached treatment as if it was a "checklist of tasks to complete," attempted to dictate the course of his treatment, and attempted to pass others' treatment work off as his own. During the current review period, his treatment compliance and motivation for treatment were described as variable. In contrast to some groups where he actively contributed to the discussion, he was recurrently characterized as providing minimal or irrelevant feedback throughout the review period. He completed assignments and he progressed to Phase 2.2 of treatment; however, he struggled accepting feedback regarding his sexual behaviors and blamed others for the pace of his treatment progress. Thus, while Mr. Wright has made some progress improving aspects of his treatment compliance, the consistency of his engagement will need to improve in order for him to sufficiently attenuate his risk.

Future Plans and Community Support

According to his most recent treatment plan, Mr. Wright planned to reside at Shield Ministries, a residential program in Charleston. Recently, this examiner was informed that Shield Ministries was no longer accepting individuals with offenses against children. This applies to Mr. Wright. When asked during the interview about his other plans for residence, he stated he would live with his grandmother in Goose Creek SC. He stated his father verified the location was compliant with sex offender registry restrictions and Mr. Wright described the neighborhood as largely populated by elderly individuals. He stated his grandmother has two grandchildren under age 18; however, he was unsure of their ages or whether they would visit the home.

When he was asked by the examiner about potential obstacles to remaining offense free in this environment, Mr. Wright described meeting people in the community who would "judge" or "label" him because of his past. He stated he would overcome this by not believing these

individuals. It should be noted, however, Mr. Wright struggled altering thoughts related to interpersonal rejection at the time he offended, implicated these beliefs in his offending, and has yet to develop skills to adequately cope with such perceptions if they occur in the future.

Mr. Wright described his family members as a positive source of community support that will help prevent recidivism. He indicated they would provide him with financial, physical, and emotional support in the community. He reported talking to his family about his offending and treatment assignments and that he sent his treatment work to them in the past.

Nevertheless, he struggled to provide specific strategies his family could use to hold him accountable in the community. For example, he stated his family would monitor his whereabouts, ensure he registers as a sex offender, and offer "advice" to prevent recidivism. It was unclear what advice they would provide, how it was different from comments he received when he offended, or how this feedback would prevent recidivism. Given Mr. Wright's ongoing difficulties accepting feedback in the SVPT, it is uncertain whether he would even follow this advice. He appeared to recognize this during the interview when he described how being stubborn and a "know it all" could impede his ability to benefit from his support team. He also struggled to list any observable warning signs associated with his offending that could be indicators for others to know when he requires support. For example, he listed being secretive as a potential indicator of reoffending. Given his difficulty recognizing risk factors in his current behavior, it is also unlikely he can independently communicate all his needs to his support team at this time.

Regarding professionally-provided support, Mr. Wright's most recent treatment plan indicated he intended to receive sex offender treatment in the community with Dr. William Mulberry Jr or Dr. William Burke. His understanding of these plans was somewhat limited and he only reported an interest in pursuing these services after he was prompted to them by the examiner.

Overall, Mr. Wright's current future plans pose some concern. First, his identified placement, per his treatment plan, is unable to accommodate him if he is released. Second, his ambivalence to other aspects of his release plan is problematic given there is no legal mechanism to ensure he participates in these services. Third, it is unclear how individuals in the community would hold him accountable to his release plan given the above noted concerns. Thus, his community supports and future plans do not serve to mitigate the risk posed by his dynamic risk factors. Further, given his reliance on avoidance and external supports to prevent reoffending, it is unlikely Mr. Wright can manage his risk independently in the community at this time.

CONCLUSION

Sexually violent predators, as defined by statute, are an "extremely dangerous group" of individuals who require involuntary commitment to a secure facility, as they possess a mental abnormality or personality disorder that makes them "likely to engage in acts of sexual violence if not confined." This mental abnormality, as defined by statute, is a "mental condition affecting a person's emotional or volitional capacity that predisposes the person to commit sexually violent offenses." Mr. Wright continues to fall into this category.

At this time, Mr. Wright has yet to satisfactorily address and continues to meet diagnostic criteria for Pedophilic Disorder. Although he has made progress addressing some of his dynamic risk factors through treatment, particularly his insight into his sexual offending history and challenging offense-supportive attitudes, he continues to present with several concerns. First, he has above

average levels of static risk as measured by the Static-99R and Static-2002R. Second, he has yet to sufficiently mitigate the risk posed by his other numerous dynamic risk factors to a degree that he is safe to be at large in the community. This is particularly true of his sexual arousal and attraction to prepubescent children. Third, the consistency of his treatment compliance and his identified future plans and sources of community support do not appear to sufficiently attenuate his risk at the present time. Therefore, it is my opinion Mr. Wright's mental condition has not so changed that he is safe to be at large, and he remains likely to engage in acts of sexual violence if released.

Chr Gillen PhD
Christopher Gillen, Ph.D.
Licensed Psychologist

07-21-2020
Date

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
IN THE MATTER OF THE CARE)
AND TREATMENT OF)
KEVIN LAMAR WRIGHT,)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2012-CP-10-01719

**ORDER DENYING ANNUAL REVIEW TRIAL
FOR 2018-2019 AND 2019-2020**

FILED
2020 OCT 28 AM 11:15
JULIE J. ARYSTONE
CLERK OF COURT

SC Court of Appeals

NOV 23 2020

RECEIVED

This matter comes before the Court on an Annual Review Hearing to determine whether there is probable cause to believe Respondent's mental abnormality or personality disorder has changed he is safe to be at large and, if released, is not likely to commit acts of sexual violence and for an order requiring a jury trial on the issue, pursuant to S.C. Code Ann. Section 44-48-11. Respondent is represented by James K. Falk, Esquire. The State of South Carolina is represented by Deborah R.J. Shupe, Senior Assistant Deputy Attorney General.

Following a jury trial in Charleston County, Respondent was committed to the Sexually Violent Predator Treatment Program ("SVPTP") on or about June 19, 2013. As required under the statute, Respondent's mental status was periodically reviewed. During the 2018-2019 review period, Respondent sought an independent evaluation of his mental status. The independent evaluation was not completed until August 20, 2020. In the interim, Respondent's annual review for the 2019-2020 period was completed.

The Court received a letter from DMH for the 2019-2020 review period dated July 24, 2020, indicating Respondent was seeking an Annual Review hearing at which he seeks his release from the SVPTP, without approval of the DMH Director. Accompanying the letter was an Annual Examination and Review Hearing Notice dated July 22, 2020, an Annual Notice of Right to Petition for Release dated July 22, 2020, and an Annual Review Treatment Report, dated July 21, 2020, prepared by Dr. Christopher Gillen, Ph.D., on behalf of DMH.

An Annual Review hearing was held via video/WebEx on October 2, 2020. The Respondent was present by video/audioconferencing from WellPath Recovery Solutions where he is currently in-treatment. Respondent presented E. Selma Watson, Ph.D., as an expert witness, and the State presented Christopher Gillen, Ph.D., as an expert witness. The Court qualified both Dr. Watson and Dr. Gillen as experts in the field of forensic psychology, leaving the Court to weigh the credibility and presentation of two qualified experts. Both experts diagnosed Respondent with Pedophilic Disorder.

Dr. Watson testified he did not believe Respondent ever met the criteria for commitment to the SVPTP, and he believes Respondent was inappropriately committed, but he went on to opine Respondent's condition has so changed he is safe to be at large, and if released, not likely to commit future acts of sexual violence. Dr. Watson testified, in his opinion, Respondent was not a risk to reoffend if released because he has strong family support, is aware of cognitive and emotional triggers, has progressed in treatment by completing assignments, attending group sessions, and was committed to continuing treatment in an outpatient setting. Dr. Watson's opinion

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is largely based on interviews of Respondent and information provided by Respondent. Neither Dr. Watson's testimony on direct examination, nor his report discuss Respondent's dynamic risk factors or how Respondent has worked to address these factors in treatment.

Dr. Gillen testified Respondent has made some progress in areas of his treatment, but there were still issues remaining, and his mental abnormality and personality disorder had not so changed he was safe to be at large, and, if released, not likely to commit acts of sexual violence. Dr. Gillen stated Respondent has multiple dynamic risk factors which contribute to sexual recidivism including, sexual preference for prepubescent children, sexual preoccupation, a lack of intimate relationships with adults and emotional congruence with children, dysfunctional and sexualized coping, resistance to rules and supervision, and offense-supportive attitudes. Dr. Gillen opined Respondent has not satisfactorily addressed his dynamic risk factors through treatment, and noted particularly, his concern of Respondent's lack of sufficient progress in mitigating his sexual arousal and attraction to prepubescent children.

The purpose of an annual review hearing held pursuant to S.C. Code Section 44-48-110 is for the court to determine whether probable cause exists to believe "the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence." See S.C. Code Ann. § 44-48-110. At the hearing, the committed person bears the burden of showing probable cause exists to believe his mental condition has so changed he is safe to be released. See In re Care and Treatment of Tucker, 353 S.C. 466, 578 S.E.2d 719 (2003). In the context of Sexually Violent Predator cases, a party establishes probable cause when he presents evidence which "would lead a reasonable person to believe and conscientiously entertain" the proposition set forth at the hearing. See Care & Treatment of Chandler v. State, 382 S.C. 250, 257, 676 S.E.2d 676, 680 (2009) (quoting In re the Care and Treatment of Brown, 372 S.C. 611, 643 S.E.2d 118 (Ct. App. 2007) (establishing this standard for hearings held pursuant to South Carolina Code § 44-48-80).

In the Tucker case, Tucker appealed the Circuit Court's finding of no probable cause from his annual review hearing. In that case, Tucker's expert testified that since Tucker took responsibility for his sexual offending and was "capable and motivated towards continuing sex offender treatment", that Tucker should continue his treatment in an outpatient setting. Tucker, 353 S.C. 466, 470, 578 S.E.2d 719, 721 (2003). However, DMH's expert testified that although Tucker had progressed in treatment, he had additional treatment goals that had to be met before he could be eligible for release. Id., 353 S.C. at 471, 578 S.E.2d at 722. The Supreme Court upheld the denial of probable cause stating while evidence exists Tucker could be released to an outpatient setting, he must still show his condition has so changed he is safe to be at large, and if released, unlikely to commit sexually violent acts. Id. Therefore, since Tucker failed to meet this burden, denial was proper.

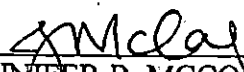
As in Tucker, Respondent has shown some progress in treatment; however, he has additional treatment goals that need to be met before DMH will consider him eligible for release, specifically his dynamic risk factors discussed above. While Respondent has shown some evidence of progress, he failed to establish probable cause to believe his condition has so changed he is safe to be at large and, if released, is not likely to commit acts of sexual violence.

After weighing the expert testimony offered at the hearing, the Court finds the testimony of the State's expert, Dr. Gillen, to be more credible. In addition, the Court carefully considered the documents received into the record, and the arguments of counsel. Based on this review, the Court finds the Respondent failed to meet his burden, and concludes, at this time, there is no probable cause to believe Respondent's mental abnormality or personality disorder has so changed he is safe to be at large, and, if released, not likely to commit acts of sexual violence.

THEREFORE IT IS ORDERED the Respondent shall continue to be confined in a secure facility of the Department of Mental Health for long term control, care and treatment pursuant to the Sexually Violent Predator Act, S. C. Code Ann. Sections 44-48-10 *et seq.*

IT IS FURTHER ORDERED the Respondent continues under the jurisdiction of this Court.

AND IT IS SO ORDERED.


JENNIFER B. MCCOY,
Chief Administrative Judge
Ninth Judicial Circuit
Court of Common Pleas

October 28, 2020
Charleston, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Jennifer B. McCoy

IN THE MATTER OF THE CARE AND
TREATMENT OF KEVIN LAMAR WRIGHT

APPELLANT

APPELLATE CASE NO. 2020-001551

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all matter 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 Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings”

s/ *James Falk*

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ATTORNEY FOR APPELLANT

August 5, 2021