RECEIVED
Feb 28 2024
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRY SHAIMEK TYLER,

APPELLANT.

APPELLATE CASE NO. 2021-001316

RECORD ON APPEAL

JESSICA M. SAXON
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-3727

KEVIN S. BRACKETT
Solicitor, Sixteenth Judicial Circuit

1675-1A York Highway
Moss Justice Center
York, SC 29745
(803) 628-3020

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

PLEA HEARING TRANSCRIPT DATED JULY 8, 2021 1

DEFENDANT'S MOTION FOR SENTENCING PURSUANT TO AIKEN V. BYARS DATED AUGUST 16, 2021 14

SENTENCING HEARING TRANSCRIPT DATED AUGUST 16, 2021 20

MOTION FOR SENTENCING PURSUANT TO AIKEN V. BYARS 49

TESTIMONY

AMANDA B. SALAS 64

SENTENCING 117

COURT'S EXHIBIT #1 (REPORT OF DR. AMANDA SALAS) 121

MOTION TO RECONSIDER AND TO REDUCE SENTENCE 127

SUPPORTING AFFIDAVITS AND MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO RECONSIDER 132

OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION AND REDUCTION OF SENTENCE 226

ORDER DENYING MOTION TO RECONSIDER AND TO REDUCE SENTENCE 229

INDICTMENTS 236

SENTENCE SHEETS 247

ARREST WARRANTS 252

PLEA WAIVER FORM 258

CERTIFICATE OF COUNSEL 264

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
SURVEILLANCE RECORDINGS FROM APARTMENT COMPLEX;
RESPONDING OFFICER BODY CAMERA RECORDING;
and PHOTOGRAPHS OF VICTIM'S INJURIES

STATE OF SOUTH CAROLINA - COUNTY OF YORK
SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA	)
	)**Docket No.**
PLAINTIFF,	)2019-GS-46-01336
	)2019-GS-46-01336(a)
	)2019-GS-46-01337
	)2019-GS-46-01338
V.	)2019-GS-46-01339
	)2019-GS-46-01340
	)
TERRY S. TYLER	)
	)**SENTENCING**
DEFENDANT.	)

July 8, 2021
York, South Carolina

B-E-F-O-R-E:

THE HONORABLE WILLIAM MCKINNON

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

SHARON OHAYON, ESQ.
Attorney for the State of South Carolina

ZACHARY MERIT, ESQ.
Attorney for the Defendant

Maria DiScioscia, RPR
Official Court Reporter

THE COURT: Yes, ma'am.

MS. OHAYON: May it please the Court, your Honor.

Before you is Terry Shaimek Tyler. He's represented by Zachary Mèrit. He's pleading guilty today under indictments 2019-GS-1336 to CSC first and 1336(a) to possession of a weapon during the commission of a violent crime, 1337 kidnapping, 1338 armed robbery, 1339 grand larceny over 10,000, and 1340 unlawful sale or delivery of a pistol; just because he was a minor at the time.

He has done 865 days in jail so far. And we are deferring sentencing to the week of --

THE COURT: Thät's 865?

MS. OHAYON: I believe so.

THE COURT: I'm not putting that down since we're not sentencing today.

MS. OHAYON: Okay. And we are deferring sentencing to the week of August 16th in front of your Honor.

THE COURT: Yes, ma'am. This is without negotiation or recommendation; correct?

MS. OHAYON: That's correct, your Honor.

THE COURT: Mr. Tyler, what is your full legal name, sir?

THE DEFENDANT: Terry Shaimek Tyler.

THE COURT: How old are you, sir?

THE DEFENDANT: 18.

THE COURT: How far did you go in school?

THE DEFENDANT: 10th grade.

THE COURT: Have you ever been treated for drug abuse, alcohol abuse or had any mental health treatment?

THE DEFENDANT: No, sir.

THE COURT: Are you currently under the influence of any doctor prescribed medication, illegal drugs or alcohol?

THE DEFENDANT: No, sir.

THE COURT: Do you have any other mental or physical conditions that could interfere with your ability to understand what's happening in court today?

THE DEFENDANT: No, sir.

THE COURT: All right. Mr. Tyler, I understand you're here to plead guilty to six charges today. One is kidnapping, which carries up to 30 years in prison. There's armed robbery, which carries 10 to 30 years in prison. Grand larceny, ten thousand or more, which carries up to 10 years and fine in the court's discretion. Possession of a pistol by a minor, which is up to 5 years and fine up to $2,000. Criminal

sexual conduct in the first-degree, which carries up to 30 years and possession of weapon during the commission of a violent crime, which carries 5 years.

Is that your understanding?

THE DEFENDANT: Yes, sir.

THE COURT: And you understand Mr. Tyler, that there is no negotiation or recommendation in this case from the State. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: I have to talk to you about a few of these charges. Give me just a moment.

Mr. Tyler, three of the charges which would be the criminal sexual conduct first-degree, kidnapping and armed robbery are both violent and most serious offenses under South Carolina law.

Have you discussed those with your lawyer?

THE DEFENDANT: Yes, sir.

THE COURT: You understand the fact that they are violent offenses may effect the amount of time you would have to serve before you're eligible for release.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And South Carolina has what most people call a strike system, made up of serious or most serious offenses. If you get any three combinations,

serious or most serious or any two most serious offenses, you're eligible for a life without parole sentence.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And you understand that all three of these charges, criminal sexual conduct first, kidnapping and armed robbery, are most serious offenses under that system.

Do you understand that?

THE DEFENDANT: Yes, sir.

MR. MERIT: And your Honor, we've explained to him and the family, even though there's multiple ones of the same incident, this is one strike.

THE COURT: Okay. And Mr. Tyler, do you understand this will be mandatory sex offender registration with this plea?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Tyler, the biggest legal right -- actually before I do that.

Mr. Tyler, I've been presented with a plea waiver form right here, that appears to have your initials on it and then your signature at the end of it.

Did you go through this form with you lawyer today?

THE DEFENDANT: Yes, sir.

THE COURT: And you understand everything that's on it?

THE DEFENDANT: Yes, sir.

THE COURT: Are these your initials and your signature on this plea waiver form?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions about what was in it?

THE DEFENDANT: No, sir.

THE COURT: Mr. Tyler, the biggest legal right that you give up by pleading guilty is your right to a jury trial. You're presumed innocence of all six of these charges and you cannot be found guilty unless a jury of 12 York county citizens hears the evidence and votes to find you guilty and their vote has to be unanimous and beyond a reasonable doubt.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And do you understand that at the trial, you have a right to have an attorney present and representing you. And that lawyer can speak for you, give you legal advise, possibly even get evidence suppressed.

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand you have the right to participate in your own defense and can speak in court if you want to?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand you have the right to remain silent and if you exercise that right it cannot be used against you in any way?

THE DEFENDANT: Yes, sir.

THE COURT: You understand you have the right to call witnesses into court to assist you in your defense?

THE DEFENDANT: Yes, sir.

THE COURT: You understand you can have those witnesses subpoenaed if you wanted to?

THE DEFENDANT: Yes, sir.

THE COURT: And I think I may have said this. I want to make sure.

If you exercise your right to remain silent, it can't be used against you in anyway?

THE DEFENDANT: Yes, sir.

THE COURT: And do you understand you have a right to cross-examine or confront all the State's witnesses?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand all these rights

I've just talked about?

THE DEFENDANT: Yes, sir.

THE COURT: Do you want to give them all up and plead guilt today?

THE DEFENDANT: Yes, sir.

THE COURT: Is that your lawyer Mr. Merit standing there with you?

THE DEFENDANT: Yes, sir.

THE COURT: Have you had enough time to speak with him?

THE DEFENDANT: Yes, sir.

THE COURT: Has he answered all your questions?

THE DEFENDANT: Yes, sir.

THE COURT: Has he done everything you've asked him to do?

THE DEFENDANT: Yes, sir.

THE COURT: Are you completely satisfied with his work on your behalf?

THE DEFENDANT: Yes, sir.

THE COURT: Is your choice to plead guilty today, your own decision made freely and voluntarily?

THE DEFENDANT: Yes, sir.

THE COURT: Did anyone promise you anything or threaten you in anyway to get you to plead guilty?

THE DEFENDANT: No, sir.

THE COURT: Do you have any questions for the court about what's happening today?

THE DEFENDANT: No, sir.

THE COURT: Mr. Merit, do you concur with your clients decision to plead?

MR. MERIT: I do, your Honor.

THE COURT: Do you believe his plea is made freely and voluntarily?

MR. MERIT: I do.

THE COURT: And you've discussed with him the State's evidence, his constitutional rights and any possible defenses?

MR. MERIT: Yes, your Honor.

THE COURT: Yes, ma'am.

MS. OHAYON: Your Honor, on February 15, 2019 the victim was coming home to her apartment, at the Walk2Campus Apartments, in Rock Hill, York County, South Carolina, when the defendant approached her outside of the building and asked her to buzz him in. She buzzes him in and as she's walking up the stairs he grabs her arm and then puts a firearm to her face and tells her to follow him. He takes her down outside the building, down the train tracks and at that point he sexual assaults her. He penetrates her with his finger and his

penis. At the conclusion of the sexual assault -- he also made her perform oral sex. At the conclusion of the sexual assault, he takes her phone, which has her ID and her credit card and her car keys. He takes her car and he leaves the scene in her car. The car is tracked and eventually he is arrested later on that morning at approximately 11:00 in the morning, again in Rock Hill, as the driver of the motor vehicle that was stolen.

He admits to law enforcement that he -- that that was him on the surveillance footage. That he did have a Hi-Point pistol. That he penetrated her with his finger, is what he admitted to. And that he did take her car. He gave a statement that it was under -- that he was require to do it by someone by the name of "Body-bag," that was his defense to law enforcement.

I believe that covers all of the elements for all of the charges. That was just very streamline, your Honor, for purposes of this plea.

THE COURT: Mr. Tyler, did you hear what the Assistant Solicitor just said happened?

THE DEFENDANT: Yes, sir.

THE COURT: Is that what really happened?

THE DEFENDANT: Yes, sir.

THE COURT: Do you still want to plead guilty to one count of kidnapping, one count of criminal sexual

conduct in the first-degree, one count of armed robbery, one count of grand larceny, one count of possession of a pistol by a minor and one count of possession of weapon during the commission of a violent crime?

THE DEFENDANT: Yes, sir.

THE COURT: Are you guilty of those six charges?

THE DEFENDANT: Yes, sir.

THE COURT: Has everything you've said in court today been the truth?

THE DEFENDANT: Yes, sir.

THE COURT: You understand that you have ten days to appeal the sentence I impose, which will not be imposed today. It will be imposed August 16th.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: I find there is a substantial factual basis for the plea. I find the plea has been made freely, voluntarily, and intelligently by Mr. Tyler, who's had the advice of counsel, an experienced and competent lawyer with whom he says he's completely satisfied. So I am going to accept the plea.

Anything else we need to put on the record from the State?

MS. OHAYON: I don't think so. No, your

Honor.

THE COURT: From the defense?

MR. MERIT: No, your Honor.

THE COURT: Okay. Sentencing's deferred to Monday, August 16th. Thank you.

MR. MERIT: Thank you.

MS. OHAYON: Thank you, your Honor.

(Sentencing was concluded.)

C E R T I F I C A T E

I, the undersigned Maria DiScioscia, Official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the record of all the proceedings in the captioned case, in the Circuit Court for York County, South Carolina, on the 7th day of July, 2021.

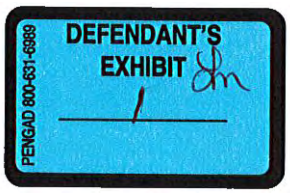
I do further certify that I am not related, either by blood or marriage, to any of the parties in this action; and that I am in no way interested in the outcome of this matter.

Maria DiScioscia

Maria DiScioscia
Official Court Reporter

STATE OF SOUTH CAROLINA COUNTY OF YORK State of South Carolina, Plaintiff, VS. Terry Shaimek Tyler, Defendant.	)	IN THE COURT OF GENERAL SESSIONS SIXTEENTH JUDICIAL CIRCUIT **DEFENDANT'S MOTION AND SUPPORTING MEMORANDUM REQUESTING SENTENCING PURSUANT TO AIKEN V. BYARS** Warrant No(s).: 2019A4620300467-72

The Defendant, by and through his attorneys Zachary Merritt and Michael L. Brown, Jr., respectfully move this Court to allow the Defendant to be given an individualized sentencing hearing pursuant to Miller v. Alabama, 567 U.S. 460, and consider the *Miller* sentencing factors that were adopted by the South Carolina Supreme Court in Aiken v. Byars, 410 S.C. 534. Id, 765 S.E.2d 572 (2014).



Procedural History

On February 15th, the Defendant was charged with Criminal Sexual Conduct, 1st Degree, Kidnapping, Armed Robbery, Grand Larceny Auto, Possession of a Firearm by a Person Under 18 and Possession of a Firearm During a Crime of Violence. Despite being 16 years old, the Defendant was charged as an adult automatically based on the law at the time. See S.C. Code 63-19-20(1) (Categorically excluding from the definition of "Juvenile" a person sixteen years of age who is charged with certain felonies). That day, the Defendant was arraigned and bond was denied by the Rock Hill Municipal recorder.

On June 12th, 2019, Attorney Geoffrey Dunn filed a notice of representation on behalf of the Defendant. On May 15th, 2020, the Defendant's family retained the services of the Law Offices of Michael L. Brown, Jr, for the purposes of representation. A notice of substitution of counsel was filed shortly thereafter. On September 23, 2020, the Defendant retained Dr. Amanda Salas in order to conduct an independent forensic evaluation of the Defendant for the purposes of sentencing. On June 20th, 2019, the Defendant was indicted for each of the charges.

On July 7th, 2021, the Defendant plead guilty to each charge before the Honorable William McKinnon who retained jurisdiction of the case for sentencing.

ARGUMENT

1. **At age 16, the Defendant exhibited the same attendant characteristics of youth even though the Defendant does not face a possible sentence of life without parole, and is therefore similarly situated to the class of defendants addressed in Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2012).**

In 2012, in *Miller v. Alabama*, the United States Supreme Court held that mandatory schemes imposing life without parole sentences violates the Eighth Amendment when those sentences are applied to juveniles. There, the Court reasoned that sentencing judges must consider youth as a mitigating factor when crimes are committed as juveniles. That same year, the South Carolina Supreme Court adopted the science and factors encapsulated in *Miller* and mandated that sentencing courts provide individualized sentencing hearings to a juvenile offender before sentencing is imposed. Id at 540.

In so doing, the Court noted that the Courts in "Robert [v. Simmons] and Graham [v. Florida] emphasized that the distinctive attributes of youth diminish the penological justifications

for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes." Id at 542. The Court further stated, "Miller is clear that it is the failure of a sentencing court to consider the hallmark features of youth prior to sentencing that offends the Constitution." Id at 543. In acknowledging Miller's "requirement that courts fully explore the impact of the defendant's juvenility on the sentence rendered," Id., the Court mandated that the sentencing courts apply the factors laid out in Miller in determining whether a juveniles should sentence to life without parole. Id at 544. Failure to do so violates the Eighth Amendment's prohibition against cruel and unusual punishment because sentencing a juvenile without an individualized sentencing hearing violated the requirement of sentence proportionality required under the Eighth Amendment. Id at 538. The proportionality of a sentence is governed by evolving standards of decency. Id.

The factors laid out in *Miller* are as follows:

1. Chronological age of the offender;
2. Social and familial environment of the child;
3. The circumstances of the offense;
4. The in competencies associated with youth; and,
5. The possibility of rehabilitation;

The reliance on the hallmark features of youth and other attendant features of youth comes from advances made in the study of brain development. It is now widely accepted scientifically, that "children are different," and that these differences result from how a child's brain develops. Because a child's brain develops in stages, and each section can develop at different times, science now accepts that cognitively and emotionally, a young adolescent is different than an older adolescent, and youths are different from adults. The brain essentially develops from back to front,

starting in early adolescence near the back of the cortex and finishing ibn the pre-frontal cortex. See *The Relevance of Immaturities in the Juveniles Brain to Culpability and Rehabilitation.* It is generally accepted that this development continues until about the age of 25. *Id.*

The brain both adds to itself through myelination and prunes itself back through synaptic pruning. *Id.* Myelination makes the brain healthy and allows it to achieve more complex functions. Synaptic pruning allows for more efficient brain functioning by eliminating certain brain synapses and peaks during teenage years. Id. In addition, the brain evolves to allow strengthened connections between its regions and to develop the executive functions in the pre-frontal cortex. The fact that the pre-frontal cortex is the last to develop is significant because it controls a person's ability to assess risk, think ahead and regulate emotions. *Id.* It also defines a person's personality. *Id.* For these reasons, an adolescent can exhibit a higher capacity for rehabilitation. Due to the constant construction of the brain during teenage and young adult years, a person can exhibit "transient immaturity" that may not indicate a youth is incorrigible or unlikely to be rehabilitated. Graham v. Florida, 560 U.S. 48, 130 S.Ct. 2011 (2010).

South Carolina's statutory scheme has long recognized the differences in children and young adults. The Children's Code ensures that juveniles found guilty of crimes in family court are not "convicted", but instead receive and "adjudication." S.C. Code Ann. 63-19-1410. When a child is adjudicated, the child is sheltered from the "civil disabilities ordinarily resulting from conviction," nor does an adjudication, "disqualify the child in a future civil service application or appointment." If a child receives commitment, juveniles are housed differently and given educational opportunities while there. The juvenile system also allows for placements and treatments in an attempt to rehabilitate the child. Ifa child is sentenced to a determinate sentence-committed to DJJ for a length of time not to exceed his or her 21st birthday--- then the state still

affords special protections to them. If a child is still incarcerated when they turn 17, then they are moved to the Youthful Offender Camp, not to adult prison.

The Youthful Offender Act, Section 24-19-5 *et. seq.* of the S.C. Code of Laws, acknowledges that young adults between the ages of 17 and 26 are still in need of rehabilitation. YOA inmates are allowed to continue schooling and learn a trade. They are housed separately from adult offenders. They are provided a special parole system and special assistance if given parole. The combination of the DJJ and YOA systems result in a class of inmates being treated differently because of their age and society's expectation that they can be rehabilitated. These tendencies recognize that, under South Carolina law, children are different and that juveniles will not be subjected to the harsh penalties provided for in adult cases.

During the life span of this very case, the General Assembly moved the line further in the protection of youth in a manner that directly impacted Mr. Tyler. On July 1st, 2019, months after his arrest, the State of South Carolina enacted the Raise the Age legislation. In doing so, the Legislature changed the statute that defined Mr. Tyler as an adult. Had Mr. Tyler been arrested after this statute, Mr. Tyler would have been exposed to several procedural safeguards that were foregone in this case, such as immediate appointment of counsel, a Juvenile detention hearing and a waiver hearing. Each of these procedures address different specific concerns of juveniles which are all aimed to seek rehabilitation. Now, the only stage of the proceedings where the Defendant is entitled to this protection is before the Court during sentencing.

CONCLUSION

The Defendant, being charged with an offense that does not carry the possibility of life without parole, still exhibits the same limitations of youth as those charged with LWOP eligible crimes. He is, therefore, entitled to the same protections outlined in Aiken v. Byars. Failure to provide these protections violates his due process under the Fourteenth Amendment of the U.S. Constitution and Art. I, Section 3 of the S.C. Constitution. The Defendant simply asks that the Court fashion a sentence that weights the seriousness of the crime against the proportionality factors laid out in Miller and Byars.

Respectfully submitted,

s/ Zachary Merritt
Zachary Merritt
Attorney
LAW OFFICES OF MICHAEL L. BROWN, JR.
Po Box 1025
Rock Hill, South Carolina 29730
(803) 328-8822 phone
Attorney for the Defendant

August 16, 2021

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF YORK)

The State,)
) TRANSCRIPT OF RECORD
-vs-) 2019-GS-46-01336;01337;01338;
) 01339;01340;01336A
Terry Shaimek Tyler,)
) August 16, 2021
Defendant.) York, South Carolina

B E F O R E:

HONORABLE WILLIAM A. McKINNON, JUDGE

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

SHARON JOSEPHA OHAYON, ESQUIRE
CHRISTOPHER WAYNE EPTING, ESQUIRE
BETTY ANN MILLER, ESQUIRE
Attorneys for the State

ZACHARY MICHAEL MERRITT, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

INDEX

WITNESSES	PAGE
DR. AMANDA B. SALAS	
Examination by the Court	45

Sentence -- page 5.

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
C-1	Report of Amanda B. Salas, MD		100

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
D-1	Motion and memorandum		30

THE COURT: Members of the media, welcome. I just want to remind y'all, please don't direct your cameras toward the victim or her family, please. Thank you.

Yes, ma'am.

MS. OHAYON: May it please the Court, Your Honor.

THE COURT: This is the sentencing on the plea that you heard in July on Terry Shaimek Tyler. Your Honor, may I proceed with the sentencing?

THE DEFENDANT: Yes, ma'am.

MS. OHAYON: Okay. On February 15, 2019, EP became the victim of a rape and robbery at gunpoint by a complete stranger.

The defendant was particularly heinous and callous in his execution of this crime and after he was arrested showed a complete lack of empathy and remorse.

For those reasons and the defendant's previous violent history as a juvenile, the state is asking Your Honor to sentence Mr. Tyler to no less than 60 years.

His charges combined for all the crimes he committed that night carry 105 years.

I'm going to go over the facts in detail, Your Honor. I know briefly we mentioned the facts at the plea.

In the early morning hours of February 15 of 2019 EP was coming home from a night with friends in Charlotte to her Walk2Campus Apartments near Winthrop where

she was a student.

At approximately 3:51 a.m. she parks her car in her designated parking spot and within a few minutes she crosses the parking lot and is approached by a young male later identified as the defendant asking to be let into the building. Assuming he just forgot his pass, like college students often do, she lets him into the building.

As she's walking up the stairs that young male grabs her arm and puts a gun to her face. You can see in the surveillance that I will later show you that EP immediately tenses up.

They exit the building together and the next thing you see on any cameras is at 4:19 a.m. when that same young man drives off in her vehicle.

What the defendant does in those 20 minutes -- 25 minutes or so off camera is a horrific series of events that no one should ever have to go through.

He drags her by her hair down the railroad tracks as she's calling out loudly to God for help hoping that someone, anyone, will hear her and stop this assault.

He hits her in the head with his pistol.

He brings her to a dark, isolated location on the tracks where he makes her get down on her knees and tells her to suck him off as if this is some pornographic movie that he's watching.

He completely degrades her, treats her like she is subhuman. And you'll later hear in the statement that he really does not view her life as important as his.

She performs oral sex on him and then he turns her around. He makes her remove her pants and underwear and attempts to penetrate her from behind.

[redacted] again in an attempt to prevent this assault keeps her legs and vagina closed as much as she can to try to keep him from being able to penetrate her.

He shoves her down to the ground, makes her get on her hands and knees like an animal so that she's in a position in a way that she can no longer stop the assault, and he rapes her.

Once he's completed his assault he leaves her without her pants and underwear and tells her that she must wait there for at least 30 minutes. No. An hour. And then he threatens to kill her if she calls the police.

He lies and tells her that he isn't from the Rock Hill area.

He then takes her phone with her wallet and debit card attached, which he later throws down the sewer drain, and her car keys. He steals her car and he leaves the area.

[redacted] is forced to walk down the train tracks with no pants or underwear for several minutes to find her clothes. She then walks for over a mile for about 30 minutes to

Winthrop Police Department hiding in the shadows for fear that her assailant, the defendant, will return and kill her or someone else might find her and rape her again.

From the police department she goes to P.M.C. to get a SANE kit done. During that time Terry Tyler was on a joyride with his friends in her car.

Rock Hill P.D. tracks the defendant driving around Charlotte for several hours using tag readers, and by around 11:00 a.m. the car is spotted with the defendant in the driver's seat with five of his friends in the car.

He is arrested, and he makes up a story that he observed a homicide committed by, quote, Body Bag and that Body Bag made him rape someone.

This story is so full of holes, but the detectives still attempt to corroborate any part of this story. They are unable to locate any homicide that matches the description at all, but they are able to I.D. Body Bag, a 40-or-so-year-old man who is well known in the Rock Hill area, and they speak to him, and he denies knowing who Terry Tyler is.

Your Honor, I am now going to play some videos from the investigation so that you can see for yourself.

THE COURT: Yes, ma'am.

MS. OHAYON: This first video is EP pulling into the Winthrop campus, Walk2Campus Apartments.

MR. EPTING: Your Honor, can we publish these to the screens in the courtroom?

THE COURT: Yes, sir, yeah.

Madam clerk.

(Pause.)

(Whereupon, the video was played for the Court.)

MS. OHAYON: The cameras turn on and off because there are motion sensors. So I'm going to play different clips.

THE COURT: Ms. Ohayon, the screen behind you is not working. Some people -- is it malfunctioning or -- it looks like it may not be turned on. It's not showing anything.

(Pause.)

THE COURT: Thank you, Counsel.

MS. OHAYON: This video shows EP exiting from her car, and you can see the defendant in the background by the building. He is walking around waiting for someone.

There he is over -- where Chris is pointing with the mouse.

This video speaks for itself, Your Honor.

He takes her to that door originally, but there's apartments behind it. So he takes her out the front. That other door is not an exit.

And I do just want to point out one more time, Your Honor, the way he grabs her, points the gun right in her

face, how she's completely tense. And when he turns around he catches the camera and then looks down to hide his face.

The next video you'll see is you'll see him coming right from where he was waiting for her before, right there, and then he's going to come to her car.

At this time Ms. EP is walking nude completely from her waist down down the tracks.

She ends up walking to Winthrop Police Department, and this is the first responding officer's body cam.

Your Honor, I'm not sure if you can make the volume any louder. It's as loud as possible on my computer.

THE COURT: Looks like it's as loud as we can get it on this one too.

MS. OHAYON: Okay.

THE COURT: Let's pause it for a moment.

Is there a master volume maybe that we can turn up?

(Pause.)

MS. OHAYON: Apologize, Your Honor.

THE COURT: That's okay. Let's try it. Let's try it again.

MS. OHAYON: Your Honor, the rest of that video they just are trying to get more information about the -- at that time just the suspect, and eventually E.M.S. arrives and then she's taken to the hospital for her SANE kit, which at the hospital she tells a story in more detail.

(Whereupon, the video was played for the Court.)

MS. OHAYON: That concludes the videos I'd like to show Your Honor.

There are also photos that were taken of the victim during the same process. One is not coming out clear, but that's just a red abrasion on her head from where he hit her with the pistol. You can see that her hands are still dirty from when he made them -- made her put her hands down on the tracks, and her knees and the gravel.

A little bit about the investigation. First, Rock Hill P.D. did an amazingly thorough job investigating this case, and I want to thank everyone who helped with it for their hard work and diligence.

Every officer who assisted with the case handled it with such professionalism. There isn't a single officer or witness, for that matter, that did not recall this case when we called them for trial prep, and they all worked so hard to help find the defendant that morning.

Each officer we prepped expressed passion for the case and sympathy for the victim, and their compassion and dedication to their work showed through in this case, and it's truly a blessing to be able to prosecute a thoroughly investigate a case like this.

It is because of their hard work that this defendant is off the streets and no longer committing crimes against

our community.

From start to finish this case was one of the best, if not the best, investigated cases I've ever received. The mountain of evidence against the defendant is overwhelming.

Officers Miller and Bailey responded to the call and did an amazing job getting the details that they needed of the assault and the taking EP to PMC for a SANE kit right away.

Detective Quate, at Suze Joseph's from safe passage request recorded the SANE nurse's interview, and he did that so that EP would not have to repeat and relive the story again she has already told officers. This is her second time reliving it.

Sergeant Burkhart found the victim's phone in the sewer drain. I could pull up a picture of that, but the defendant had thrown it inside a sewer drain. You'd have had to duck down to find it. I don't even know how he thought to look there.

They even did a suspect kit, which is so critical in this case, where the victim was only able to narrow down her I.D. on the 6-pack to two of the six people that were in the 6-pack, one of which was the defendant. And another was just someone else that's in the 6-pack.

But not only was his D.N.A. inside of her, but her D.N.A. was on his penis head and shaft. And the 6-pack

itself was one of the best lineups I've ever seen.

They were able to track the whereabouts of the defendant in the victim's car by tracking the plate readers picking up his location, and that's how they knew that he was in Charlotte.

THE COURT: Ms. Ohayon, when you say a suspect kit, does that mean D.N.A. testing on the D.N.A. kit of the suspect?

MS. OHAYON: That's correct. Basically, a SANE, a different SANE, nurse conducted a SANE examination on the suspect.

Sergeant McCrorey and Detective Quate took an excellent statement from the defendant, never once discrediting the story for how ridiculous it was, and actually followed up on his statement to see if any of it was true, which none of it was.

They could not find a homicide that matched the description the defendant gave them that he allegedly observed. They could not find anyone driving around on any surveillance that would match a description of the car that he gave that Body Bag was driving in.

They spoke to Body Bag. He was not able to corroborate the defendant's story and denied even knowing him.

There wasn't a single part of the defendant's

statement that could be corroborated because it was completely fabricated.

Your Honor, it is the state's position that Mr. Tyler, as long as he is on the streets, will continue to commit crimes and they will continue to progress in severity.

I'm asking for a minimum of 60 years for several reasons.

I've been a prosecutor for a total of 12 years and doing special victims for eight. This is the only stranger rape I've ever prosecuted. This is one of the worst cases I'm currently prosecuting.

This is the only case I've ever made the defendant plead to all charges with absolutely no offer or recommendation or negotiation and that I've asked for the charges and time to be stacked on the defendant. That's how serious and awful this case is and how much it is the state's position that the defendant absolutely -- absolutely needs to have his time stacked.

The victim will live with this and the effects of this for the rest of her life. There will never be a time in her life where she will forget this or go on to live as if this had never happened.

The defendant did not just rob her at gunpoint of her car but of her safety, her security, her ability to trust, any sort of normalcy or freedom that anyone who is not a

victim of a crime like this enjoys.

EP deserves justice for the crime committed against her. The defendant needs to spend as much time as possible in prison for the protection of our community.

If these are the types of crimes he's committing at 16, I do not want to see what crimes he is committing as he gets older.

We are lucky that due to his inexperience we have such a solid case against him.

Sixty years stacks only two of the six charges against him. I'm asking for 30 years on the rape to be stacked with 30 years on the robbery, because not only did he rape her, but he stole her car, took it for a joyride, and all at gunpoint.

He knows full well the consequences of his actions. He attempted to avoid the surveillance camera capturing his face. He takes her to a dark area with no one and no cameras around.

He comes up with a fake story and a fake duress defense and never admits to law enforcement that he actually penetrated her vaginally with his penis.

He refused to complete a mental health evaluation because he didn't want to have to speak on the facts of the story again.

Not only does he rape her, Your Honor. He waited to

prey on her. He stood around and waited for a college student to come home and be his victim.

This was not a crime of opportunity, not that it would make it, a rape, any better, but it does make this rape worse as it was premeditated and he had the time and opportunity to stop at any point and go home, but he did not.

Not only does he rape her, but he drags her by the hair, hits her with the gun in his hand to the location where she will be raped. And when he's done raping her he leaves her undressed and scared alone in the dark in a construction zone where she could easy have been a victim of another crime. This to me was particularly heinous and callous. It shows Mr. Tyler's complete lack of humanity.

He then steals her car and while EP is in tears, distraught, having to undergo an invasive SANE exam, spending hours of her time with law enforcement reporting and reliving what happened to her, Mr. Tyler is having the time of his life driving around Charlotte with his buddies in her car.

Not only does he rape her but he never at any point in time shows that he is remorseful for his actions or that he cares about anyone but himself.

Not only does he come up with a complete lie as his defense, but he even says that during his statement that he

is only 16 years old, she is, what, 19 or 20 because she's a college student, she's lived her life already and he has his whole life left to live.

Your Honor, we're asking you that you sentence the defendant to the time that he deserves for the crimes he committed that night, and anything less than 60 years would not be justice.

At this time we have some people that would like to speak as well.

THE COURT: Ms. Ohayon, before we get to that do you -- I don't want to do it out loud. I would like to see the juvenile's record.

MS. OHAYON: One moment, Your Honor.

(Pause.)

MS. OHAYON: Your Honor, may we approach?

THE COURT: You may.

Mr. Merritt, you can approach as well if you like.

(Bench conference held off the record.)

KRIS QUATE: Your Honor, there was a portion of a prepared statement that I was going to present.

THE COURT: Identify yourself, please, for the record.

KRIS QUATE: Yes. It's Kris -- K-R-I-S -- Quate -- Q-U-A-T-E.

THE COURT: Yes, sir.

KRIS QUATE: There was a portion of a prepared

statement I was going to discuss in reference to a crime I investigated Mr. Tyler as a suspect as a juvenile. I wanted to know if I have permission to speak on that investigation.

MS. OHAYON: Your Honor, that's the one -- that's the assault.

THE COURT: Counsel, can y'all approach?

(Bench conference held off the record.)

KRIS QUATE: Your Honor, when you're prepared.

THE COURT: Yes, sir. If you can --

KRIS QUATE: My name is Kris Quate. Again, that's K-R-I-S Q-U-A-T-E.

I'm a detective with the Rock Hill Police Department. I began my career as a police officer with Rock Hill in 2005.

I began investi -- the majority of my investigative experience has been spent in what is commonly referred to as special victims crimes, which includes crimes against children and sexual assault.

I have trained at numerous location across the Southeast in this field, and I have gained extensive experience in this field.

On the morning of February 15th of 2019 I was requested to respond to Piedmont Medical Center in reference to a freshly committed sexual assault.

At the hospital I met with the victim who was accompanied by a friend, as well as a victim advocate. The victim was sitting up in a hospital bed as I spoke with her.

The victim told me earlier she had arrived in the parking lot of an apartment complex that she was living at located on Row Street in Rock Hill.

The victim stated she was walking into the secured complex when she encountered a male later identified as Terry Tyler. The victim, believing she was being a good neighbor, allowed Tyler to enter the secure area under the impression that Tyler was a resident.

The victim went on to disclose horrific events that occurred to her. The victim disclosed how the suspect pointed a gun at her, ordered her to the railroad tracks, ordered her to submit to him sexually, ordered her to walk away, ordered her not to tell anyone and threatened to kill her.

The victim had physical signs of what occurred to her to include scuffs on her knees from the rocks, as well as a mark on her head where she was struck.

The acts disclosed by the victim were shocking with facts so chilling that it put fear into the residents of the area setting and even a region as documented by area news coverage.

Rock Hill police officers would locate Mr. Terry not in hiding or in a manner of shame but joyriding in the victim's car with friends that he had picked up after the brutal rape and robbery of the victim.

Mr. Terry drove up to Charlotte, which was documented by license plate readers with the Charlotte-Mecklenburg Police Department to pick up girls with other friends that he had picked up.

Once Mr. Tyler was transported to the police department he was interviewed by Detective McCrorey and myself. After being advised of the Miranda warning, Terry acknowledged he did lie in wait for a victim at random. Tyler disclosed how he put the gun in the victim's face and then walked -- walked her out onto the railroad tracks.

Tyler disclosed how he sexually assaulted the victim. While he provided a confession of the acts, Tyler was no way disclosing guilt. Instead, Tyler made a statement to downplay the acts which were not consistent with the statement provided by the victim. Tyler gave a statement that he was coerced by an individual.

When confronted with the terrifying facts in which he had victimized the stranger, Tyler attempted to portray himself as a victim.

I stand before the Court today to discuss the incident and from a police-investigator perspective. This incident

was chilling. While it is rare to have encountered an incident of this nature, it's what keeps parents up at night. It is what people fear in the cover of darkness. This is an incident that was committed by a person who has demonstrated himself to be cold, calloused and indifferent to -- and completely indifferent to others.

He did not think twice in inflicting trauma on others and continuing on his pleasures with no thought to physical or emotional scars.

I appreciate the opportunity to address the Court, and when you're prepared I can speak with you in reference to the area that I left out.

THE COURT: Yes, sir. Come on and approach.

Mr. Merritt.

(Bench conference held off the record.)

MS. OHAYON: Officer Miller also prepared a statement.

THE COURT: And just for the media, what we were discussing at the bench was his juvenile record.

LIANA MILLER: My full name is Liana Miller -- L-I-A-N-A -- Miller -- M-I-L-L-E-R.

Good morning, Your Honor.

THE COURT: Good morning.

LIANA MILLER: May it please the Court.

In responding to this call on February 15th of 2019 in the early morning it became immediately evident to me an

assault on EP was a traumatic experience that will leave her scarred for a very long time.

She was extremely frightened, terrified to talk and obviously in shock. I have been a police officer for over six years, and I strongly believe this case will be a case I will never forget.

Terry had no regard her at any time. He terrorized her and brutally raped her leaving her feeling humiliated.

Your Honor, please, EP deserves justice today. Thank you.

MS. OHAYON: Going to ask EP now to speak.

THE VICTIM: My name is EP Your Honor.

THE COURT: Yes, ma'am.

THE VICTIM: I never thought I'd have to give a victim impact statement, just like I never thought I'd be kidnapped at gunpoint, dragged by my hair down railroad tracks and used for sex that I never consented to, but I know I am here and I know what I have to do.

I'm going to keep my statement short and to the point. I want this individual to be off the streets for as long as possible, and I will tell you why.

Being attacked by a man is a woman's worst nightmare. Before February 15th of 2019 I thought I was competent in my independency and ability to protect myself in certain situations. Now I know I was just naive.

How could I have been so stupid that night? Why didn't I have my guard up? Why, oh why, did I not just turn around, get back in my car and call campus police? I've asked myself these questions for the past two years.

And while attending therapy has helped me to realize I was never at fault in this situation, it's still hard to avoid the what-ifs. What if I had returned to campus an hour earlier? What if I had just taken precautions like any smart woman alone at night would do?

Maybe I wouldn't have cried myself to sleep at night for months on end or cried more in the past couple of years than I have in the first 21 years of my life. Maybe I wouldn't be attending therapy and maybe I wouldn't have been diagnosed with P.T.S.D. and depression. Maybe I wouldn't be sensitive to certain touches, words or scenes on television.

My friends and family wouldn't have had to experience this pain with me. I'd carry their pain on my shoulders too if I could.

My boyfriend wouldn't have to navigate a relationship that's overly sensitive to intimacy on my part, but I'm thankful that he does that graciously.

I'm wanting to manage to overcome my fears of sexual assaults and strange men. I wish it was as easy as flipping a switch, but it's not. I don't want to have to

rely on pills to ease my depression. I don't want to fear for my life whenever I walk outside alone at night. I don't want the attack to define who I am, and even though it doesn't, I can't deny the effects it has had on me and the people around me. I know I will have an internal battle for the unforeseeable future.

I'm grateful for everyone that has helped me through this -- my parents, friends, boyfriend, therapists and for those that I put forth their time and energy to fight for me in this great state -- Sharon, Chris, the officers that were with me on February 15th and the individual that spotted my stolen car and reported it to police that day.

The work our police do is very under appreciated these days, so I just wanted to extend an extra thank you to them.

And above all I thank God for the many blessing he's given me, including strength and endurance I never knew I had. I'm hopeful that this impact statement has provided enough insight on the effects and the actions taken against me on February 15th of 2019. I'd like to see justice be served and I would like to never see my assailant again.

THE COURT: Thank you, Ms. EP

MS. OHAYON: Her parents also wanted to speak.

JEAN PETERS: My name is Jean Peters.

First of all, I'd like to say that my daughter is the

strongest, bravest woman I know, and I couldn't be more proud of her than I am today.

I just wanted to speak very briefly about what kind of financial impact that has had on our family. Not only do these victims suffer emotionally, but they suffer financially. And we freely spend out money to do whatever we need to do to get our daughter on track again.

We had to purchase her a new car because she and us -- we couldn't bear to have that car out there knowing he stole it and rode around with his friends like nothing had ever happened. So we had to purchase her a car.

We've had to pay for therapy. We've had to pay for drugs so that she can manage to get through each and every day.

We've had to leave our jobs to come here, to drive three hours for court to prepare. Many, many things we've had to -- to pay for that we shouldn't have to pay for. Those funds should have gone to her wedding, should have gone to help her purchase a new home, to help her start a life. He robbed us of that. He's taken many, many, many things away from us that we will never get back.

This is our worst nightmare, a parent's worst nightmare. We send her off to college and pray that she is -- that we have taught her everything that she needs to know, but we can't protect her from everything.

She will never live free again. This will always be with her, and I pray. I pray, God, and I pray that you never let him walk free again to do this to another parent. No parent wants this phone call. Please don't let him do it to someone else. Thank you.

JOHN PETERS: I'm John Peters. I'm EP's father. Thank you, Your Honor.

THE COURT: Yes, sir.

JOHN PETERS: I want to tell you about EP She is a say great child, so easy to raise, just a great student, always a straight-A student.

She played sports, many sports, and kept her grades up the whole time.

I don't think we ever had to discipline her. She was just a good person, just a good child, captain of her volleyball team, played college volleyball.

Found an engagement ring one time in the parking lot of the apartments we were living in, and she went to the front office and told them that she had found it, and they said, well, you just hang on to it and if somebody comes along, you know, we'll let them know you've got it. And somebody did -- a young couple, a young couple living in those apartments just starting out life. And that ring meant a lot to them. And she turned it over, said I don't need anything in return.

She's just a good person, just a really good person. Always has been very respectful to her parents, other people, kind to everybody, just a good person.

She -- she told me in confidence that during the attack that she had to live for us, that she knew that we couldn't live without her. And I thought, gosh, that's just so brave. I think the easy thing would have been just to, you know, let him kill her than to go through that. But she was more caring about us than herself.

I fear that if he is allowed to get back out that the gun that he never turned over to the police is still available to him and that he might just take an opportunity to exact revenge for her, Your Honor. I just pray that you'll see that this young man does not belong in society. And I thank you for your time.

THE COURT: Yes, sir.

MS. OHAYON: Ms. Miller from our office also wanted to address the Court.

MS. MILLER: Your Honor, as you know, Solicitor Brackett has been involved with this case from the very beginning, but he had a situation come up today he couldn't avoid -- not coming -- but he didn't want to delay this any more. He wanted the family to have this resolved today. He didn't want to inconvenience them further. So as deputy solicitor I'm stepping in for him.

Your Honor, today, this week, next week, as thousands of people in York County and around the state load their cars and pack their pickup trucks to take their children to college this is their worst nightmare, that a predator such as this defendant, that they would fall into the hands of such a predator is their worst nightmare.

We're asking you, Your Honor, to separate him from the rest of us. He needs to be separated from the rest of us until he is an old man and not a danger to anyone any more. Thank you, Your Honor.

MS. OHAYON: That concludes the state's presentation. Thank you, Your Honor.

THE COURT: Based on emails from counsel earlier, I understand the defense presentation would like to begin at 1:00 o'clock.

MR. MERRITT: Yes, Your Honor.

THE COURT: Okay. Court will be in recess until 1:00 o'clock.

(Whereupon, a recess was taken.)

THE COURT: Yes, sir. Mr. Epting.

MR. EPTING: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. EPTING: Your Honor, the state would wish to be heard on one matter.

We were just handled a -- handed a report from the Palmetto Center of Psychiatry, I believe, compiled by the expert who's going to be testifying before Your Honor this afternoon.

It appears to be the result of her findings after evaluating the defendant in this case.

We served a reciprocal rule of discovery asking for any reports of experts done on this case months ago. I believe it was sometime in April. And we are just now receiving this today, Your Honor. It is a 6-page document.

THE COURT: Okay. So, Mr. Merritt, so what I received previously was an article by a Dr. Peter Ash and then a brief. This is an additional document from today?

MR. BROWN: Yes. Dr. Salas is going to testify today about her forensic examination of my client, which, most of which, occurred after sentencing, I mean, after the plea.

This was produced today. This is a summary of her findings for the Court to walk through as she's talking. So this was not something that was produced as of yesterday and it wasn't before the plea.

THE COURT: Mr. Epting, is the state asking for a continuance or anything or is the state prepared to proceed?

MR. EPTING: We just wanted to put that on the record. We believe it to be a discovery violation since we served

him well beyond that as part of reciprocal Rule 5. Nonetheless, I believe we can follow along and address the concerns as --

THE COURT: All right. Mr. Merritt, do you have a copy for the Court?

MR. MERRITT: Yes, Your Honor.

THE COURT: I have got it.

MR. MERRITT: And, you know, we invite the state to peruse this stuff and respond if they want to. You know, it really is just a summary. It was produced yesterday by obligations under Rule 5, or to be contemporaneous. It was contemporaneous. This was all prepared for a sentencing hearing. So, but whatever time is needed for the state to prepare or respond, we have no objection to.

The other thing I would like to at this time go ahead and make it part of the record, would be my -- my motion for a sentencing hearing pursuant to Aiken v. Byars. We provided the state a copy, and I would like to have this marked as Defendant's No. 1.

(Motion and memorandum marked Defendant's Exhibit No. 1.)

MR. EPTING: And, Your Honor, we received a copy of that motion and have printed our own copy of State v. Byars over the lunch break. We did send a copy of the most recent case that we can find that cites back to Byars --

State v. Finley, 427 S.C. 419 for Your Honor's consideration. I think we can be heard on that perhaps prior to the expert's testimony if it pleases the Court.

THE COURT: Why don't we do that?

MR. MERRITT: Sure. Yeah.

THE COURT: We'll go ahead and hear it now.

MR. MERRITT: The beginning of presentation is just addressing these. This is just a written motion just for the purposes of making it part of the record.

Do you have -- at this time I would like to move to make it part of the record.

THE COURT: Sure. I mean, I've read it and I have a copy.

Mr. Merritt, at the conclusion of your motion -- let me see. You say -- you say that the defendant simply asks the Court fashion a sentence that weighs -- weights the seriousness of the crime against the proportionality factors. So what exactly are you asking for with this motion?

MR. MERRITT: Well, so I'm about to flesh that out a little bit if you don't mind.

THE COURT: Okay.

MR. MERRITT: Because, you know, and in taking a look at this we had to take a look at some of the case law which recently come out.

You know, it is our position. This is the first time. You know, we're -- we're here because we got absolutely no offer from the state whatsoever, which is not -- which is understandable. But we haven't gotten any offer whatsoever from them.

And we're also here because, you know, as the raise-the-age legislation came about and became inactive during the course of the procedural history of this case, he was under the old law, and the old law by definition made him a 16-year-old based off the offenses immediately in adult court.

Four months later the raise-the-age legislation comes along, and he would have if he had just committed the crime four months later, he would have been subjected to several parts of the procedural process, all of which under the Children's Code would have required each person to look at the rehabilitative aspects of a sentence only based on his age.

Okay. So I need to start a little bit with United States v. Miller. United -- I'm sorry. Miller v. -- Alabama v. Miller. That's a United States Supreme Court case.

And all we need to take away from that right now is the holding. The holding was very specific. The holding prevented states from having a mandatory sentencing scheme

that required life without parole for certain crimes. No discretion.

Okay. That was the holding. Not allowed to have a sentence that mandatorily allows life without parole. You're not allowed to have a statute that says you automatically get life if you do this.

South Carolina Supreme Court then comes out with Aiken v. Byars.

Let me go ahead and pass that up to the Court.

THE COURT: All right. Thank you.

MR. MERRITT: And what's significant about this case is is it important, the logic of Miller, and we're going to talk a little bit.

Miller took two giant strands of the U.S. Supreme Court cases. The first one are cases kinda like Miller that said you can't subject a juvenile to the death penalty, you can't subject a juvenile who has not committed a homicide to life without parole. Just bright-line rules.

And they merged them with another line of cases which were death penalty cases that required individualized sentencing hearings to consider certain factors for juveniles in death penalty cases.

Those are the factors I'm talking about, and I'm thinking, I'm proposing, that the Court now has said in Aiken v. Byars, the South Carolina Supreme Court said, that

when you decide your case, when you decide your sentence, you got to take a look at these factors.

THE COURT: But you're asking me to expand that holding to cases not involving a life-without-parole sentence, aren't you?

MR. MERRITT: So I'm -- well, I'm just proposing that they already did that in Aiken v. Byars. Okay. So I would ask you to turn to subsection, Scope of Miller's Holding, applicability of Miller to the petitioners.

THE COURT: Okay.

MR. MERRITT: Subsection A. And then I want you to go one, two, three, the fourth paragraph of that section, and I do -- I want to read that section into the record.

THE COURT: We recognize the --

MR. MERRITT: Yes, Your Honor.

THE COURT: Okay. Go ahead.

MR. MERRITT: "We recognize that in holding the Eighth Amendment prescribes a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders."

The Court did not expressly extend its ruling to states such as South Carolina whose sentencing scheme permits a life-without-parole sentence to be imposed on a juvenile offender but not mandated.

So just stating here that this is the Court

specifically saying we're about to step further than what was required before.

"Indeed, the Court noted that because it's holding was sufficient to decide the cases before it, consideration of the defendant's alternative argument that the Eighth Amendment requires a categorical bar on life without parole for juveniles was unnecessary. However, we must give effect to the proportionality rationale integral to Miller's holding, due test constitutional significance. As such, it must be afforded adequate weight in sentencing. And thus we profoundly disagree with the position advanced by the respondents in the dissent, that the import of the Miller decision has no application in South Carolina. Miller is clear that the failure of a sentencing court to consider the hallmark features of youth prior to sentencing offends the constitution. Contrary to the dissent's interpretation, Miller does more than ban life-without-parole sentencing schemes for juveniles. It establishes an affirmative requirement that courts fully explore the impact of the defendant's juvenility on the sentence rendered. As evidenced by the record, although some of the hearings touch on the issue of youth, none of them approach the sort of hearing envisioned by Miller Where the factors of youth are carefully and thoughtfully considered. Many attorneys mention age as nothing more

than a chronological fact in a vague plea for mercy. Miller holds the Constitution requires more. As the majority states succinctly, although we do not foreclose a sentencer's ability to make that judgment in just homicide cases, we require it to take into account how children are different, and how those differences counsel against irrevocably sentencing them to life without parole. We believe the statement deserves universal application.

The absence of this level of inquiry into the characteristics of youth produced a facially unconstitutional sentence for these petitioners. In our view, whether their sentence is mandatory or permissible, any juvenile offender who receives a sentence of life without the possibility of parole is entitled to the same constitutions afforded by the Eighth Amendment's guarantee against cruel and unusual punishment."

So this is simply -- this is doing far more --

THE COURT: Let me stop you there.

I mean, you -- I thought what you just told me is you believe that explicit language of this case is already extended to fact patterns like the one in front of the Court today.

MR. MERRITT: It is.

THE COURT: That -- I don't agree with that. I mean, the issue presented, does it apply to simple nonmandatory

life without parole, which is not an issue in this case?

MR. MERRITT: It simply means --

THE COURT: And that's what they say is the issue presented.

MR. MERRITT: Well, the issue presented is even more significant in that. They're literally going to apply a holding that was not addressed by the United States Supreme Court retroactively to every case in South Carolina where life without parole -- that particular sentence there was said --

THE COURT: You have to concede, don't you, that you're asking for an extension of the Aiken case?

MR. MERRITT: I don't think I'm -- I'm not asking for anything more than you would normally be allowed to consider in a sentencing hearing.

I'm just asking that you focus your attention to some of the juvenile aspects to the law and the science. So I don't think I'm -- I'm saying do I believe it's conceivable that you would render a sentence that we would argue is unconstitutional? Yeah. I believe it's conceivable, but I don't think it's happening and I don't think anything I'm asking for is even -- is broader than what a sentencing hearing requires.

I'm really simply just trying to focus our attention on the juvenile aspects of the case, because we uniquely do

have a 16-year-old. We uniquely have a 16-year-old who as of July 1st, 2019, a few months after this crime, he would have been in family court.

So after just taking a look at this case I also want to reiterate some of the other trends that have occurred in juvenile law.

So one of the things that would have absolutely happened is if he were convicted in family court, or let's just say he started in family court with a juvenile -- with a juvenile offense.

He would have been immediately given a lawyer. You can talk to Stacy Coleman. It's not like the public defender's office in adult court. That lawyer is immediately contacted, along with a D.J.J. personnel, and they're -- the case is discussed. The lawyer decides is there going to be a waiver, is there going to be a conflict, and the prosecution gets the discovery over to them pretty quickly.

They would have been entitled to a detention hearing, a detention hearing which was specifically considered not any -- not what a bond hearing considers but specific considerations of a juvenile and whether or not it's necessary and appropriate for his release at all. That is not what's considered in adult court.

Then the constitutionally required hearing called a

waiver hearing where there is a judicial presence, a lawyer for both sides, and they determine whether or not this is a case that requires the adult waiver.

What I'm telling you that Byars v. Aiken and all of the other trends in juvenile law say is that it is -- they have imported the absolute scientific certainty that the 16-year-old mind is not as culpable as the adult mind. They've imported the fact that when we look at these cases we first start at the age that he committed the crime.

So it's our position that when you're considering the sentence and when you consider the testimony of Dr. Salas who is our representation of the science in the courtroom that you start with looking at the sentencing. You're sentencing a 16-year-old. You're sentencing the crime on the day that it occurred. So we want you to consider that legal principle.

We also want -- there are some sentences that we do feel would defend justice in this case and defend these principles.

One, I've talked to probably five current and ex circuit public defenders and probably ten lawyers with 30 or more years of experience. Consecutive time in a case like this involving a 16-year-old in our view is -- is unreasonable.

We think that the range, the typical range in a case

like this to consider, is between 10 and 30 years.

You'll hear us argue for a sentence of 12 years followed by -- and this is another element of juvenile law that I want to keep in play as we discuss this case. We're asking for a sentence of 12 years on the armed robbery followed by a sentence of 15 years on the C.S.C. suspended on a probationary sentence that looks into rehabilitation.

The touchtone of every aspect of sentencing a juvenile, the touchtone of Aiken v. Byars, of all of it, because if the reason Aiken v. Byars is a reality, the reason they reopened all of those cases, is because they imported the science that the United States Supreme Court and now South Carolina Supreme Court has accepted as true, and the science tells us that the 16-year-old mind is just different than the 25-year-old male adult mind. It just operates differently. It doesn't have all of the same mechanisms that -- that an adult mind does.

Because that is true we are always left in all of these cases -- I can pull language out of them if you want to. I'm telling you as an officer of the Court they continuously say for the most part all of these trends and moving the line of juvenile justice and all of this Supreme Court Law, it all is based off and precepted for the most part, most kids do rehabilitate no matter how -- and there are categories of heinous crimes that would be red flags

for us, but this, we would argue, except for the forceful nature of it is not in the category of those crimes.

So what we're asking is to ignore. The easiest thing in the world to do and the easiest thing to ask for is the retribution that you have the power to bestow against my client, and the punishment. Retribution for the victim, and punishment.

The element that these cases all reiterate is the rehabilitative element. No matter what you do on the retribution side, we ask you to put it in the armed robbery. And no matter what, to give honor to this law, add a rehabilitative element that fits the treatment plan the psychiatrist will lay out for you. I've talked to probation. Whatever you can suggest that she suggests to you, probation will follow that. It's on the sentencing sheet. We supplement it with a written treatment plan.

So then it comes down to what does rehabilitation look like. Is it possible, is he worthy of it at all?

So with those things in mind I will reiterate the factors that I do believe -- any time in adult court and I want -- you're the only person, you're the only stage of this that's actually going to give effect to these factors.

It didn't happen in the negotiations in the case. It didn't happen because he skirted family court based off of an old rule. So the only person in the world that will

ever give effect to these factors and look at them is going to be you.

And those factors, that is the chronological age of the offender, the hallmark features of youth, social and familial environment of the child, the circumstances of the homicide offense, the incompetencies associated with youth and the possibility of rehabilitation. And here we're talking about a different category of offense, but a sexual offense. And some of the elements of looking at it, surely it being a sexual crime, will also be addressed to you in our presentation.

So at this time I am going to allow Dr. Salas to --

THE COURT: Mr. Merritt, before we do that I'm going to give the state a chance to reply on the law, and I'll give you the final -- give you a final argument, and then we'll move on to your witness.

MR. MERRITT: Thank you, Your Honor.

MR. EPTING: Your Honor, I think Your Honor has hit the nail on the head on a number of issues that Mr. Merritt has raised. He's asking this Court to extend Byars into an area that he is not foreseen and not mentioned by Byars or the cases that follow.

Your Honor, Byars dealt with a case where a mandatory life sentence was given to a juvenile.

State v. Finley, which I sent to the Court and I have

copies of if the Court would wish to see, was a followup to Byars, cited to Byars. It occurred in 2019.

In that case a juvenile had been given a life sentence with the possibility of receiving parole after 30 years, and the Courts stated that that was not a proper case for a Byars reconsideration because they were eligible for parole after 30 years.

Indeed, the defense argued that 30 years would be a de facto life sentence. The Court ruled at the end of the case, "As Finley's sentence afforded him parole eligibility, we find any potential Eighth Amendment violations cured. Accordingly, we find that the circuit court did not err in denying motions -- motions -- denying Finley's motion for resentencing under Aiken v. Byars."

I don't think Aiken v. Byars applies in a situation where a -- where a juvenile is not in danger or actually receiving a life sentence. And that's not the case here, Your Honor.

But we've asked for -- these charges even stacked up to the top do not carry life and we're not asking the Court to impose in this case a life sentence.

So we believe the factors that Mr. Merritt mentioned, while they may mean something on the horizon some years later and it's the developing state of science, they're not proper here for this Court to consider given that he is not

facing a mandatory life sentence or even a discretionary life sentence.

THE COURT: Mr. Merritt, any reply?

MR. MERRITT: Yes, Your Honor.

So, once again, I -- all I have done is introduce the factors of Byars, which the Court has now accepted as science, and they've accepted that science.

There's not -- we are not before you asking for a dramatic remedy, which was the remedy in Byars, not the rule that Byars laid down on how the courts look at juveniles. The remedy in Byars was dramatic. It's cases you've already resolved. We're going to go back in time and resentence him? We're not going that. We're having a sentencing hearing right here and right now.

I'm simply trying to inform the Court that it's our position that these factors are critical to your decision. You have to weigh retribution and punishment right here with the fact that he was 16 years old when he committed the crime and that there are specific considerations to take into account when sentencing a 16-year-old.

THE COURT: Mr. Merritt, you said your next witness is going to be your -- the psychiatrist?

MR. MERRITT: Yes, Your Honor.

THE COURT: Give me just -- Dr. Salas? Let me just finish reading your report if you don't mind, and then

we'll come back.

THE WITNESS: Certainly.

(Pause.)

THE COURT: All right.

THE WITNESS: Are you ready for me, Your Honor?

THE COURT: Yes, ma'am.

DR. AMANDA B. SALAS, having been first duly sworn, testified as follows:

THE WITNESS: Let me know if you can't hear me.

THE COURT: I can hear you fine.

THE WITNESS: To despair me trying to reread by report and then summarize some of the thoughts that I had in going through this assessment and evaluation, we'll make note of the fact that I'm here at the time of sentencing, not at any other point during the course of a criminal evaluation or evaluation provided to us, but in another stage of how the Court hears a case.

So I appreciate you taking the time to hear from me today. A lot of people get scared when they see a psychiatrist in the courtroom.

So I present to you --

THE COURT: Dr. Salas, do you mind if I ask you a question before we get started?

THE WITNESS: Yes.

THE COURT: All of the commentary about Eli, are you

just taking the defendant's word for that or have you independently corroborated any of these factual assertions regarding Eli?

THE WITNESS: I don't take it upon myself to settle the facts. So I haven't gone out and pursued information to reconcile what I've read in discovery with an account that's been given to me.

THE COURT: Is your report based on the events as set forth that Eli gave him a gun and Eli -- and all the statements?

THE WITNESS: They're components that will reflect being under the influence of negative peer pressure, but it's not my responsibility to decide the truthfulness of that.

So, for exemple, if -- if somebody in the court rejects the idea that there was another person that was actually influencing what was going on, you can say, hey, I take that component out and I don't factor that in when I go through the logic, or the illogic if you want to call it that, in the day of factoring in this.

All I do -- and I do this for everybody that I'm doing an evaluation on -- is I get their narrative because that's where you get, quote, unquote, into the brain of somebody. Sometimes you get into their brain and it's a big fat lie and you can reject it.

I have no idea, the truthfulness of the statement that has been given to me. So it's in there. There's nowhere else in this case for it to ever be included, but probably, because I don't even know if anybody else has the account that was given to me. It doesn't matter to me if the account that's in my report is accepted or rejected as a factual account. It's just the account that was given to me.

When I make my assessments and surmise what is going to be my opinion I take into account that I've reviewed discovery, as well as interviewed a client and gotten a history from the client.

I don't have, when I'm retained by the defense, the ability to go and interrogate, question, evaluate anybody else that might be a victim.

So there are a lot of different areas that if this were me working on behalf of the Court I might have access to other information, but it is what it is. I'm here. I'm hired on behalf of, you know, Michael Brown's law firm. The family pays them. Michael Brown pays me. And I do the job for what it is.

THE COURT: Dr. Salas, I apologize. I still -- I'm still un -- unclear and I -- if you just bear with me a moment.

Look at page four of your report.

THE WITNESS: Okay.

THE COURT: And you say on the second full paragraph, you say, "Factors shared in the account reflect his immaturity and adolescent nature. For example, aside from finding his way into this crime via peer directive, he did not have a plan by which he was to follow Eli's command. Shaimek was just there in the moment thinking he was going to a party and find himself in different circumstances."

I mean, you're doing this as an example of his immaturity. So are you saying this is what happened or are you saying he made this up and that's an example of his immaturity, or both?

THE WITNESS: I'm saying that I took a statement from him. If that is part of what you would want to take out -- you can bleed all over the report and scratch through that part and see what you're left with, but if you are taking into account any level of credence that someone chooses to give to him, this would be one of the examples to consider.

THE COURT: Dr. Salas, I'm sorry. I still don't understand. Let me ask it this way.

Is any part of your report or your conclusion based on the fact that is true?

THE WITNESS: That that is true, no. I mean, I just think that there are other areas in which he is immature and adolescent in his world, like, for example, he has an

I.E.P., and in school he doesn't think on the same level that other people think. And this is information that his parents have shard with me.

So their way of interacting, engaging with him is to sit down and talk through things, which they have to do more ad nauseam than they would have had done for their other children, which is more ad nauseam than most people would need to do, and their child.

Part of that is because when you look at Shaimek -- and apparently he goes by the name Shy -- but when you look at Shy what you find is the need to parent him different because he thinks different.

He is not just limited to the adolescent brain of a 16-year-old. He's a 16-year-old with A.D.H.D. high on marijuana. That's not the same brain as a 16-year-old that is developing on the trajectory of other 16-year-olds that are on treatment if they have A.D.H.D. or not on treatment if they don't have A.D.H.D. but may not be under the influence of drugs or alcohol.

THE COURT: Talk me through what -- what you believe to be the influence of -- under the influence of marijuana.

THE WITNESS: He told me he was high as a kite.

THE COURT: No. But I mean as a physician. I mean, I'm just a judge. I'm not aware of any literature that says marijuana makes people aggressive or mean. When you

say he's under the influence of marijuana, what does that mean in this case?

THE WITNESS: It means that he's got a drug in his system, and I can't tell you what was in his system at the time he ingested whatever it is because I have yet to figure out what somebody has smoked when they tell me they've smoked marijuana. They don't know. How am I to know? I can't figure it out.

So we don't have as much literature surrounding the influence of marijuana because it's been illegal and hasn't been able to be accessible for study. So limited studies that we have are not going to be the same as if we were studying a drug that was developed by a big pharm company or something.

So I can't tell you what it means. Of course I mean in terms of chemically this is what's happened to his brain.

What we know is that people who are exposed to marijuana, the earlier the age of onset the more that they smoked, it does increase their risk of developing psychosis. Not relevant in this case because he's not claiming anything to say that he was psychotic. But it definitely changes the brain on the negative trajectory.

THE COURT: Thank you. Go ahead.

THE WITNESS: So unaware that puts in the notes that I

have written down that I wanted to kind of speak to. But I'm here to briefly address the psychological and developmental matters that are relevant when you're assessing adolescent culpability, which is very complex, very challenging for the questions that you've even inquired of thus far to kind of reflect on that.

I can't tell you through an algorithm that if you enter in all of the different factors you spit out a sentence of X, Y and Z. I won't give you any kind of thing that says I think the sentence should be X, Y and Z, because that's not what I'm capable of doing.

So what I can tell you is that teenagers are not small adults. The article by Ash will address a lot of that in a very coherent fashion. Their brains are not fully developed. The synaptic pruning and the changes that they go through, they continue on into the mid 20s.

This is a time where impulsivity is enate in how a person behaves. Immaturity prevails during this time period, as it should.

Even when they turn 18 and they get legal rights as an adult, sometimes I'm involved in cases and I'm like, jeez, this isn't anything to reflect an adult brain, but by chronological age that's where you land.

Science supports the statements that adolescents are different. They are not fully developed and there are

changes that are yet to occur, which is why over the course of a century or more, I understand that the courts have shifted and changed ways in which they process adolescence. So they handle punishment different now than they would have a hundred years ago.

There are imaging studies and brain transmitter studies that actually have been done to give that a valid -- that statement validity, which is teenagers are not small adults and their brains are not fully developed.

It's my opinion that Shaimek does have an adolescent brain at 16. Aside from what his parents have described to me in terms of struggling to sit down and talk with him and help him understand, a few nights before this had happened -- I believe it was -- I can't remember if it was his mother or his father -- sat down and talked with him for several hours about what it would mean for them to, you know, not be present and going out of town and the details of him being more of a man and taking on more responsibility. And if you talk to him for two hours, you think it holds some merit, some change, some impact.

It doesn't negate that that conversation he had with his parent didn't hold any impact. It's just he's not processing the same. And as an adolescent they will engage in high risk behaviors where a decision is made in a moment where in hindsight you gotta reflect on it. And it's like,

oh, I shouldn't have done that and wish in the moment I had done something different.

They're looking for the immediate reward and not necessarily seeing the longterm consequences.

So regardless of whether you look at the events of this night or just how he has needed to be parented, I think that that's very present in Shaimek.

It's important to know that with his A.D.H.D. he had a time where he was on treatment and he did better. His mom will tell you he was less impulsive and he thought through things better when he was on medication.

However, in eighth grade he started being picked on my kids in school and he was being called crazy. And so the idea that he was going to continue on medications, faced with that peer influence, was something that he chose, I'm not going to take this medicine, because he would rather struggle with his symptoms of A.D.H.D. as opposed to dealing with the peer ridicule.

It just speaks to the pressure of peer influence that it has over him. And instead of taking medications, Shaimek goes out and he smokes marijuana. He found marijuana in the community where his parents had tried to take him away from Aiken.

One moment. I need some water.

(Pause.)

THE WITNESS: His parent, his parents, had tried to take him away from Aiken where they didn't want to raise their children. They had been raised in that community, and they didn't like the influences that were present. They moved to Augusta, which is in that region because I live in Aiken sometimes. It's part of the C.S.R.A. They didn't really escape what they desire to get into a better system for their children.

And so when he was a year old they moved to Rock Hill, and that's what brought them to this community. And it was away from their family, moving from a system where they had more family support and a system where it was just the two of them raising their children -- and I think there are four total -- because they were struggling to get into a more favorable setup for their family that wouldn't have exposure to gangs, wouldn't have exposure to the crime and aggression that was in the community.

But he still went back and he visited with his family, at least through his middle school years, and that came to an end when his mom found out about him smoking marijuana.

Unfortunately, once he found the marijuana, he's continued to smoke marijuana. And, unfortunately, it's okay in his peer group to smoke marijuana but it's not okay to take your medications for A.D.H.D.

He was able to describe to me the reasons why he

smokes. There are times when he feels mad. He doesn't really know where it comes from. He knows what we would call a lower sense of frustration tolerance so that it takes a little bit to get him really irritated. That's not uncommon for people who are dealing with A.D.H.D. and get frustrated because they're not processing things the same way as the world around them.

It's also not uncommon in people with depression, although I will note I have not diagnosed him with depression, but there are some psychological factors that that may come from.

There was some discord in his parents where his dad was in and out of the home, although over the course of their longevity of relationship his parents have stayed together. That doesn't reflect ongoing continuity of being in the same house. His dad would be out of the house living elsewhere. And Shaimek may have telephone contact with him, but he wouldn't have physical contact with him. And that certainly had an influence on him as a kid.

He also had a time that he doesn't recognize that his parents didn't even know about, but at age seven he says that that's when he had his first sexual encounter, and it was with somebody at his grandmother's house, which happens to be the place in Aiken that his mother didn't want him to go to in the long run. She put an end to that -- with a

16-year-old.

Even if the ages are off and you move him up to maybe age ten and she's late adolescent, it's still an abuse situation. It's still a time period where you wouldn't expect somebody at age seven, eight, nine or even ten to be in a sexual encounter of intercourse with somebody who is 16, 17 or 18. And I don't know all of the specific details, but I know that for him it came at a time where it was something presented to him.

He doesn't even know how to process that because he doesn't recognize that as sexual abuse. But just because somebody doesn't recognize it in the moment doesn't mean that it doesn't have an impact over their thinking or the development of their brain.

And, believe it or not, our experiences that we go through in life can actually change and -- and form different connections in our brain so that some of them become extremely hyperdeveloped and hypersensitive and others are not developed that need to be developed.

So if you have a very developed emotional and limbic system and a poorly developed frontal lobe, what you're going to have is somebody who reacts very intensely to emotions but doesn't have the ability to down regulate and say, hey, I need to slow it down, I need to stop my actions, I need to stop my behaviors.

We see that often where on personality disorder, which is where that's been studied, to actually show life changing trauma events do impact the brain development. That's a little bit of a tangent to be back off of my notes. Let me try to retreat back to that.

On this particular night his parents, as I said, had been out of town. They were out of town for a funeral. They left Shaimek under the supervision, checking-in basis with a sister who was older in her early 20s.

Let's face it. It was Valentine's night and she wasn't all that present around anyway, and it's not really an approach that you would have put one adolescent without being in the home with having the older person who is supposed to be providing the same level of supervision.

The level of supervision that the parents provide by being in the home is not the same as what he was going to get from his sister who was on her own agenda, as she should be, for that particular evening.

Peer influence. It is for somebody else to decide the truth of whether there is another person in what is established as the events of the night or not. But what I can tell you is that with the presence of peer influence it takes a low threshold to overcome the resilience of saying I'm not going to follow along with instructions, group, an individual who's telling me let's go do this, man. Hey,

let's whatever it is.

Even in others areas of his life such as taking his medications, or not taking them, he was swayed by peer influence for the negative.

Interesting enough in the narrative that I got is that Shaimek was trying to avoid that negative peer influence.

So the other individual calls his phone. He recognizes the number. He doesn't answer. But apparently there's an app out there where you can bypass. If I call you on my phone and you don't answer and I think it's because you don't like my phone number or recognize it as being, I get on an app and I can somehow reroute it to give you a different number. That was what Shaimek thinks happened, but he ended up answering the phone and being in contact with this other individual under a different story to be doing different activities.

He is not antisocial. He is not without the capacity to experience empathy.

I don't think that there is a way that his brain has matured or even in his level of educational development and understanding has come to a point where he has the words to articulate some statement of remorse in a fashion that's going to be satisfactory to the community, to the victim.

I just don't see that as part of what he's able to do. If he did it, it would be in his own words, and it would

probably be completely misread and misunderstood. But the ability for him to empathize and be able to say, yeah, in doing X, Y and Z another person was harmed. I can see that I misread cues, I can see that this was different than my perspective. He has the ability to --

THE COURT: Is that your -- are you saying he misread cues? Is that what you're saying happened?

THE WITNESS: That's not my statement. I can tell you that the statement he gave to me is that he thought he was engaged in a voluntary sexual encounter.

THE COURT: Okay. So let me stop you.

So that's in the report as well. So are you saying he told you that and you don't believe it or that is your opinion as a psychiatrist that that is what he believed at the time?

THE WITNESS: As a psychiatrist, in his brain I think that it's very different than what happened in the narrative given in the discovery and that there is the stupidest brain factor for thinking that maybe there was a voluntary component.

THE COURT: What is the basis for that, the medical basis for that?

THE WITNESS: It comes from him.

So does that mean that that carries a lot of weight? No. I think that there is a basis for saying this is an

undeveloped brain that made a very stupid social cue judgment call, and I am flabbergasted and beside myself to think that I would be expected to think and believe that. But when I put myself into a different perspective -- can you still hear me?

THE COURT: I can still hear you, but I do think your microphone may have cut out, but I can still hear you.

THE WITNESS: Okay. But when you put yourself --

THE COURT REPORTER: Excuse me. I can't hear.

THE COURT: The court reporter cannot, which is important. Let's swap microphones.

(Pause.)

THE WITNESS: So where were we?

THE COURT: Can I ask you another question?

My -- my understanding is for the gist of your argument, is the adolescent brain is -- is impulsive, doesn't have -- is that correct?

THE WITNESS: It is an impulsive brain.

THE COURT: Okay. So how does evidence of premeditation go with the adolescent-brain argument?

THE WITNESS: So, number one, I think you have to decide where you are in a factual land. I don't know where the facts are in this case, for I know where they are but --

THE COURT: Well, let's make it hypothetical. A

clearly premeditated offense, is that compatible with what the adolescent brain explanation, I mean, impulsivity?

THE WITNESS: Let me tell you in my experience with even adolescents who premeditate end up where there is not a trail of physical evidence against them.

So you look at physical evidence in the amount, the volume, the con -- the stuff that you have to weigh and say, wow, we have fingerprints, we have D.N.A., we have a gun, we have a vehicle, we have blood, we have told everybody, we have blah, blah, whatever it is.

You can find a mountain of evidence in somebody, even as an adult, that doesn't premeditate something, but when there's an element of premeditation there's a secrecy when you know something is wrong.

So Shaimek knows it's wrong to carjack somebody. He knows it's wrong to rape somebody. He understands that.

So when you look at the idea that if you're going to take something that you know is wrong to do and you want to avoid consequence, don't leave the evidence behind. Have less evidence available.

The way they go about hiding evidence as teenagers may not be as sophisticated, but when I look at the discovery there is a mountain of physical evidence involved in what the state has done to make their case. Even an adolescent could have made that mountain smaller.

THE COURT: Okay. Like, for example, the testimony from the victim was, and from law enforcement was, that he took her phone and threw it in the sewer drain. That does not appear to you to be an attempt to cover up and prevent detection by law enforcement?

THE WITNESS: Well, I don't know that it's to prevent the detection, but he doesn't need a phone. He didn't need a car. He had a car. His dad told me he had a car. He had access to a car.

THE COURT: No. But her phone, her vehicle.

THE WITNESS: So take her phone and throw it to me means it's as simple as not writing anything else down to throw the pen away. I don't need a phone to get the car. I need the keys to get the car. So I keep the keys, throw the phone.

Now, if I go and throw the phone all the way across town and get rid of it or give it to a kid who I don't know, that to me is very different than throwing the phone down in proximity to the scene of the crime.

So, again, it's how you decide to weigh in on what that is. But tossing a phone -- and I don't know geographically how things were set up. I've not visited the crime scene or anything like that, so I can't tell you I know that it landed here and rolled down there. I don't know.

All I can tell you is that there's an element of, you know, coverup, if you want to call it that. But you're going to have really know and understand more to really understand what something like that is about.

THE COURT: Thank you.

THE WITNESS: I can tell you in my line of work as a psychiatrist I do forensics because I enjoy the science of understanding the work I do with people in therapy.

I work on call every single weekend at Self Regional Hospital, and that's my full-time job. I also work -- used to be 24 hours a week, it's now eight hours a week -- at a federally qualified healthcare center where I actually see and treat individuals with P.T.S.D., with A.D.H.D., a gamut of the DSM.

I do that because I enjoy doing that, and although I did it initially to pay off student loans, I can't break away from those therapeutic relationships at this point, even though I don't need that job.

I also work at an addiction clinic in Aiken where we treat people with opioid use disorders who inevitably are addicted to many other things.

I don't need forensics in my life for any compensation or understanding except I enjoy having a place in my life where I can go back. It almost forces me to look at the literature and try to keep a scientific brain in what

people perceive as one of the least scientific areas of medicine. The truth is that that is far from fact.

There's a lot of science to support what happens in the brain, whether it's in adolescence, geriatrics or wherever.

In adolescence you'll look at Dopamine neurotransmitters and you'll see there's an increase before there's the decrease.

Guess what? We see at the end of life its brain illnesses and dementing processes where adults who have lived their lives completely intact with the law now are venturing off and trying to have sex with somebody in a nursing home. They're disinhibited. They're speaking and saying words that they normally wouldn't say.

The brain is changing. It's declining because it's still shifting and it's going on deviant path.

His brain in my opinion has the ability to work with the neurotransmitters, give experiences that allow him to stand upon what his family values are, which is great.

I want to tell his parents, wherever y'all are in this courtroom, it's great to have the family involved, because it's not often that I find myself in the criminal system evaluating a juvenile where there's a mom, a dad and siblings. A lot of times there's a representative by D.S.S. or someone of the state.

But here we have somebody who, despite all of these other factors, still an adolescent at age 16, still an adolescent actually at age 18, as far as it goes in the development of his brain, his brain is one that is worth saving in terms of having something that would give an aptitude for morality to contribute positive to society.

I don't think you're going to find him published anywhere. You may find that he does or does not complete a high school diploma when he's incarcerated. I don't know what he has in mind for doing for a career path, but he has the ability, should he choose to, to be able to have something left to give.

I don't doubt that this has been horrific for the victim. I evaluate victims in civil work that I do. It is lifelong, and I see civil verdicts that are extravagant because the emotional damage is extravagant, and that's true. It's really hard to be a victim of what I read about in this discovery.

I think that from what I have to say as a professional this brain is still an adolescent brain, still under A.D.H.D. where he needs treatment for the A.D.H.D. He needs to have minimum treatment, not even asking for the best treatment, just some form of treatment in something that says he can have a rehab program to address the substance use and a place for him to figure out what's

under the anger, whether it's mad, whether it is sad, whatever, worried.

There are components about him that with his emotions -- and he's able to articulate his emotions. He's able to identify his emotions. That's something not everyone is capable of doing. But work with that and be able to put him on a treatment plan that allows him to have the treatment of A.D.H.D., the treatment of the substance. And the psychotherapy part of it, if you would, would be putting him in the anger management.

THE COURT: Dr. Salas, that's a big picture. The adolescent brain is something that all developing people go through, right?

THE WITNESS: Yes.

THE COURT: And then A.D.H.D. is a fairly common condition. And, sadly, so is marijuana use.

Why do other adolescents who have A.D.H.D. and smoke marijuana not commit horrific offenses like this? What's -- what's the difference with this defendant?

THE WITNESS: In one of these articles -- and I can't guide you to exactly which one right now. I think it may be Peter Ash's article. In terms of what somebody's charged with is a decision that each jurisdiction's prosecutorial office gets to decide. So facing the charges is a decision of what the prosecutor will charge you with

based on the investigation that goes on.

THE COURT: No, no. I --

THE WITNESS: So --

THE COURT: Maybe you misunderstood my question.

What -- why are other adolescents who have A.D.H.D. and smoke marijuana, why do they not commit armed robberies too? What is the --

THE WITNESS: They do. The literature will show -- and that's what I want to say, is that in the Ash article, is that the literature shows that there is a large percentage of kids that are actually engaged in horrific events, that if you saw them when they were an adult and they were doing that it would have a very different meaning than seeing somebody as a child.

THE COURT: I just want to make sure I'm understanding.

You're telling me that a large percentage of adolescents commit offenses like this?

THE WITNESS: Let me get the article, and then I can direct you to the primary source.

(Pause.)

THE WITNESS: This is what I'm referencing in my brain. Sometimes my brain doesn't think like others. But on page 24 of Peter Ash's article from 2012, "Aggression and adolescent development. The surgeon general's report

on youth violence noted that 30 to 40 percent of boys and 16 to 30 percent of girls had committed a serious violent offense by age 17."

That surprises me, and so however you define 30 to 40 percent and 16 to 32 percent, and what you mean by serious, violent offense, I don't think of this particular crime in individualizing those statistics as representative.

If you think about how many people are graduating from a high school class would engage in this, hopefully this is the only one.

THE COURT: That's my question, is why. What is different about Shaimek?

THE WITNESS: I think that speaks to the totality of the circumstances when you're dealing with an adolescent brain with the A.D.H.D. on the substance. And he doesn't think the same way as other people.

I don't have information to say that his I.Q. is X, Y or Z, but it is certainly not in the higher percentile. So you're going to be working with some other limited resources that I don't have school data to say, okay, here's where he is and how he's functioning in that setting. But it's kind of like when everything lines up and you hope you win the lottery, this is kind of everything lined up for him on that particular night with

his parents out of town. And whatever you want to consider the circumstances of facts to be to get him there, it was just a misalignment as opposed to an alignment. And there are kids where that happens. And it happened to him.

I can't -- I can't give you a specific factual basis outside of the narrative that he's given that is not what I want to stand and rely on, but there are adolescents who end up with serious charges against them. And that's -- that's just the truth. It's kinda like cancer. You don't care what the incidence is. When the cancer's in your body, that's what you care about.

THE COURT: All right. Is there anything else you'd like to tell me about -- I've read your report and I've read Dr. Ash's article. I have not read Dr. Luna's [sic] article yet.

THE WITNESS: Well, I appreciate the dialogue because the dialogue, I think, is very helpful because that's the process. It's hard for me to capitulate in writing all the different dynamics and factors, and that's why I provided the letter and the articles, and I apologize to the Court and to the solicitor's office and even to Zac for not having it. But truth be told, I didn't get it done until today when I was in a hotel room and had to pick it up at somebody else's printer on the way over.

So thank you for tolerating that.

THE COURT: Thank you.

Mr. Merritt, go ahead. And if you could complete your presentation, I'll give the state a reply.

THE WITNESS: Is there anything that the Court has further for me or --

THE COURT: No, ma'am.

THE WITNESS: Okay. Thank you.

THE COURT: Thank you, Doctor.

(Whereupon, the witness was excused.)

MR. MERRITT: Yes, Your Honor.

I want to reiterate that my client is 18 years old. He was 16 at the time of the offense.

He attended mostly Rock Hill schools. He is -- had several people. Most of his family is scattered about the country. A lot of them are in Aiken. A few are here.

As the doctor described to you in her letter the -- you know, the point of that is, is that Dr. Salas was able. I've had several interviews with my client. My client, he's very underdeveloped. He is not very responsive in the sense of there's not a lot of description. He doesn't have a very -- much vocabulary to spoke of whatsoever. There's a lot of redundancies.

What I notice in the conversation with Dr. Salas -- and I noticed those same redundancies in his conversation with law enforcement. You can watch that interview if you

want to. It's not -- it's not a very -- it is -- a lot of it is a confession, but it's not a confession on several salient points.

But he does admit to being there; he does admit to a sexual act occurring; he does admit to doing the act, but he just says that it was, in fact, coerced, which is a position he maintained with Dr. Salas.

The one difference between all my interviews with him, the one difference between law enforcement's interviews with him was that Dr. Salas was able to get him comfortable to where he was able to start talking in paragraphs as opposed to short sentences.

So the reliability of his statement, I mean, the statement that we've given you through the doctor's notes still completely and totally -- there's no trial to be had. He's admitting to everything that he did.

The aspects that we find to be challenging are aspects nobody else can really testify to other than that. So we can take it with a grain of salt.

THE COURT: Mr. Merritt, that he maintains according to the doctor's report this was a consensual sexual act. That's what she says in her report.

MR. MERRITT: Not legally, no. If you read that report it's still a gun and -- he has a gun. He's -- he is committing an armed robbery. I mean, there's no chance

that consent will be a legal defense. There's no chance he will prevail at trial and be found innocent.

THE COURT: But it says in the report he did not see this as a forced sexual encounter in the heat of the moment. I mean, that -- he's --

MR. MERRITT: That's the position that he maintained with the doctor. You know, he's a 16-year-old. He had the power of a gun either in his hand or on his possession. In his mind that's what he claimed.

THE COURT: I mean, do you find that credible? I mean, I --

MR. MERRITT: I don't know that the credibility of it, I don't know, is the point of our sentencing presentation. If I found it -- no, I don't find it credible in the sense that it doesn't offer any legal excuse for his actions whatsoever but it does --

THE COURT: Well, Mr. Merritt, I mean, let me stop you one more time.

I mean, I -- this -- this is the point for me, because remorse and contrition is a factor I can consider, and this appears to me that he maintained that this was a consensual sexual act.

MR. MERRITT: No. He expressed -- you'll notice in the doctor's letter he did express remorse, and now he knows what he did was wrong. And he definitely knew that

attempting to carjack was wrong. But whether right or wrong, it's a statement that he gave us which is the most extensive statement that we have from the defendant in this case.

There is a moment in time where he -- he claims that there was some -- that he thought there was some consensual aspect to it. Do I -- would I believe in that same set of circumstances that it would be consensual? No. But what we're saying is we've got a very undeveloped, stupid story, and we're trying to provide you some -- I mean, we're being very forthright about what was said.

But the -- the idea that this was -- this was premeditated though, I mean, that's -- you can take that extreme and you can harp on that for the defense. But the idea that this was -- there's not a lot about this case that demonstrates premeditation except for the fact that you did point out the cell phone being thrown into the sewer if that's what his intent was. That's certainly what happened but --

THE COURT: Mr. Merritt, he was at Winthrop College dressed all in black armed with a handgun. What -- what was he doing there? I mean --

MR. MERRITT: Cameras are everywhere; witnesses are everywhere. The mountain of physical evidence in this case is insurmountable.

THE COURT: Right. But he -- he was at Winthrop College where he was not a student dressed all in black armed with a handgun. What -- I mean, that -- I will tell you that is to me, the Court, very strong evidence of premeditation in this case.

MR. MERRITT: It's a premeditated carjacking, is what we have.

So, I mean, with the facts in the case I do find it -- I think it is pretty clear the intent was to steal a car. Something happened in that interaction to turn it into something that's even far, far worse and more heinous, you know.

So you've got a heinous act. You've got him admitting to it. You've got that in our letter. But we did include the aspect of it that -- I mean, I can't not say it, you know. It -- we weren't -- it is -- because the only thing about it, that statement, is it's a statement of what was going on in his mind.

I mean, I could choose to hide it, you know, but it's what was said, and it's what was said to a clinical position that, you know, the parents paid for it. So we chose not to hide it and we chose to tell you what that was.

But either way, despite the forced nature of it, there are aspects of this case that still cater towards

rehabilitation. The forceful nature of it is the thing, and there's deviant sexual behavior. That's the one element of it that is unforgivable. But it still is not in the quality of crimes that we consider completely nonrehabilitative.

And I think that was -- when she was trying to make the point, something along the lines of 30 percent, that percentage sounds -- I was surprised that she was able to find something in the literature to support that. Apparently, there is something. It sounds like there was something to support that.

However, that wasn't really the point. I think the point of the clinical opinion, and the point is reiterated, these decisions, over and over again, is that for the most part adolescents that do create, that do commit, these serious, heinous criminal acts for the most part, they rehabilitate.

And there are indicators that they will not -- animal torture is a common indicator, somebody who might be difficult to rehabilitate. Arson, which was an element that was in the crime that Chris -- the case that Mr. Epting brought forth to you today, is an indicator that fights against rehabilitation. Pedophilia is something that we don't have much of an answer for -- society. The society doesn't have much of an answer for it that

absolutely does not cater towards rehabilitation.

Underlying difficult mental health issues. He's not antisocial; he's not bipolar; he's not schizophrenic. Those were determinations that the psychiatrist was able to find.

His problem was drug use, lack of adult supervision and out of control impulse driven brain. It was -- this is an impulsive act.

The carjacking in and of itself, maybe that was premeditated. The rest of it was an impulsive act. It's not good. It's a terrible, terrible thing that happened.

It's really easy to understand, and everybody in this room easily comprehends the truth that the victim is going to be tragically effected for the rest of her life. We accept this without being the victim of sexual assault. We accept this because we know it, our moral compass tells us this.

We accept it because science tells us somebody diagnosed with P.T.S.D. will live with that for the rest of their lives. We accept it because her testimony was very compelling in that -- in that particular issue.

Similarly, we're asking you to accept this other newer, but universal truth, accepted in the case law, accepted by science that this area, this 16-year-old at the time, this impulsive brain, that that particular aspect are

rehabilitative qualities too.

It's ugly business, but our science and our law does dictate that we do have a less harsh sentence for folks that are that age when they commit crimes without those other indicators present.

THE COURT: Other than there's no animal torture and no indication of pedophilia, what in your belief indicates the capacity for rehabilitation?

MR. MERRITT: No difficult underlying mental health disorders such as bipolar disorder, schizophrenia, not antisocial. She said that multiple times, and that's one of the biggest aspects of it.

Obviously, she referenced a couple of other incidents of deviant sexual behavior, and there are deviant sexual indicators, a bunch of them that I am not particularly savvy in, but I can -- I know them well enough to -- we discussed them fluently. Dr. Salas would have been somebody who could have gone through more of those with you. But the most concerning aspect about this crime is, obviously, the forced nature.

With that being said, his family is here in support of him. So several people throughout the course of this -- I'll pass up some of these statements and some pictures here that I've already given the state at this time.

Attending here today is Nicky Tyler, his mother;

Frances Young, his grandmother; Breasia Tyler is his cousin, came from Aiken; Shanteer Tyler is his sister; Deasia Tyler is his younger -- well, older sister but the younger of the two; and Shantavia Tyler is his aunt.

Additionally, people who have spoken with me or the folks in my office about Terry or Shaimek include his other grandmother, Letha Tyler; Patricia McCleven, his aunt who raised him through a good portion of his life. And there's a statement from her in there -- or helped raise him. Markita Patterson is his other aunt. Two of those individuals live in California. Other ones live in Aiken. At this time probably we'll go ahead and have his sister say a couple of words on his behalf.

THE COURT: All right.

SHANTEER TYLER: So I would have never thought I would be here for something like this and --

THE COURT: Ma'am, just tell me your name, please. Ma'am, if you don't mind pull your mask down.

SHANTEER TYLER: My name is Shanteer Tyler.

THE COURT: Yes, ma'am.

SHANTEER TYLER: Just a little something about Shaimek growing up.

He was always like the helper. There's a lady across the street. She's a little elderly lady. He'd go cut her grass, take her trash can. We'd bring it out to the side

of the road.

When we'd go anywhere on vacation or anything Shaimek was one of those kids where he'd go out by hisself and come back, he have like a whole family, just a little, with him. Everybody just took that from him and just really enjoyed Sky. It's -- I don't know. I'm at a loss for words, but, I mean, my brother is really like a loveable and enjoyable person.

This that happened, I can't tell you why it happened, what led up to it happening. I wasn't there. And I do feel bad about this situation.

Can you hear me?

THE COURT: Yes, ma'am.

SHANTEER TYLER: Okay. But I do feel bad about the situation. And under these circumstances I hate that he's here for this.

I want y'all to understand that, you know, when he did this, whatever he was going through or whatever, you know, however led up to the situation, that this is not something that I would expect from him or anybody else.

You can go to teachers or anything and they'll tell you Shy was always a helping hand. He's a loving person. Everybody enjoyed him. When you seen him, he always had a smile on his face. It was never just Shy's running around mad, angry and just, you know, cutting. That wasn't him.

And that's all I have to say.

THE COURT: Thank you, ma'am.

MR. MERRITT: His father would also like to say a few words to the Court.

THE COURT: All right.

TERRY TYLER: My name is Terry Tyler, and that's my son Shaimek.

THE COURT: Yes, sir.

TERRY TYLER: First of all, I would like to say to the family I'm sorry, and to the father, I understand why you would be mad at my child.

THE COURT: Sir, the court reporter is just saying she -- when you turn away from the microphone she can't hear you.

TERRY TYLER: And to the father I would like to say I understand why you would be mad at my child, because I also have daughters, and I would be furious myself.

Getting back to my child, these are -- I'd like to share with you some pictures of my child.

THE COURT: Yes, sir.

TERRY TYLER: This is a picture of Shaimek when he was --

(Pause.)

TERRY TYLER: Your Honor, forgive me, please.

I have no idea of why my child would even be in a

courtroom for a matter like this.

Once again, he has sisters. I don't know what he was on or what led up to this. I'm still frying to figure this out.

I mean, he got grand larceny charges. I bought him a car. He have another charge. He has a girlfriend. I just don't understand it. I mean, it's been two years and I been wracking my brain trying to figure this out. It just doesn't add up.

I mean, once again, I am a father, so I understand how the father feels. I also have a wife, so I understand how his wife feels. Overly speaking, this is just crazy. I don't know.

THE COURT: Thank you, sir.

MR. MERRITT: So, Your Honor, in summary we would ask for a 12-year sentence on the C.S.C., to run the rest of the crimes concurrent with the exception of the C.S.C. first, the criminal sexual conduct first.

Criminal sexual conduct, and no matter what you do, I would suggest putting your probationary sentence consecutive with the criminal sexual conduct. No matter what you do, you're going to want supervision that exceeds the 15 percent community supervision that'll be on the tail end of your sentence.

That's the rehabilitative component no matter what you

do on the kidnapping [sic], and to just ignore that would be to ignore -- would just be to ignore the science and the law.

So we would ask in that -- in that component you include the rehabilitative treatment plan that the doctor suggests, probation so that they will abide by that.

In regards to the punishment itself, we ask, once again, for a 12-year sentence. That would be without parole. He will also leave the courtroom with a most serious offense which will subject him to life without parole if anything else were to happen in the future.

I believe that concludes our presentation.

THE COURT: Mr. Merritt, is your client going to speak?

MR. MERRITT: Let me speak to him real quick.

(Pause.)

MR. MERRITT: I've advised my client not to speak.

THE COURT: Yes, sir. Mr. Epting.

MR. EPTING: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. EPTING: Your Honor, there's been a lot of discussion about the 16-year-old brain and the biology of it and its ability to determine what longterm repercussions are from their actions as the brain develops.

First, I want to go through what longterm consequences came about as a result of his actions on that night.

Your Honor, first as to her family. Your Honor has seen the victim's mother and father speak to the Court today.

Parents bear the wounds of their children. As parents we all know that, and they're hurting just as much as EP is that this happened.

EP will bear the scars of this her entire life.

That night she not only was rapped, she not only was robbed, she not only was left in the dark on a railroad track in the middle of the night, but she also had to then report to the police, to give multiple counts of an incident that probably is the worst thing that's ever happened to her in her entire life, and on top of that have a vaginal examination from a sexual assault nurse examiner at the hospital to collect evidence for later prosecution.

The community has suffered from this, Your Honor. That is going to be a long-term effect. Detective Quate talked about this being the first week of school in a lot of our counties, and all of the fears that we as parents have in dropping our kids off, this is something that we as parents can never fully prepare our kids for, and that's a specter that's out there now because of the defendant's actions that night.

Your Honor, in hand with a lot of these what call science and I think -- I think some of it is valid science -- I would like to address the doctor's report to the extent that the Court gives any credibility on that. I would like to point out some very cogent points that the Court pointed out as that presentation was being given.

It would appear that Dr. Salas' report relies exclusively upon the account of the defendant. It does not appear that she viewed the videos of this defendant sticking the gun in the victim's face and taking her out of the building, of him lying in wait planning this thing or even of the statement that he gave the police that night.

It seems that they took everything he said at his word despite the fact that had they looked at those videos it's abundantly clear there's no Eli waiting in the shadows, just like there's no Body Bag waiting in the shadows forcing him to do this.

So her -- her finding of him as being not antisocial based upon family accounts -- and I know family -- his family loves him just like every family loves their son and their child -- of him not being antisocial, of his -- his -- his prospects for being rehabilitated should be taken very much with a grain of salt, particularly given of the wildly unbelievable statements he gave them. They're directly contradicted by the evidence that we have here

today.

He told the doctor he believed this was a consensual sexual encounter. After he pulled her, he stalked her. He stuck a gun in her face. He beat her with that gun. He threatened to kill her if she called the police. In part of her report she says he would never use a gun because he's not a violent person, and then raped her at the train tracks, Your Honor.

So I would ask the Court to heavily discount that testimony.

In addition to that, Your Honor, some of the material she gave up, I'd like to call Your Honor's attention to there was a document entitled, "Juvenile Sexual Offenders." Does Your Honor have that available?

THE COURT: Hold on. Yes, sir. I have that.

MS. OHAYON: I would direct Your Honor's attention to page -- direct Your Honor's attention to page 91.

THE COURT: Okay. I'm there.

MS. OHAYON: Your Honor, about two-thirds of the way down there's a sentence that starts with "high risk offenders", and I'd like to read that for the record.

THE COURT: Give me just a moment to find it. Okay. I found it.

MR. EPTING: "High risk offenders are characterized as those who engage in planned sexual offenses that involve

the use of threats, deception or physical force and involve vaginal or anal penetration with multiple innets -- with multiple incidents extending over a period of time. Offenders of stranger victims were placed in this category. A history of nonsexual or sexual offenses of a highly aggressive nature is present."

Reading on. "Offend -- offending against same age peers or adults reflects endorsement of greatness, of fantasy. The youth does not learn from past experiences and repeats problematic behavior in multiple environments. The family system is typically moderately to severely disfunctional. The high risk offender generally requires residential treatment in a juvenile justice facility or court ordered with 24-hour supervision or care."

So, Your Honor, I think that the facts of this case certainly put him in that higher risk offender given that he did accomplish the sexual assault by violence against a member of his age group.

Your Honor, since much credence was given to the statements that were given to the doctor in this case as part of her report, I think it equally important that the Court hear these statements that -- that the defendant gave to officers shortly after he was arrested for these crimes.

We would beg the Court's indulgence. It's 15 to 20 minutes of -- of statement.

THE COURT: Yes, sir.

(Whereupon, the video was played for the Court.)

MS. OHAYON: Your Honor, at this point in the investigation the defendant was stating that he only did this at -- because an individual named Body Bag put him up to it and threatened him that if he didn't do this he'd kill him.

That was disproven through the police investigation, and, in fact, his account that he did not pen -- penetrate the victim with his penis was also fully disproven in the sexual assault examination where they found his spermatozoa inside -- inside the victim, as well as the victim's D.N.A. on his penis and on his finger.

Your Honor, we -- we believe this was premeditated. We believe that he fully, the defendant in this case fully, understood the long-term consequences in this as -- and we can see that by the way that he did premeditate this.

Your Honor, he took -- he took cover to cover his tracks on like what was presented by the defense's witness. He stalked this defendant [sic] at night. He procured a pistol beforehand. Then he wore in dark clothing.

He selected his target carefully. He threatened her as -- after he points the gun in her face and gets her outta the stairwell and brings her down with her hair in his hand, he threatens her not to call the police.

He states that he does not live here so he won't be caught even if she does call the police hoping that this would dissuade her from reporting this to law enforcement.

He took her to the second location in the dark where there was no people. And the only feasible purpose for that would not be to rob her, because he can carjack her by taking her keys immediately at the scene. He can take her purse. She has it with her right there at the scene.

He doesn't have to do the second part. But, nonetheless, he takes her away from that stairwell. He takes her away from those apartments. He takes her down to those train tracks where ultimately he rapes her.

He takes her keys, and now he has a getaway vehicle, and she has no other means to find her way other than to walk up and down those tracks half naked at night while he drives off.

The victim in this case did walk to the police station several miles. She was able to -- she initially tried to walk away without her pants, without her underwear, but she was spooked because the defendant had told her that he would be waiting and that if she left earlier that he would be there.

And she heard a sound and she ran back to where her clothes were. She eventually got dressed and walked through the night. I believe it's a mile or two to where

the police station was actually located.

She takes back ways to avoid streets because she's scared the defendant who she suspects has her car, because he has her keys, is trolling the streets for her.

He disposes of that weapon, Your Honor. We never found it. It's on the streets.

When he is caught, Your Honor, you saw the story that parts of the story that he gave to law enforcement, the state's contention is that he believed that would negate criminal intent, that he was coerced by a third party to do this act and therefore he would not be found guilty.

He lies to the police. He tells them that -- he uses a finger to pretend. That does not, in fact, get him around the C.S.C. laws, but I believe in his mind he had a poor understanding of the law and believed that might.

And finally, Your Honor, over the course of that conversation he finds out that he is not going to be charged as a juvenile.

At one point with Detective McCrorey he states what am I going to get for this, a year, and the detective tells him that he's being charged as an adult, and he's shocked. It's the state's belief that as he perpetuated this act he believed he would be in the juvenile system which has much less penalties for matters such as this.

And, Your Honor, the state's belief is that he

continues to do conquest to get out of this by giving the account that he gave to the psychiatrist that examined him and presented evidence to the Court today. Your Honor, just hearing that based on my knowledge of the case, the vast majority of that is demonstrably untrue.

Your Honor, this is a multilayered plan. It does not show a juvenile who is not thinking beyond the moment. He knew what havoc -- had to have been havoc his actions would cause his victim. He just didn't care. He thought a boy out of this. He thought he had a way out of this. He had a plan to address those longterm consequences. Unfortunately, for him it was a bad plan. And now the Peters family has to pick up the pieces as best that they can and their daughter -- help their daughter here on top of that.

Again, another gun that's on the street.

Your Honor, as a prosecutor I've always seen my duty to both protect the constitution and conversely protect the community at large.

The constitution has been upheld. He's had his due process. He has his attorney who has advised him about what he should do, and he's done it. He's pled guilty. That's his constitutional right to do that.

Your Honor, the Terry Taylor -- Terry Tyler has caused untold damage not just to one family, to a whole community.

He has received rehabilitative services that were discussed at the bench that did not take hold.

His crimes, in fact, have escalated. He failed this time in evading detection from law enforcement. Our concern is that he will learn lessons from this crime should he get out at some point in time, should he be granted release while still young.

And, Your Honor, even a 30-year offense, no parole, on that C.S.C. would have had him released in his late 30s or early 40s, and that's plenty young to do plenty of damage to the citizens of York County or wherever he decides to relocate upon release.

I don't envy you this decision but it is your -- we implore Your Honor to consider the request of the Peters family, request of law enforcement, request of our office to give Mr. Tyler the 60 years that we're requesting.

I have appeared before Your Honor any number of times. I've never asked for a sentence like this. Our office takes these types of sentences very, very seriously. We don't ask them lightly. This is not sport; this is not something that we take lightly.

So with that said, Your Honor, it's in your hands. We trust your discretion to do the right thing to protect our -- our community.

THE COURT: Mr. Epting and Mr. Merritt, how many days

credit does the defendant have?

MS. OHAYON: It will be substantial, Your Honor. I believe in the years rather than the months.

MR. MERRITT: Can I briefly respond to two things that Chris brought up?

THE COURT: You may.

MR. MERRITT: First and foremost, on Dr. Salas' finding of antisocial it had nothing to do with the interview that she gave regarding the facts of that night.

It had to do with the basic manner. They generally do that through a series of personality tests. So if you need some sort of letter to that effect, it has nothing to do with the story that was told to her about the facts of the case.

You know, secondly, I do think by watching that interview you can probably surmise that the best version of the events that you've gotten so far is from our interview, for at least -- from at least my client.

That is a situation where he's trying to get out of trouble. He doesn't understand many of the words that the officer's even saying to him such as corroborate and exposed. And he says things that are just absolutely in name that you can couch in terms of, what, just peer evil, if you want to call it that, I guess, that she's lived her life. She's 19. That is clearly a statement that is an

adolescent statement who doesn't have a firm grasp of -- it reminds me of my 18-year-old thinking that I'm elderly by being 30 -- you know, 36.

So it is a statement that's rude in adolescence. He's done a terrible, terrible thing. He needs to be punished for it. That's what we're here for. His family understands. They're still shocked by the charges. He's got to be punished for it.

A consecutive sentence -- I can -- I'm thinking of armed robbery. I've seen Judge John Hayes' sentence. I'm thinking of two murders. I cannot think of an instance in adults that I have seen a consecutive sentence that the state is asking for here.

And, lastly, the one thing that -- the only thing about this whole -- the parents are incredibly sorry to the victim. They're incredibly remorseful. They've done all they can do. They've hired an attorney. They've hired an expert to take a look at their son. They've done what they can do.

They were surprised by the introduction of the more evidence about the juvenile record. They would -- if it's okay with you, I've got information about the A and B second, just approach to briefly to relate to you their understanding of that prior assault and battery second in the same manner that you did with the detective. If the

detective wanted to join us up there too, he could, if there was something that was -- but they were there. So they do remember that incident. They want -- but I do believe it has a very different nature than was described to you at the bench. So if you could give us --

THE COURT: You can do that, yeah.

MR. MERRITT: Okay.

MR. EPTING: Your Honor, at the perfect time I'd like to read a line as to one of Mr. Merritt's points on the psychiatrist's report.

Your Honor, may we have Detective Quate come up as well --

THE COURT: You may.

MR. EPTING: -- since he was the officer on that too?

THE COURT: You may.

(Bench conference held off the record.)

THE COURT: The defendant's indicated he needs a restroom break, so I'm going to take a recess.

I just need -- Counsel, if y'all can approach, I'd like to calculate time served. I'm going to go take a recess to consider the sentence.

We'll take a recess.

MR. MERRITT: Thank you, Your Honor.

(Whereupon, a recess was taken.)

THE COURT: I considered this matter at length. I'm

prepared to impose a sentence. I'm going to provide some of my thinking on this matter.

I disagree with the defense as to whether I'm required to look at the Aiken v. Byars factors. I do not think they apply in this case. However, out of an abundance of caution I will discuss those factors.

The first factor is the chronological age of the offender. The defendant was 16 at the time. That is young, and I agree that the science does show that -- that people his age are immature and have less impulse control than adults.

The second factor, the family and home environment from everything I've heard today, the defendant has an extremely supportive family that was there for him. He did not grow up deprived or in difficult circumstances. Although his father was occasionally absent, I think the family and home environment was very solid and supportive.

The third factor is the circumstances of the offense, which in this case were exceptionally heinous -- rape and armed robbery and larceny at gunpoint at 4:00 o'clock in the morning at a college.

The fourth factor is the incompetencies associated with youth. For example, the inability to deal with police officers or prosecutors. I don't -- of course that had no impact at all on this case. The defendant was caught

driving the victim's vehicle in Charlotte. There was D.N.A. evidence. It does not appear to me, the Court, that his incompetencies affected the outcome of this case.

And, finally, possibility of rehabilitation. There is always a possibility of rehabilitation, though I'll be honest. I found Dr. Salas' testimony very unconvincing.

Her report seems to be based on a self-serving version of the facts that the Court finds not at all credible, including the assertion that some mysterious person named Eli gave the defendant the gun, that he believed the sexual encounter to be voluntary. And this -- this was all in the heat of the moment. The Court finds none of that credible.

In the Court's view this was a premeditated act. This occurred at approximately 4:00 o'clock in the morning at a college where the defendant was not a student, where he appeared dressed all in black and armed with a handgun and was -- could see on the video was waiting for a victim.

Apparently, he did this at gunpoint. And then you can see on the video in the stairwell he looks down to avoid the video camera even before he commits the rape he's trying to avoid detection. He falsely tells the defen -- the victim that he's not from Rock Hill to throw the police off. Then he takes her cell phone and throws it in a sewer grate.

So all of those actions to me indicate to me that he

knew what he was doing was wrong. He knew it, and he was trying to avoid detection and prevent punishment for his actions. And also they indicate aforethought, premeditation and then after the fact his efforts to conceal his offense.

So I do -- this -- I do not find this is an impulsive act at all and rather the Court's of the opinion it is premeditated.

I also take into account I have seen no evidence of remorse or contrition from the defendant.

When he was arrested he was driving the defendant's -- the victim's car apparently with friends in the vehicle. Nothing he has said to the psychiatrist suggests to me he is -- has any contrition. I mean, again, he's insisting, and as to the report she presented today that she wrote she said today that this was consensual sex in spite of the fact that he had a gun and, you know, this was done at gunpoint.

So based on all of these -- all of these factors and the fact that with the -- this is the most heinous case the Court has ever seen with an adult victim other than a murder. And given these facts the Sentence of the Court is going to be 60 years. It's going to be consecutive sentences the state asks for. So I'm going to do the formal sentencing now.

The State of South Carolina v. Terry Shaimek Tyler, Indictments 2019-GS-46-1336, 1338, 1337, 1339, 1340 and 1336-A, charges are criminal sexual conduct in the first degree, armed robbery, kidnapping, grand larceny $10,000 or more, unlawful sale or delivery of a pistol, possession of or unlaw possession of a pistol and possession of a weapon during the commission of a violent crime, on the criminal sexual conduct first degree charge and on the armed robbery, the Sentence of the Court is 30 years in the Department of Corrections for both of those offenses. Those sentences are to be served consecutively for a total sentence of 60 years in the Department of Corrections. Sex offender registration is required.

For the remaining sentences, on the kidnapping charge the Sentence of the Court is Mr. Tyler is committed to the custody of the Department of Corrections for a period of 30 years.

On the grand larceny, Mr. Tyler is committed to the custody of the Department of Corrections for a period of ten years.

And on the possession of a weapon during the commission of a violent crime and the unlawful pistol charge, Sentence of the Court is Mr. Tyler is committed to the custody of the Department of Corrections for a period of four years each.

Again, those last four convictions are concurrent to the other charges, but the first two, the armed robbery and criminal sexual conduct, are consecutive sentences, 30 years each for a total of 60 years.

Mr. Tyler has credit for 914 days already served. And, for the record, the Court did not take into account the disputed juvenile history.

Both sides, I mean, had a version of events that occurred when he was a juvenile and did not -- and I was not prepared to make a factual finding one way or the other on that today. So I did not take that into account in sentencing.

All right. Anything else we need to put on the record from the state?

MR. EPTING: Not from the state, Your Honor.

THE COURT: Mr. Merritt, anything else you'd like me to put on the record?

MR. MERRITT: Yes, Your Honor. I'd like you to make the doctor's letter part of the record.

THE COURT: I have notations on it. Are you okay with my -- my -- I've marked it up. I'm happy to do that. Do you have a clean copy you can pass up?

MR. MERRITT: We can just make yours the exhibit.

THE COURT: Okay. Make that, the doctor's report, State's Exhibit -- Court's Exhibit.

Thank you, Counsel.

(Report of Amanda B. Salas, MD, marked Court's Exhibit No. 1.)

END OF REQUESTED TRANSCRIPT OF RECORD

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 16th day of August 2021.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 7, 2021

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

Palmetto Center of Psychiatry

August 16, 2021

The Honorable William A. McKinnon
1675-1H York Highway
Moss Justice Center
York, SC 29745

Court's Exhibit 1

Re: Terry Shaimek Tyler ([redacted]
Age of Offense: 16
Current Age: 18

Your Honor,

I am here today, retained by the Law Offices of Michael L. Brown, Jr., to present psychological and developmental factors to consider when assessing the culpability of the defendant, Shaimek Tyler, for actions he made on the night of February 14, 2019. The task of assessing juvenile culpability in adult court is difficult. Science has established that juveniles are not merely small adults. Literature supports the need to understand the immaturity of the adolescent brain when assessing culpability and rehabilitation (Luna, 2012). Reflecting scientific knowledge, the USSC recognizes that juveniles are less culpable than their adult counterparts.

Dr. Ash has identified ten factors to consider when assessing adolescent culpability (Ash, 2012). Those factors are as follows:

1. Appreciation of wrongfulness;
2. Ability to conform to law;
3. Developmental course of aggression and impulsivity;
4. Immaturity;
5. Out-of-character action;
6. Environmental circumstances;
7. Peer group norms;
8. Incomplete personality development;
9. Mental illness; and,
10. Reactive attitudes towards the offense.

I have considered each of these factors in this evaluation. This letter outlines my professional opinions, each offered to a reasonable degree of medical certainty, where sufficient information is available to give an opinion. I do not offer opinions where information is lacking or insufficient, or the available information is inconclusive.

Shaimek is the youngest child of his parents, Terry and Nikki Tyler. He has two older sisters and one older brother. His father is disabled from a worker's compensation injury. His mother works in real estate in the Charlotte area. Shaimek was born in Augusta. His parents moved to

Amanda B. Salas, MD
Palmetto Center of Psychiatry
Beaufort, SC 29907

absalasmd@gmail.com

Mailing Address: Post Office Box 1090, Saint Helena Island, SC 29920

Rock Hill a year after Shaimek's birth in effort to get their children to a more favorable community and better environment for upbringing.

Shaimek said his parents have "known each other all their life." In terms of their relationship, he said his parents "took a break" with episodes of being on-again, off-again. He said that despite his father being around all of his life, there were times in which his dad would move out of the home due to discord between his parents. Shaimek described feeling "hurt" by these changes and said that in his younger years he would "be tearing up" when his father was not at home. He said that in those periods of separation, he would talk with his dad on the phone, but did not visit him in person. Shaimek described his relationships with both parents as good.

Both Terry and Nikki were raised in Aiken where they had first-hand experience of growing up in a neighborhood where gang life and violence were present. They found similar circumstances in their relocation to Augusta. Neither wanted to raise their family in that environment and hence they moved to Rock Hill when Shaimek was age one. However, over the years, Shaimek continued to have contact with extended family in the community they desired to avoid. The frequency and extent of this contact ended in late middle school when Shaimek's parents learned of his experimentation with marijuana introduced by influences present during visits to Aiken.

Nikki described Shaimek as very hyper in childhood. She said he enjoys joking with his sisters and is a happy-go-lucky kid who enjoys laughing and clowning around. Nikki described Shaimek as very likable. She said he takes other people at face value without a tendency to question their intentions or see someone in negative light. Nikki described their parenting style with Shaimek as sitting down and talking with him. She noted that he does best with this form of communication and thought it helped him process situations he faced and things on which he needed to reflect. Nikki noted that it sometimes takes several times of talking with Shaimek before change occurs as he tends towards impulsivity and thinks about his actions after the fact.

Shaimek reported one event of the family being investigated by DSS. He reflected on this investigation as being triggered by a gross misunderstanding by the reporter. According to Shaimek, he wanted to wear "regular pants" to school whereas his mother dressed him in khakis and a collared shirt. So, Shaimek carried his preferred outfit in his bookbag and changed into black jeans and Spiderman t-shirt on the bus. Shaimek said he did this on a daily basis to the point that his preferred outfit started to smell bad. Someone at school thought he had no clothes at home and hence a report was made to DSS. The DSS investigation was unfounded with no further action taken.

Shaimek denied a history of trauma. However, he failed to recognize a personal history of sexual abuse. By his own account, Shaimek's first sexual experience occurred at age seven by a female ten years older than him. Touching and intercourse of a seven year-old at the directive of a person ten years his senior constitutes sexual abuse. This encounter as reported by Shaimek occurred when he would have been in a normal stage of sexual latency. It is not clear what emotional impact this experience has carried as Shaimek still does not recognize himself as being abused or victimized. Instead, he sees this experience from a viewpoint of being wanted or desired by a peer who "showed me everything I needed to know."

Shaimek has a history and prior diagnosis of ADHD for which he has been treated with stimulant medications. My evaluation confirms this diagnosis. His mother reported an improvement in Shaimek's symptoms when on treatment. Specifically, she said that when he takes his medicine, he is "calmer and you can talk to him." When not on medication, Shaimek is impulsive, a situation that makes him more vulnerable to negative peer influence. However, kids at school picked on Shaimek for taking such medication[1] and thus, when he became old enough to choose whether or not to take medicine, he chose not to take it. Subsequent to this decision, Shaimek went through an increase in disruptive behaviors, many of which reflected poor impulse control under negative peer influence.

Shaimek demonstrated some insight into his emotions, noting he deals with anger and feeling "mad" and that he can get "aggravated with people real quick." It is from these feelings of anger and lowered frustration tolerance that Shaimek has continued intermittent use of marijuana. When he smokes, "I be happy [sic]." He finds himself able to laugh and relax. The change from negative to positive valence emotions has reinforced Shaimek's use of marijuana. Unfortunately, unlike his medication for ADHD, marijuana use is accepted by his peer group and not shunned or rejected.

Shaimek's record reflects circumstances typical of a juvenile in detention with ADHD and substance use – situations arise in the context of being off effective treatment, away from adequate parental supervision, under the influence of alcohol and/or drugs, and under negative peer influence. Circumstances of his current charges are under similar construct. Shaimek's charges stem from actions made not just by an adolescent brain, but one wired to have more pronounced problems with impulse control and ability to manifest restraint in real time. Brain immaturity was further impacted by him being acutely high on marijuana and encountering a past associate with whom he did not intend or desire to affiliate.

Shaimek provided account of events leading to his current charges. On this particular night, his parents were out of town to attend a relative's funeral. His sister of adult age was to supervise him. Shaimek's narrative began earlier in the evening with him taking his girlfriend out on a date in his parents' Mustang. They had sex and he took her home. Shaimek had no other plans for the night when he received a call from a past co-defendant, a now adult he met while at Rebound. Upon recognizing the number, Shaimek purposefully chose not to answer the call because he knew Eli as someone with "bad views." Shaimek proceeded en route to his home when he answered a call from a different number only to find it was Eli, the very person he was trying to avoid. Eli told Shaimek about a party at Winthrop. Shaimek diverted to the given location only to find the information was a sham. Instead of a party, Shaimek found Eli at an alley near a parking lot. Eli outlined a desire and plan to steal a car. Shaimek told Eli he didn't need to steal a car because Shaimek had access to his parent's Mustang. Eli rejected this notion and proceeded to describe vehicles of interest to him. Shaimek's understanding of Eli's purpose to have another person's vehicle was to "ride around and have a car." Eli outlined what he wanted Shaimek to do and gave Shaimek a gun.

Shaimek followed along when he spotted the SUV of Eli's interest. Shaimek watched the driver, a young woman, as she approached his location at a building. According to Shaimek, she let him

[1] Shaimek said kids at school called him "crazy" for taking mental health medicine.

enter with her. It was at that time he presented the gun. Subsequently, the woman complied with his directives. Shaimek said she did not resist walking with him. He said she made no effort to gain attention despite police presence in the parking lot. Shaimek did not think she was under distress as they walked to the train tracks. At the tracks, he told her to throw her pocketbook to the ground, which she did. It was at that time she said, "Please don't hurt me. Please don't kill me," and offered to have sex with him. According to Shaimek, he accepted her offer for intercourse.

After the sexual encounter, Shaimek returned to Eli's directive to get the vehicle. As such, he took the woman's purse, phone, and keys and told her to walk as far as she could and not turn around until she had walked that distance. He returned to the parking lot, got her vehicle, and went looking for Eli.

Factors shared in the account given to me reflect Shaimek's immaturity and adolescent nature. For example, aside from finding his way into this crime via peer directive, Shaimek himself did not have a plan by which he was to follow Eli's command. Shaimek was just there in the moment thinking he was going to a party and finding himself in different circumstances under pressure from a person he was trying to avoid. He knew Eli's goal to access a car, but even under that goal, Shaimek did not have an independent or scripted plan for getting a car. Even, with a gun given to him, Shaimek did not have a plan to use the gun. In fact, Shaimek saw giving him the gun as a means for him to protect himself "in case something happened." In his mind, the gun was for first for his protection and evolved into the secondary use by which he influenced the victim. In regards to the sexual encounter, in the heat of the moment, Shaimek did not see this as a forced sexual encounter. He was not thinking of sex when they walked to the railroad track. He did not process her offer to have sex with him as a negotiation not to harm her. Instead, Shaimek genuinely thought the victim was offering him voluntary sex. As such, he removed his clothes as he perceived her to remove her clothes. He didn't even think of the whereabouts of the gun which remained in his hoodie pocket placed on the ground. Upon completion of the sex act, Shaimek returned to Eli's goal to gain access to the victim's vehicle.

Recitation of behaviors as portrayed by the physical evidence and victim narrative does not paint the entire picture. It does not give meaning or insight into the mind for what led up to the crime or the crime itself. To capture understanding of the crime requires one to get into Shaimek's 16-year-old brain. Shaimek's understanding of the criminal behavior in the moment of the crime is not sophisticated. This crime is a reflection of an underdeveloped adolescent brain characterized by immaturity and impulsivity. Typical of immaturity in teenage brain development, on this particular night, Shaimek engaged in high-risk behavior where peer influence and short-term reward overshadowed planning, restraint, and consideration of long-term impact. Shaimek's symptoms of aberrant impulsivity made it more challenging for him to demonstrate restraint in the thrill of the moment. This was further challenged when he is under peer influence and acute intoxication with marijuana. In short, lack of brain development compounded by untreated ADHD and acute intoxication with marijuana clouded his perception and impaired his decision-making abilities.

In regards to Shaimek's ability to appreciate his actions as wrong, he clearly knows that stealing a vehicle, kidnapping, and rape are illegal. He knew that stealing the victim's car was illegal.

However, he did not recognize his actions as kidnapping or rape and, hence, in the moment did not recognize his actions as such egregious violations of his victim. By way of having a sense of respect for others, Shaimek does have the ability and desire to conform to the bounds of the law should he not be affiliated with delinquent adolescents or criminal adults. As such, he initially avoided Eli by not answering his phone when he knew the call came from a recognized phone number. It is recognized that peer influence has a great power over Shaimek.

It is my professional opinion that Shaimek was and is able to appreciate the act of stealing the victim's SUV as wrong and illegal. He knows that kidnapping and rape are serious crimes and emphasized that he would not knowingly engage in either. However, in the absence of physical force, Shaimek did not recognize his actions of presenting a weapon while directing the victim to go with him as kidnapping. Along a similar vein of unsophisticated thinking, he did not recognize her words to him as a plea and negotiation to spare her life from what she feared could happen to her. Although he was not functioning under a delusion or manifestation of psychosis, Shaimek's account of the crime suggests a diminished real time recognition of his acts as wrong, although he recognizes the nature of the charges as serious and reflects on his actions with remorse.

The sexual act for which Shaimek has pleaded guilty is not inconsequential for him or the victim. However, it does not reflect a youthful sex offense where there is probability for him to become an adult sex offender. Literature supports the statement that juvenile sex offenders are more similar to general delinquents and not adult sex offenders (Ryan, 2016). Shaimek does not have an underlying sexual deviation or antisocial personality construct. His unrecognized history of sexual abuse and general biologic sex drive for which he thought there was an opportunity for consensual sex are more influential for his role in the act than characteristics found in adult sex offenders.

The immaturity of Shaimek's adolescent brain is evident by his personal history and account of events. His diagnosis of ADHD compounds the immaturity of normal brain development. This means that his 16-year-old brain is more compatible with the normal development of a brain two or three (or more) years younger such as that of a 13- or 14-year-old adolescent. As an adolescent, Shaimek's personality construct remains unfinished. His adolescent brain is wired to trust without questioning and act without thinking. He desires to be accepted by others, a fact that increases his vulnerability to peer influences. His personal sexual history sets him up to misread social cues surrounding sex. Shaimek has low threshold to maintain ego resilience in the face of a perceived peer rejection.

He does not meet diagnostic criteria for antisocial personality disorder. He is not gang affiliated. He does not have an inherent nature to wrong or violate other people. Shaimek is not one to carry a gun or weapon on him. Had he not been provided a gun, he would not have had a gun. Shaimek was not looking to use the gun that came into his possession in a violent or aggressive nature. If this were the case, he could have shot the victim as he had ample opportunity to do so.

Shaimek does have ability to experience empathy and share in the perspective of another person. He has a desire to become more resilient and to not affiliate with persons of unsavory character. Shaimek is likely to encounter persons with unfavorable character traits while serving his

sentence of given punishment in the department of corrections. The risk is that in the custody of the department of corrections, Shaimek remains vulnerable to such negative influences, a risk that is heightened by a prolonged sentence.

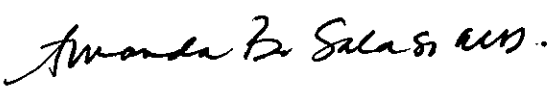
Shaimek does have factors to consider for rehabilitation. Shaimek is still an adolescent. His brain development will continue into his mid-20s. He does not have minimum, much less maximum, treatment intervention for ADHD and substance use disorders. Shaimek does not have a fully formed character. He could benefit from counseling and mental health treatment. Shaimek is still impressionable with capacity to become a worthy citizen with positive contributions to society.

There is opportunity to engage Shaimek in treatment planning designed to target his challenges associated with ADHD and substance use. ADHD is highly responsive to appropriate pharmaceutical treatment. Shaimek's mother recognizes improvements in his processing with better impulse control when he takes stimulant medication. Shaimek recognizes he thinks more clearly and rationally when he does not smoke marijuana. It is likely that Shaimek would benefit from an anger management class in which he learns how deal with his emotions without turning to marijuana.

Shaimek's parents were flabbergasted upon learning of the accusations and charges against their son. This is because the actions and allegations are not compatible with his character or the values they have taught him. Shaimek himself is in disbelief of his current circumstances and how his actions have harmed others. In hindsight, Shaimek recognizes the seriousness and gravity of his actions from this night. Shaimek expressed to me deep remorse for those affected by his actions. This includes not only the victim of record, but also his parents.

In summary of the above, it is my professional opinion, offered to a reasonable degree of medical certainty, that in adulthood, Shaimek will be able to conform his actions within the boundaries of the law should he choose to do so. His ability to conform with ease will be improved upon should he engage in and complete: 1) an anger management course; 2) substance abuse treatment, and; 3) ongoing assessment and treatment of ADHD.

Respectfully submitted,



Amanda B. Salas, MD
Board Certified Adult, Child and Adolescent, and Forensic Psychiatrist

SCANNED

FILED-RECEIVED
2021 AUG 26 PM 3:16
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS OF
	)	THE SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	
	)	
State of South Carolina	)	**Motion to Reconsider and to Reduce Sentence**
v.	)	
	)	Warrant #s: 2019A4620300467-72
Terry Tyler,	)	
Defendant.	)	Indictment #s: 2019GS4601336, 36a, 37 38, 39 and 40.
	)	

On August 16th, 2021, the Defendant was sentenced before this Honorable Court to two 30-year sentences to be served consecutively on the charges of Armed Robbery and Criminal Sexual Conduct, 1st Degree. The remainder of the above referenced indictments were ordered to be served concurrently. Pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure, the Defendant respectfully requests the Court reconsider and reduce its sentenced based on the grounds below. The Defendant requests a rehearing of sentencing. If the Court determines that rehearing is unnecessary, the Defendant requests that the following issues be argued through the submission of briefs and affidavits pursuant to Rule 29 and Rule 28.

1. The Defendant objects to the Court's 60-year consecutive sentence without the opportunity for parole because it amounts to a *de facto* life sentence and therefore constitutes cruel and unusual punishment under the 8th and 14th Amendments of the United States Constitution and Article I, Section 15 of the South Carolina Constitution. Graham v. Fla., 560 U.S. 48, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010); State v. Bonner, 400 S.C. 561, 735 S.E.2d 525 (Ct. App. 2012)
2. The Defendant objects to the Court's 60-year consecutive sentence because the Court failed to sufficiently consider the hall mark features of youth set forth in Aiken v. Byars

cc: Judge McKinnon

and Alabama v. Miller, and therefore issued a sentence that was not proportional to the crime in violation of the Eighth Amendment, the Fourteenth Amendment and the Due Process Clause of the United States Constitution, as well as Article I, Section 15 of the South Carolina Constitution. Miller v. Alabama, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012); Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014).

3. The Defendant objects to the Court's sentence because it violates the Equal Protection Clause of 14th Amendment of the United States Constitution as it applies a more severe sentence on the Defendant because of his age and in comparison, to sentences imposed to similarly situated adult defendants.

4. The Defendant objects to his sentence under the Eighth Amendment and Fourteenth Amendments of the United States Constitution, as well as Article I, Section 15 of the South Carolina Constitution, because it is not proportional under a traditional Eighth Amendment analysis because the sentence is outside the bounds of what is normally given.

5. By finding that the Defendant's crime was worse than most homicide offenses, the Court violated South Carolina's statutory sentencing scheme for these crimes and the constitutional distinction between homicide and non-homicide offenses in violation of the Eighth Amendment, the Fourteenth Amendment and the Due Process Clause of the United States Constitution, as well as Article I, Section 15 of the South Carolina Constitution. Miller v. Alabama, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012); Graham v. Fla., 560 U.S. 48, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010).

6. The Defendant objects to the Court giving little to no weight to the clinical findings of Defendant's expert, Dr. Amanda Salas, who was qualified to make findings regarding

the adolescent mind of the Defendant. The Court erred in finding the expert unreliable based on the incorrect clinical conclusion that the expert's opinions were reliant on the veracity of a statement given by the Defendant. The failure to properly consider the Defendant's expert violates the Eighth Amendment, the Fourteenth Amendment and the Due Process Clause of the United States Constitution, as well as Article I, Section 15 of the South Carolina Constitution.

7. Because the Defendant was a juvenile as defined by S.C. Code Ann. § 63-1-40 as applied retroactively to the Defendant as of the date of the incident, the Court failed to apply the statutory policy to interpret and apply the laws of this State to provide treatment or rehabilitation for those children in need of it despite the Defendant's mental, social, emotional, physical, developmental, cultural, educational and economic disadvantages when issuing a sentence that would result in the defendant being incarnated in the South Carolina Department Corrections for the remainder of his foreseeable life.

Conclusion

The Defendant respectfully requests that his sentence be reduced pursuant to the objections above and in the interests of justice. The Defendant requests a rehearing of sentencing as a remedy to the above objections. If the Court finds that a hearing is not in the interests of justice, the Defendant requests to the opportunity to provide additional mitigating information through affidavits and documents pursuant to the procedures provided for in Rules 28 and 29 of the South Carolina Rules of Criminal Procedure.

Signature Line on Following Page.

ZACHARY MERRITT
P.O. Box 1025
Rock Hill, South Carolina 29731
(803) 328.8822
Attorney for Defendant
TERRY TYLER

August 26th, 2021

FILED-RECEIVED
2021 AUG 26 PM 3:16
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

FILED-RECEIVED
2021 AUG 26 PM 3:16
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

STATE OF SOUTH CAROLINA YORK COUNTY	IN THE COURT OF GENERAL SESSIONS SIXTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA, vs. TERRY TYLER, Defendant.	**CERTIFICATE OF SERVICE** Warrant Nos. 2019A4620300467-72 Indictment Nos: 2019GS4601336, 36a, 37, 38, 39 and 40

The undersigned hereby certifies that a file-stamped copy of MOTION TO RECONSIDER AND TO REDUCE SENTENCE was hereby delivered via hand delivery to the following:

SHARON OHAYON
Assistant Solicitor
Sixteenth Judicial Circuit
General Sessions
1675 1-A York Highway
York South Carolina 29745

ZACHARY M. MERRITT
MLB LAW
403 East White Street
Rock Hill, South Carolina 29730
(803) 328.8822
(803) 328.0523 (Facsimile)
www.mlblaw.com

August 26, 2021

19-1336

FILED-RECEIVED
2021 SEP 27 PM 4:49
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	
	)	
State of South Carolina,	)	
Plaintiff,	)	
	)	
VS.	)	**SUPPORTING AFFIDAVITS AND MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO RECONSIDER**
	)	
Terry Shaimek Tyler,	)	Warrant No(s).: 2019A4620300467-72
	)	
Defendant.	)	

A. The Court has the Discretion to Consider Additional Affidavits Pursuant to Rule 28 of the South Carolina Rules of Criminal Procedure so long as the Defendant Filed a Timely Motion to Reconsiders Pursuant to Rule 29, SCCRIM.

1. *Rule 28 and 29 of the South Carolina Rules of Criminal Procedure Provide the Legal Mechanisms for the Court to Consider Further Affidavits for the Purposes of Reconsidering a Sentence.*

South Carolina Rule of Criminal Procedure 29 allows either party to file a post-trial motion within ten days of the Court imposing a sentence. Rule 29(a), SCRCrimP. A motion to reconsider the sentence is a commonly recognized Rule 29(a) motion. See e.g., State v. Brooks, No. 2007-UP-006, 2007 WL 8324258, at *1 (S.C. Ct App. 2007) (Determining whether a properly filed motion to reconsider the sentence allowed the circuit court to then entertain a later motion to withdraw a guilty plea by the defendant). Once a post-trial motion is properly filed, "the circuit judge shall retain jurisdiction of the action for the purpose of hearing and disposing of the motions if not heard and disposed of during the term." Id.

In this case, the Defendant was sentenced on August 16th, 2021. The Defendant filed a timely post-trial motion to reconsider his sentence on August 25th. This is properly filed within 10 days. In an email addressed August 24th, 2021, the Court granted the defense 30 days to submit any supporting affidavits with the caveat that the defense must provide a memorandum addressing the propriety of considering additional affidavits. This memorandum is submitted to satisfy that request.

SC Crim Rule 28 specifically allow the submission of affidavits in mitigation *after the sentence.* "After verdict against him, the defendant shall not be permitted to submit any affidavit to the court which goes to deny matters of fact, but he may submit affidavits as to matters in extenuation or mitigation; provided, they are filed so as to allow the Attorney General or Solicitor a reasonable time to answer them." SCRCrimP 29. In this case, the Defendant has produced as part of his motion to reconsider, the following additional affidavits in mitigation:

- Affidavit of the Defendant's mother, LaShandra N. Tyler; (Attachment 1)
- Affidavit of the Defendant's father, Terry Tyler, (Attachment 2)
- Affidavit of Dr. Amanda Salas, (Attachment 3), and,
- Affidavit of Reverend Dr. Regina Moore, Executive Director of the South Carolina Christian Action Council. (Attachment 4).

2. *The Trial Court has Significant Discretion Over What it Decides to Do in a Case So Long as it has Retained Jurisdiction over the Case.*

Case law demonstrates that the circuit court has significant discretion in what it can decide to do in a case so long as it retains jurisdiction due to a timely filed Rule 29(a) motion. In *State v. Brooks*, the defendant filed a timely Rule 29(a) motion to reconsider the sentence. A hearing was held on the matter. At the hearing, which occurred more than 10 days after the sentence and guilty plea, the defendant made a motion to withdraw the plea. The Court allowed the defendant in that

case to withdraw the plea. The Court of Appeals affirmed this decision reasoning that the trial court had retained subject matter jurisdiction over the case. The *Brooks* Court stated that, "[w]e do not view the circuit court's consideration of the motion to withdraw the guilty plea as a matter of subject matter jurisdiction. Because a motion to reconsider the sentence was timely filed, the circuit court had jurisdiction to consider the request to withdraw the guilty plea." State v. Brooks, No. 2007-UP-006, 2007 WL 8324258, at *1 (S.C. Ct. App. Jan. 11, 2007).

The *Brooks* defendant's motion to reconsider the sentence did not include a request to withdraw the guilty plea. The Court of Appeals ruled that a circuit court judge has the authority to withdraw the plea so long as it retained jurisdiction in the case.

> On appeal, because the motion to reconsider Brooks' sentence did not expressly include a request to withdraw the guilty plea, the State argues the circuit court lacked subject matter jurisdiction to hear Brooks' motion to withdraw his guilty plea.
> State v. Brooks, No. 2007-UP-006, 2007 WL 8324258, at *1 (S.C. Ct. App. Jan. 11, 2007)

3. *The Defendant Asserts Several Specific Reasons for the Court to Consider the Additional Affidavits when Reconsidering the Sentence.*

Despite the discretion that the trial court has when retaining jurisdiction over the case, the Defendant asserts three reasons for considering the additional information via affidavits. First, the Defendant's mother and father should be heard by the court before rendering its sentence. The Defendant's mother and father were unable to bring themselves to present information to the court after the State's presentation and the testimony of the victim. Second, the Defendant challenges certain findings the court made in regards to its expert, Dr. Salas. Dr. Salas was retained to be in the court room in person and was unable respond to the court's findings. To remedy this, the Defendant requested and paid for an expedited transcript in order to provide the transcript to Dr. Salas. Dr. Salas has examined the transcript without pay and produced an affidavit for the purposes of addressing the court's specific concerns and findings.

Finally, the Defendant requests the court to give full consideration of any information provided to the court in mitigation because it is in the interests of judicial economics. As these brief points out in Section B4, the sentence rendered by the court is a recognized PCR issue and currently undecided by the South Carolina Supreme Court, Court of Appeals or the United States 4th Circuit Court of Appeals. Because of this, the case will be litigated thoroughly through the next three phases of litigation, which include direct appeal, PCR and the appeal of PCR. Section B4 of this memorandum elucidates the fact that a *de facto* life sentence for a juvenile on a single incident case has not been ruled on by the South Carolina Supreme Court or the Fourth Circuit Court of Appeals. A decision by either of these courts will obviously impact the litigation, but it is clear that the sentence in this case will be litigated for several years. As this is an unanswered question of law, it is in the Court's interests to have a complete record in order to justify the sentence as it is litigated down the road. If defense counsel has made a mistake in its representation during the mitigation of the sentence, it is better to attempt to address it now than to deal with it in PCR several years from now.

B. The Court's Imposition of a Consecutive Sentence of 60 Years for Armed Robbery and Criminal Sexual Conduct, 1st Degree is a De Facto Life Sentence Without the Possibility of Parole on a Juveniles for a Single Incident Non-Homicide Offense and Therefore Constitutes Cruel and Unusual Punishment in Violation of the 8th and 14th Amendments of the United States Construction and Article 1, Section 15 of the South Carolina Constitution.

1. Because the Defendant has Received Two 30-year Consecutive Sentences on Non-Parole Eligible Offenses, the Defendant Will Be Incarcerated for Fifty-One Years with an Earliest Possible Release Date of 2071.

The imposition of a cumulative 60-year sentence based upon a 30-year sentence for armed robbery and a 30-year sentence for criminal sexual conduct, first degree, to run consecutively is a

de facto life sentence. Because these are Class A felonies, the Defendant will not be eligible for parole. Therefore, the Defendant will serve 85% with an expected release date of 2072.

2. *Because the Defendant will do at least 51 years in jail, the Defendant's life expectancy is shorter than his earliest release date.*

Section 19-1-150 sets out the life expectancy of a person from any period of his life. The statute sets out that a 16-year old will live a period of 61.02 years. However, the statute indicates that other evidence as to the individual's health, constitution and habits should be introduced. In 2017, Vera Dolan, an epidemiologist and consultant was hired to determine the life expectancy of a teenage male entering the department of corrections. (See Attachment 5 – Affidavit of Vera Dolan). Dolan determined life expectancies for male inmates in SCDC by reviewing 68,000 make inmate records that were provided to her by SCDC. Based upon her research and methodology set out in the attached affidavit, Volan made the following calculations regarding at what point a term of years sentence becomes the functional equivalent of a LWOP sentence.

Age at Entry to SCDC	Life Expectancy (Remaining	Predicted Age of Death	Sentence Equivalent to LWOP
15	41.1	56	41+
16	40.1	56	40+
17	39.1	56	39+
18	38.2	56	38+

3. *It is an unanswered question in South Carolina as to whether a de facto life sentence is unconstitutional under the 8th and 14th Amendments of the United States Constitution for a single incident non-homicide offense.*

Graham v. Florida, 130 S.Ct. 2011, 560 U.S. 48, prohibits courts from sentencing a juvenile to life without parole for a non-homicide offense. What has not been determined is

whether a defendant who committed a single incident non-homicide offense can be sentenced to a term of years sentence that effectively ensures he will be incarcerated for the remainder of his life.

In *State v. Slocumb*, the Court failed to extend the protection in *Graham* to an aggregate 130-year sentence for multiple offenses committed on multiple dates. The 13-year-old defendant in *Slocumb* kidnapped and sexually assaulted a teacher before shooting her in the fact five times and then left her for dead. Three years later, following his guilty plea for the first set of crimes, he escaped from custody and raped and robbed another woman in a brutal manner. In a 3-2 decision, the Court reasoned that only the United States Supreme Court could enlarge and extend the protections of a federal right. The Court also went out of its way to distinguish the case from the category of case here:

> Slocumb's case is factually distinct from the circumstances presented in *Graham*. While the juvenile offender in *Graham* was convicted of a single crime and sentenced to a single sentence formally termed "life without parole,"[13] Slocumb committed **155 multiple crimes at two different points in time—the second set after he had escaped from custody and, in the short time he was free, committed another strikingly similar set of crimes to the first one three years earlier.

State v. Slocumb, 426 S.C. 297, 310, 827 S.E.2d 148, 154–55 (2019). The *Slocumb* court made a further point that distinguishes it from the case at hand because the defendant in *Slocumb* had the intent to commit a homicide offense:

> Moreover, Slocumb's crimes reflect a critical difference from the juvenile offender in *Graham*: Slocumb shot his first victim in the face and head five times before leaving her to die on the side of a deserted country road. The *Graham* majority noted there was a moral distinction between defendants who intend to commit homicide and nonhomicide crimes. *See id.* at 69, 130 S.Ct. 2011 ("The Court has recognized that defendants who do not kill, *intend to kill*, or foresee that life will be taken are categorically less deserving of the most serious forms of punishment than are murderers.... It follows that, when compared to an adult murderer, a juvenile offender who did not kill or *intend to kill* has a twice diminished moral culpability. The age of the offender *and the nature of the crime* each bear on the analysis." (emphasis added)). While Slocumb may have had a once-diminished moral culpability based solely on his age at the time he committed his

> offenses, we cannot agree he had a twice-diminished moral culpability like the juvenile offender in *Graham*.

State v. Slocumb, 426 S.C. 297, 311, 827 S.E.2d 148, 155 (2019). Unlike *Slocumb*, the Defendant here did not exhibit the intent to kill his victim.

> Chief Justice Roberts noted this exact distinction in his concurrence in *Graham*, stating that while he agreed the *Graham* defendant could not be constitutionally sentenced to life without parole—and, thus, he concurred in the majority's result—the categorical bar against *de jure* life sentences for all juvenile nonhomicide offenders was an unnecessarily broad holding. *Id.* at 94, 130 S.Ct. 2011 (Roberts, C.J., concurring). In particular, Chief Justice Roberts opined *de jure* life sentences would be appropriate for other "especially heinous or grotesque" crimes, such as in the case of a seventeen-year-old offender who raped an eight-year-old girl and left her to die buried under 197 pounds of rocks. *Id.* at 95, 130 S.Ct. 2011 (Roberts, C.J., concurring). As Chief Justice Roberts stated, *312 "The single fact of being 17 years old would not afford [the offender] protection against **156 life without parole if the young girl had died—as [the offender] surely expected she would—so why should it do so when she miraculously survived his barbaric brutality?" *Id.*

State v. Slocumb, 426 S.C. 297, 311–12, 827 S.E.2d 148, 155–56 (2019)

Therefore, the *Slocumb* opinion does not address whether a *de facto* life sentence is allowed in a single incident offense nor does it address whether the sentence violates the State constitution.

4. The ongoing procedural history of Bonner v. South Carolina demonstrates that the issue of whether a de facto life sentence for a juvenile is a viable legal issue

For these issues, the ongoing procedural history of *State v. Bonner*, 400 S.C. 561, 735 S.E.2d 525 (2012) is instructive. There, the South Carolina Court of Appeals found that the Honorable Durham Cole violated the Eight and Fourteenth Amendments by imposing a LWOP sentence for a single incident where a juvenile defendant was charged with Burglary 1st, Armed Robbery and Kidnapping. On remand, Judge Cole sentenced the defendant to 60 years on the Burglary 1st. On PCR, the Honorable Frank Addy, Jr., found that counsel was ineffective for failing to object or file a motion to reconsider the 60-year sentence as a *de facto* life sentence. (Attachment 6 – Order Finding PCR by Judge Addy). The State then requested that the S.C.

Supreme Court grant certiorari to apply the rationale in *Slocomb* for the purposes of affirming Judge Cole's sentence. Despite the finding by Judge Addy that failing to object to a *de facto* sentence amounted to PCR, the Supreme Court failed to grant certiorari in the case thereby left Judge Addy's order as the law of that case. (Attachment 7 – Order Denying Cert).

C. The Court Failed to Consider the Hallmark Features of Youth Set Forth in Aiken v. Byars and Alabama v. Miller, and Therefore Issued a Sentence that was Not Proportional to the Crime in Violation of the Eighth Amendment, the Fourteenth Amendment and the Due Process Clause of the United States Constitution, as well as Article I, Section 15 of the South Carolina Constitution.

1. Dr. Salas's findings that the Defendant is not anti-social and that the sexual act in the case was an impulsive act were not governed by the veracity of the defendant's statement.

In finding Dr. Salas's findings unconvincing, the court stated:

> "Her report seems to be based on a self-serving version of the facts that the court finds not at all credible, including the assertion that some mysterious person named Eli gave the defendant the gun, that he believed the sexual encounter to be voluntary. And this – this was all in the heat of the moment."

Page 96, Transcript. To believe that Dr. Salas' opinions rely on the truthfulness of the Defendant's statements is an incorrect clinical determination. Dr. Salas addresses this in Paragraph 5 of her affidavit:

> "It is not unusual for the defendant to give a narrative different from victim or witness statements, or even on that is not congruent with physical evidence. A defendant's narrative is just one part of the total evaluation. It is not an acceptance of their narrative as fact, but a part of the process to gain insight and understanding of the thought processes underlying their behavior(s)."

Here, Dr. Salas is attempting to determine to what extent Tyler's underdeveloped brain impacted his decision-making that night. Dr. Salas, as well as the underlying science, tells us that a juvenile's brain, which has not developed the mechanisms and brain mass to govern its conduct, is largely governed my impulsivity and peer influence. Whether Eli is a figment of Tyler's imagination created to protect himself or real, Eli represents the presence of peer influence on his decision-making and thought process. Dr. Salas does not need to understand whether he is telling the truth. She is attempting to understand to what extent peer influence, as opposed to the more goal-oriented thinking that comes with age, is the primary factor influencing his decision. If you take Eli out of the occasion, Dr. Salas provided numerous examples of how peer influence impacted him up to and during this time of his life.

For example, Salas's report included anecdotes regarding how the Defendant would refuse to take his prescribed medication because the other kids would think he was crazy. Testimony was offered on how the Defendant would keep a pair of clothes to change into after his parents dropped him off at school because he thought that he would be more accepted with those clothes than the ones his parents made him wear. Testimony was provided that the Defendant started smoking marijuana because his friends introduced him to it. In fact, the Defendant's first sexual encounter was a non-consensual sexual encounter influenced by the older woman who seduced him. On the night of the incident, the Defendant is found with several of his friends in the victim's car, once again demonstrating that peer influence was a factor dictating his decision to take the car joy riding. Dr. Salas has the experience and know how to determine, through a long-dedicated interview, the things that are important to the mind that she is interviewing.

It is not important whether Eli was actually involved or not. The use of Eli in the Defendant's statement is just one more example of many that indicates that the influence of the Defendant's peers is a primary governing influence in his decision-making. The only significance of Eli on this determination is that it is additional evidence relating to the influence of peer pressure, which is a hall mark feature of youth.

RESPECTFULLY SUBMITTED,

s/ZACHARY MERRITT.

MICHAEL L. BROWN, JR.
ZACHARY MERRITT
P.O. Box 1025
Rock Hill, SC 29731
(803) 328-8822
Attorneys for Defendant
Terry Tyler

FILED-RECEIVED
2021 SEP 27 PM 4:50
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

September 27th, 2021

ATTACHMENT 1

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
)
SWORN AFFIDAVIT OF)
LaShandra N. Tyler)

My name is LaShandra Tyler, the mother of Terry S. Tyler. I am writing this letter to ask for mercy from your honor to reconsider my child's future. I was unable to speak at the hearing because I was overwhelmed by the State's presentation and the testimony of the victim and her family. I could not imagine being in her or her parents' shoes. I could not believe that my son was capable of doing something like this. At the hearing, I was in a state of shock unable to muster the strength to communicate to the court.

Since my son was very young, I have tried hard to fight for my child as he has struggled all his life with a learning disorder, ADHD, and anxiety. This has affected him in his personal and academic lifestyle. His comprehension level is on a 6th grade level because he has a learning disability and he does not understand how a normal sixteen-year*-old child understands.

We have always tried to take family vacations because I feel a break for everyone is necessary, our family took a trip to Virginia Beach one year. My child was the friendliest one of the children and he never met a stranger. He would play with the kids at the beach, share his food, help them build sandcastles, and find hermit crabs on the beach. He has always been respectful to adults. For the two and a half years my son has been incarcerated, from DJJ to the Officers at the Moss Justice Center, everyone tells me how respectful he is to them.

During his time in school, I have never received a call from a teacher advising me that my son was disrespectful to them. I have not gotten calls regarding his attendance in school, completing his work assignments, or being disruptive to others while in class due to his short attention span. The one thing I can honestly say is that he has never been a child that could sit still for long or focus on one activity for a long period of time. I can remember several days that

my son would be sitting on the porch talking to his friends and my neighbor would come out to cut her grass and my son would tell his friends he would be right back that he was going to cut her grass for her. He would also carry her groceries in for her and also pull her trashcan to the curb.

When I was young, I had three children. My son Terry was the youngest and he was a ray of sunshine for everyone in our family. Unfortunately, he was brought into this world with a father who was addicted to drugs and alcohol. His father and I separated on several occasions. I did not want my children being raised thinking it was okay to become complacent in an unhealthy relationship with anyone so I would separate the children from my spouse.

His father and I would get into altercations and I would put him out, this became a repeated pattern and the norm for my family for several years. I did not understand at the time the affect it would have on my children. I just wanted to fight for my family and never give up. My husband has been to Keystone and has finished his treatment and classes. Our relationship for the past 6 years has been great. We do not have any altercations but like any other marriage we still have disagreements.

Raising my son for several years alone when my spouse was either incarcerated or we separated is when my son would take a turn for the worse and took interest in people he should not have been involved with. He became distant from the family, during this time I found out he was taking pills, smoking marijuana and drinking alcohol.

My son needs counseling and needs to be rehabilitated to get a second chance to improve his lifestyle. The one thing I can agree on is that this crime was senseless, and he understands the damage he has caused everyone involved and he is truly sorry.

One thing my son did say on the video is that he would tell the victim he is so so sorry and that he is remorseful and regrets the action he took that night. As a sixteen-year-old, I have done things I regret, I was a juvenile delinquent and went to DJJ for 12 months. I disagree with

the solicitor's statement when he stated these actions do not get better and get worse. I'm living proof that you can be rehabilitated and be a resource to your community.

I work in the financial sector as a mortgage broker, I own a renovation and rehab company in which we hire laborers to rehab properties to place back on the market to sale. I volunteer to teach financial literacy to the community, and I teach homebuyer education classes. I never thought this would be such a rewarding career, but it has been a life changing experience for me. If given the chance my son would be able to learn how to do carpentry work, build homes, lay tile, shingles, paint or even become an investigator some day and give back to the community.

I feel our youth who are troubled do not get the help they need, instead we push them aside knowing the mental challenges they face. With the right treatment and counseling my son would come out rehabilitated and can prove to you that he can be a productive citizen within our community.

I would really like for you to reconsider your final judgement in the matter of Terry S. Tyler and give my teenage son a second chance so that he can become and prove the outstanding citizen that he can and will be.

Respectfully,
LaShandra Tyler

LaSHANDRA TYLER

SWORN to and subscribed before me
this 27th day of September , 2021.

Notary Public in and for said
County and State
My Commission Expires: June 4th 2025

ALEX DEWITT
Notary Public-State of Florida
Commission # HH 129842
My Commission Expires
June 04, 2026

ATTACHMENT 2

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
)
SWORN AFFIDAVIT OF)
Terry Tyler)

My name is Terry Tyler, the father of Terry S. Tyler. I am writing this letter to ask for a reconsideration of my son's sentence. His mother and I have talked to our child and tried giving him solid advice on how to conduct himself in society. He has always been the child that got along with everyone and could easily make friends wherever he went. He was never the monster they made my son seem to be in the court room on the day he was sentenced.

I can remember a time when we were in Florida visiting a sick family member. We stayed at the Hilton and some other children were having a birthday party. They invited him to the party, when he got there the decorations were not complete, so he asked them what he could do to help and get everything ready for other guest when they arrived. He started assisting them setup the tables and went and ice to lend a helping hand. There are so many things I can say about my son as we have always had a close bond even when I was not in the home.

My child has always been the type of child who had a hard time paying attention in class or even when his mother would take him to church. The teachers would always tell us that he is not a disrespectful child he is just very active and cannot focus very long to complete his schoolwork. I have tried to assist him with finding ways to help him focus. One of the areas that I do see him focusing is when he is working with his hands. If we are doing yard work, washing cars, changing tires, or even building things around the house he will focus long enough for him to complete the tasks. Everyone learns different and with him he will be a hands on skillsman in life.

I know the charges against my son are not minor charges, however I do feel that he should get a chance to be rehabilitated and learn from his mistakes, and get a second chance to

prove himself to society. We all make mistakes and none of us are perfect however this incident was not something I could see my child doing alone unless he was forced to do this. I do feel its more to the case than what was presented to you. The detective advised they did a thorough investigation after speaking to my child, but I find that as hard to believe when they made a decision within 4 hours. We say that no child should be left behind, but when a 16 year old is charged as an adult, and interrogated after his parents advised the detectives that we was out of town due to two funerals but was on our way back and not to speak to our child, they should have honored our wishes. However, none of these matters at this time. My child is sitting in a prison cell with a 60 year sentence with no parole. The sentence is more a sentence of someone with a double murder. I have been in and out of prison and I have changed my lifestyle and you could not get me to make the same mistakes I made when I was young. This comes with maturity and given a second chance by adults who cared and wanted to see me do better. I am asking that yo reconsider your sentencing and give my child a chance to be rehabilitated and come home and change.

Respectfully,

Terry Tyler

Terry Tyler

SWORN to and subscribed before me
this 27th day of September , 2021.

Notary Public in and for said
County and State
My Commission Expires: June 4th 2025

ALEX DEWITT
Notary Public-State of Florida
Commission # HH 129842
My Commission Expires
June 04, 2025

ATTACHMENT 3

Affidavit of Amanda B. Salas, MD

PERSONALLY APPEARED before me, Amanda B. Salas, M.D., who, first being duly sworn, deposes and states as follows:

1. I am a board-certified psychiatrist with subspecialty certification in forensic psychiatry and child psychiatry.

2. I am licensed to practice medicine in the state of South Carolina.

3. I am an expert as defined by South Carolina Code of Laws Section 15-36-100.

4. I have provided expert testimony by deposition or trial to state (South Carolina and Georgia) and federal courts as pertains to a variety of mental health issues of criminal, civil, and probate matters (See Attachment A). This includes testimony involving children and adolescents as defendants and as victims; as individuals and in group affiliation; in supportive and in vulnerable environments; with and without trauma narratives (history of abuse and/or neglect); and, in the present construct of an unfolding story, as well as historical context via retrospective analysis.

5. The methodology applied to Mr. Tyler's case is congruent with the same methodology applied to criminal matters where criminal responsibility is evaluated. This includes an interview of the defendant. It is not unusual for the defendant to give a narrative different from victim or witness statements, or even one that is not congruent with physical evidence. A defendant's narrative is just one part of the total evaluation. It is not an acceptance of their narrative as fact, but a part of the process to gain insight and understanding of the thought processes underlying their behavior(s). Likewise, Mr. Tyler's narrative is not a source of details for fact but a window into understanding the thoughts underlying his behaviors.

6. As part of a criminal responsibility evaluation, the role of the forensic psychiatric evaluator is to opine on the presence or absence of mental illness and, if present, whether such illness impacts a defendant such that he/she is unable to distinguish legal or moral right from legal or moral wrong at the time of commission of a crime. For Mr. Tyler's case, the need to present findings on criminal responsibility was eclipsed by his decision to plead guilty to all charges against him. At that time, work on his case shifted to a focus on mitigation.

7. Psychiatric diagnoses are made by clinical interview and do not necessitate the administration of psychological testing as part of the evaluation process. As a psychiatrist, I do not perform psychological testing. Where needed, I consult with a clinician who is trained and experienced in the administration of psychological testing. Psychological testing does not stand on its own. It requires assimilation with a clinical evaluation to order to generate meaningful results. By education, knowledge, experience,

and licensure it is within my purview and scope of medical practice to offer professional opinions on psychiatric diagnoses, including the presence or absence of personality disorders. On this case, professional medical opinions were made without the pursuit of psychological testing as psychological testing was not clinically indicated for the professional medical opinions to be offered to a reasonable degree of medical certainty.

8. The impact of adolescence and an underdeveloped, immature brain is the central focus of mitigation offered in Mr. Tyler's case. Yes, Mr. Tyler does meet diagnostic criteria for ADHD and Cannabis Use Disorder, but neither of these diagnoses alone sheds light on his actions from February 14, 2019.

9. Although the nature of this crime is heinous, the crime itself does not establish a diagnosis. It remains my professional medical opinion, based on the available information, Mr. Tyler does not meet diagnostic criteria for Antisocial Personality Disorder (ASPD). I have reviewed disciplinary write-ups dated August 6, 2020; October 29, 2020; January 10, 2021; and, May 10, 2021. These write-ups do not reflect the frequency or nature of infractions typical of inmates who do have ASPD.

10. Mr. Tyler may or may not have a lower level of intellect, but this was not assessed as part of the evaluation done pertaining to this forensic evaluation. To date, no records have been produced to reflect a historical measure of his Intelligence Quotient (IQ). It is my professional medical opinion that a measure of Mr. Tyler's intellect does not offer information worthy of the expense of IQ testing as his functional capacity exceeds that which would otherwise qualify him for a diagnosis of intellectual deficiency.

11. Even if one discards the notion of understanding Mr. Tyler's actions on the night of February 14, 2019 being under the influence of a third party, one is still left to reconcile Mr. Tyler's history of succumbing to the influence of peer pressure. This is upheld by the fact that Mr. Tyler was found amongst peers with the victim's vehicle in his possession. Historically, peer influence was the case when Mr. Tyler's family was reported for DSS investigation because he wanted to wear different clothes to school than what his mother made available to him. Also, peer influence was present when he quit taking pharmaceutical treatment for ADHD and instead pursued self-medication with marijuana.

12. Mr. Tyler's adolescent behaviors are best understood when applying knowledge of adolescent brain development where science has consistently demonstrated a period marked by increased impulsivity, higher risk-taking, and susceptibility to peer influence, even negative peer influence. The presence of untreated ADHD and ongoing cannabis use further stagnate his brain development such that his brain at age 16 would be even less mature than peers without ADHD or drug influence.

13. Mr. Tyler would benefit from individualized treatment that includes counseling, substance abuse treatment, and targeted pharmaceutical treatment based on ongoing mental health evaluations and follow-up.

14. Mr. Tyler is vulnerable to his environment where peer group has strong impact over his behaviors. As he ages in the department of corrections, under exposure to the negative character pathology that composes this group as a whole, there is increased risk of Mr. Tyler manifesting negative character traits. A prolonged sentence, especially where he is not offered treatment or encouraged to develop resilience, increases the risk of him succumbing to a path where ASPD emerges. As his sentence currently stands, the difference between consecutive versus concurrent sentencing, is the difference of essentially a life sentence versus recognition of adolescent criminal behavior in the absence of ASPD that warrants a sentence less than life.

15. The opinions in this affidavit are my professional medical opinions offered to a reasonable degree of medical certainty.

16. I receive no compensation for work done on this matter subsequent to the sentencing hearing by general sessions court on August 16, 2021.

FURTHER AFFIANT SAYETH NOT.

Amanda B. Salas, M.D.

SWORN to before me this 24th day of September, 2021

Notary Public for South Carolina
My Commission Expires: 7/2/2030



ATTACHMENT A

Disclosure of Expert Qualifications

By way of education, training, and experience, I am qualified to perform this evaluation. I completed medical school at the University of South Carolina School of Medicine followed by residency and fellowship in Adult and Child and Adolescent Psychiatry at Medical College of Georgia (currently part of Augusta University). I completed additional fellowship training in Forensic Psychiatry at the University of South Carolina School of Medicine – Palmetto Health Alliance. I am a Diplomate of Psychiatry, Child and Adolescent Psychiatry, and Forensic Psychiatry (triple board certified) as approved and issued by The American Board of Psychiatry of Neurology, Inc, a nonprofit corporation that promotes excellence in practice through the processes of initial and maintenance certification of profession.

I have over fifteen years of independent clinical experience with direct patient care in outpatient and inpatient settings. I have provided clinical care at a variety of inpatient psychiatric facilities to include SC and GA state psychiatric hospitals, Self Regional Healthcare, Beaufort Memorial Hospital, Colleton Medical Center, and a variety of other facilities via short-term locum tenens assignments. My outpatient experience is broad. I have provided outpatient psychiatric services to a wide range of patients across many age groups (children, adolescents, adults, and geriatrics) of wide and varied socioeconomic and cultural backgrounds in the Beaufort and Greenwood communities via historical practice at Sea Island Psychiatry, Western Carolina Psychiatric Associates, and Beaufort-Jasper Comprehensive Health Services. In addition, I have provided clinical care to inmates within the South Carolina Department of Corrections.

My current outpatient case load is primarily at Rural Health Services, Inc. in Aiken and on a limited basis to a small number of patients at my private practice in Beaufort. I provide clinical care for medication assisted treatment of opiate addiction to patients at Aiken Treatment Center. I have medical director experience at Self Regional Healthcare (Medical Director of the Behavioral Health Unit and Chair of the Department of Psychiatry from 2013-2019), at Rural Health Services (Director of Behavioral Health, 2018-present) and at Aiken Treatment Center (Medical Director, 2018-present). I regularly engage in the practice of forensic psychiatry by evaluations of persons involved in criminal or civil litigation. I have conducted over one-hundred (conservative estimate) evaluations as related to the competence of a person to stand trial and/or assessments of the criminal responsibility and capacity to conform one's behaviors within the boundaries of the law as defined by state law (SC, GA). I have evaluated over thirty persons (conservative estimate) in the assessment of potential civil damages in the context of litigious situations where a plaintiff claims negative impact by adverse life event(s).

Through the clinical experiences outlined above, I have been directly involved in the assessment, diagnosis, and development and implementation of treatment planning for a wide variety of psychiatric diagnoses over a wide range of ages and backgrounds. This includes, but is not limited to, disorders of mood and/or anxiety, psychotic illnesses, issues with addiction, character pathology, autism, developmental delay, cognitive impairments (by way of dementia and traumatic events) and assessment of disruptive and/or inappropriate behaviors for which no mental health issue contributes or is diagnosable. In my training and clinical experience, I have evaluated and provided care to wide ranges of age groups: children as young as birth (infant

mental health assessments and services to babies in the NICU during fellowship training) to elderly patients at the end of life. In volume, my current outpatient practice is approximately 20% child and adolescent (age 17 years and younger) and 80% adult (age 18 years and older).

Seven (7) Year History of Testimony by Trial or Deposition

Year	Court	Retaining Attorney/Case No.	Pertaining to…	Nature of Testimony
2021	SC Family Court	Andrew Hodges	Tyler Owens	Detention Hearing
2021	Deposition	Perry Buckner	Cubby Huffines	Ability to Care for Self Independently
2021	Deposition	Mark Tinsley	Freddrick Maree	Traumatic Brain Injury
2021	Deposition	David Lail	Lisa Hagberg	Grief
2021	SC General Sessions	Zachary Merritt (York County)	Terry Shaimek Tyler	Juvenile culpability/mitigation at sentencing
2021	Deposition	David Standeffer	K.I. v. Anderson	PTSD in child with Autism, ID
2021	Deposition	Clawson Fargnoli	Walker v. CCSD	PTSD in child with ID
2021	SC General Sessions	Twana Burris (York County)	Tyrell Neely	Competency to Stand Trial
2020	SC General Sessions	Greenwood County Public Defender	Mark A. Hailey	Acute Stress Reaction, Substance Intoxication/Withdrawal
2019	Deposition	Lee Cope	Phoebe Hinton	Wrongful Death
2019	SC General Sessions	Zachary M. Merritt	Jonathan James	Mitigating Factors
2018	Deposition	Andrew N. Safran	Johnathan Martin	Worker's Compensation
2018	SC General Sessions	3rd Circuit Solicitor	Chelsey Simon	PTSD
2017	Deposition	David R. Williams	Pamela Drain as representative	Damages to Child with Autism
2017	Deposition	Steven M. Krause	Cathryn Vaughter	Wrongful Death
2017	GA Superior Court	John J. Ossick, Jr.	Russell Morgan	Capacity to Consent
2017	SC General Sessions	Sumter County Public Defender	Helen Wells	PTSD
2017	Deposition	Burl F. Williams	Jason Roth	PTSD
2016	SC General Sessions	Calhoun County Public Defender; Martin R. Banks	Charles Winston	Criminal Responsibility
2016	Deposition	Andrew N. Safran	Bobby Green	Worker's Compensation
2016	SC General Sessions	Tenth Circuit Public Defender's Office	Edrick Perego	Mitigating Factors
2015	Deposition	Raymond A. Mansolillo with J. Kirkman Moorhead as local counsel	Kristen Anderson	PTSD and Trauma
2015	SC General Sessions	Jenny L. Barwick	James Turner	Mitigating Factors
2015	SC General Sessions	Timothy M. Ray	Keith Smyth	Competency to Stand Trial
2014	GA General Sessions	William J. Sussman	Ron Jin Man Pak	Criminal Responsibility
2014	SC General Sessions	14th Circuit Solicitor's Office	Preston Oates	Narcissistic Personality Disorder
2014	SC Family Court	Jack B. Swerling	Chance Shaw	Juvenile Waiver Evaluation; Mitigating Factors
2014	SC General Sessions	Robert E. Ferguson, Jr.	Aaron Young, Sr.	Elements of Coercion on Confession

2014	SC General Sessions	Third Judicial Circuit; Ray E. Chandler	George Stinney	False Confession

In addition to the above, Dr. Salas has provided testimony in a countless number of cases in SC Probate Court on patients petitioned for involuntary psychiatric treatment in the following counties: Abbeville, Aiken, Beaufort, Colleton, and Greenwood.

ATTACHMENT 4

STATE OF SOUTH CAROLINA
YORK COUNTY

IN THE COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

vs.

TERRY TYLER,

Defendant.

AFFIDAVIT OF REVEREND DR. REGINA H. MOORE

Warrant Nos. 2019A4620300467-72
Indictment Nos: 2019GS4601336, 36a, 37, 38, 39 and 40

The undersigned, REVEREND DR. REGINA H. MOORE, being duly sworn, deposes and states as follows:

That I am the Executive Minister & CEO of the South Carolina Christian Action Counsel (hereinafter referred to as "SCCAC"). I am submitting this Affidavit, and the attached letter, in support of the Defendant Terry Tyler.

SCCAC's goal is to promote and facilitate dialogue among Christian traditions on matters of belief and practice. We advocate for social justice, promote peacemaking and foster racial, cultural healing and reconciliation.

SCCAC has been in business since 1969 and located in Columbia, South Carolina.

DATED this 24th day of September, 2021.

Regina N. Moore
REV. DR. REGINA H. MOORE

SUBSCRIBED AND SWORN to before me
on this 24 day of September, 2021.
September
Notary Public in and for said
County and State
My Commission Expires: 05/23/23

South Carolina Christian Action Council, Inc.
P.O. Box 3248, Columbia, South Carolina 29230
(803) 461-3206 sccouncil@sccouncil.net www.sccouncil.net
Office: 4201 N. Main, Beam Ste. 103, Columbia, South Carolina 29203

September 23, 2021

The Honorable William A. McKinnon
1675-1H York Highway
Moss Justice Center
York, South Carolina 29745

I am writing to you today on behalf of the South Carolina Christian Action Council regarding the sentencing of Terry Tyler to a 60-year sentence without the possibility of parole for at least 50 years of that sentence. The practical effect of this sentence is to imprison Mr. Tyler for his effective life without any possibility of parole. On behalf of the South Carolina Christian Action Council, we would respectfully request that the Court reconsider this sentence and provide Mr. Tyler with a sentence that would allow him the possibility of an earlier parole.

We are aware of the horrendous nature of the underlying crime. We certainly do not condone Mr. Tyler's actions. We do not envy the difficult position of the Court who must confront individuals who commit terrible crimes and render the appropriate punishment. However, it is our position that to sentence an individual such as Mr. Tyler to a life sentence effectively without parole for a crime committed as a juvenile would disregard his status as a juvenile and would contravene religious principles and teachings of the Christian faith regarding forgiveness, compassion, and mercy.

First, to sentence any juvenile (and not just Mr. Tyler) to an effective life sentence for a single incident without the possibility of parole disregards the special status that juveniles as accorded under the Christian Faith based on their diminished capacity and lesser sophistication. The fact that children are less mature and responsible than their adult counterparts severely limits their view of the world, their understanding of moral behavior, and the degree to which they can comprehend the consequences of their actions.

The Apostle Paul expounds on this teaching in 1 Corinthians 13:11, "When I was a child, I spake as a child, I understood as a child, I thought as a child: but when I became a man, I put away childish things." This suggests that given the opportunity to develop juveniles can become mature adults capable of making wise decisions. Sentencing Mr. Tyler to an effective life sentence as a minor negates his ability to be able to exercise that redemptive possibility that comes with freedom in adulthood.

In addition, to impose such a punitive sentence on Mr. Tyler contravenes religious teachings regarding forgiveness, compassion and mercy as articulated in the Epistle to the Ephesians 4:32, "Be kind and compassionate to one another, forgiving each other, just as in Christ God forgave you."

Based on the above, we would respectfully ask the Court to reconsider its prior sentence and render a sentence that accounts for these principles. We respectfully request the Court to impose a sentence that provides Mr. Tyler with the possibility of parole at some meaningful point in his life.

We will continue to lift you up, Your Honor, and the difficult service that you give in our prayers.

Sincerely,

Regina H. Moore

Rev. Dr. Regina H. Moore
Executive Minister & CEO

African Methodist Episcopal + Alliance of Baptists + Baptist Educational and Missionary Convention + Christian Church (Disciples of Christ)
Christian Methodist Episcopal + Cooperative Baptist Fellowship + Episcopal + Evangelical Lutheran Church in America + Presbyterian Church (U.S.A.)
Protestant Episcopal + Religious Society of Friends + Roman Catholic + United Church of Christ + United Methodist

ATTACHMENT 5

STATE OF NEVADA)
) AFFIDAVIT
COUNTY OF CLARK)

Vera F. Dolan who appeared personally before me, affirms and states the following:

1. I, Vera F. Dolan, am an epidemiologist and consultant. My business is located in Las Vegas, Nevada.

2. *Referral Question:* In 2015, I was asked by a lawyer representing a juvenile previously sentenced to life without parole to conduct an investigation and develop a life table with life expectancies specific to male inmates in the South Carolina Department of Corrections ("SCDC"). The question to be answered by my investigation was: what is the proper and accurate life expectancy for a male entering SCDC at the time he was a juvenile?

3. *Qualifications:* I am an epidemiologist[1] with a Bachelor's degree in public health from Johns Hopkins University and a Master's of Science in Public Health in epidemiology from the University of North Carolina, Chapel Hill. I have over 30 years of experience in the life and health insurance industries. I am a Fellow of the Academy of Life Underwriting, which is the highest credential in life insurance underwriting. I am currently a private consultant for the life insurance industry and related industries.

4. I have published over 33 peer reviewed articles in which I prepared a mortality ratio analysis from raw population data. I have prepared life tables for over 35 years, beginning when I was a student studying for my Masters of Science in Public Health. My current curriculum vitae is attached as Exhibit 1.

5. I have been qualified as an expert in life expectancy, life insurance, and epidemiology in state and federal courts throughout the country. In South Carolina, I was qualified as an expert in life expectancy and epidemiology in the Williamsburg County Court of General Sessions. In that court, I testified about my South Carolina study and life expectancy findings for SCDC inmates.

6. *Definition of Relevant Terms:*

    a. **Life expectancy:** the statistical calculation of the average length of life expected for an individual of a certain age, sex, race, and/or other risk factor.

    b. **Life table:** data laid out in a table format to show how a statistical calculation of life expectancy is done.

[1] An epidemiologist is similar to an actuary in that both are professionals who create life tables to determine life expectancies for various populations. Epidemiologists, unlike actuaries, have a medical background and specialize in the study of health and disease in populations statistically.

c. **Mortality rate:** the rate at which people die within a given age, sex, race and/or other risk factor group. A mortality rate is calculated by dividing the number of deaths occurring within a given population by the total number of that population at risk of death.

7. *South Carolina Code Life Expectancy Tables:* The South Carolina legislature adopted life expectancy tables, which are contained in S.C. Code § 19-1-150. The tables found in the South Carolina Code were derived from the 2001 Commissioners Standard Ordinary Mortality Tables ("CSO Mortality Tables"). The CSO Mortality Tables were created by the Society of Actuaries in conjunction with the National Association of Insurance Commissioners to provide statutory guidance to state insurance commissioners in figuring out what statutory reserves should be for insurers in their state. The CSO Mortality Tables do not reliably predict the life expectancy for the general population or an incarcerated population because they are based on the lives of insured people, essentially selecting a portion of the population that is much healthier than the general population. An additional problem with the tables is that they were created in 2001 with data much older than 2001 causing concerns that the data relied upon by the tables is outdated and unreliable.

8. *Methodology:* To determine life expectancies for male inmates in SCDC, I reviewed approximately 68,000 male inmate records provided to me by SCDC.[2] The SCDC information included a unique identifier for each inmate (in place of the inmate's name), their date of entry to SCDC, their age at entry, and the date of release or death (where applicable). Those records originally included all inmates incarcerated from 1996-2015 and included follow-up data through the first half of 2016. Of the 68,000 records, I identified 3,000 duplicate records and excluded them from my final data set. I also identified and excluded a small number of records where the dates of admission and dates of death or release were incongruent. After making these exclusions, I reviewed the records of the remaining 64,204 unique inmates. For purposes of this affidavit, the records of the 64,204 inmates reviewed are referred to as the "SCDC Population."

9. In the SCDC records provided to me was information from the South Carolina Department of Health and Environmental Control ("DHEC") on all of those individuals who died between 1996 and 2016. As part of the preparation of the records provided to me, DHEC used the identifying information provided by SCDC to link the SCDC database with DHEC's information. I was thus provided with the

[2] I did not receive data from the South Carolina Department of Juvenile Justice, so I did not have sufficient data to calculate the mortality rates of 15, 16, or 17 year olds. This does not affect the accuracy of the reported life expectancies for inmates 18 years old and older because, as discussed below, life expectancy is based on mortality rates for people the same age as the individual and those older than that individual.

date of death and the age at the time of death for each individual within the SCDC population who died at some point after they entered SCDC.[3]

10. *Mortality Rate Calculation:* To determine life expectancies from the SCDC Population, I first needed to determine the mortality rates for each year of age of people incarcerated in SCDC. Exhibit 2 shows my mortality rate calculations for all individuals incarcerated in SCDC between 1996 and 2015 (Exhibits 3 and 4 show my calculations for black inmates only and white inmates only, respectively). The following is a description of my mortality rate calculations, using column references to the tables in Exhibits 2, 3, and 4.

    a. The first column labeled **Age** lists ages 15 through 97. This range was used because an individual who was incarcerated at SCDC at some point between 1996 and 2015 was alive at each age between 15 and 97.

    b. The second column labeled **Alive** represents the number of men from the SCDC Population who passed through a given age during the time period between 1996 and 2015.

    c. The third column labeled **Dead** provides the number of men within the SCDC Population who died at a given age any time between 1996 and 2016.

    d. The fourth column labeled **Total** provides the total of the "Alive" and "Dead" columns, which is the total population at risk of death during a given age.

    e. The fifth column labeled **Mortality Rate** provides the rate at which men in the SCDC population die at any given age. The mortality rate is calculated by dividing the number of people who died (column three) at a given age by the total number of people at risk of death (column four) during the same age.

    f. The sixth column labeled **Smoothed Mortality Rate** provides the trend of the mortality rate. In statistics, when dealing with raw data like the data relating to the population considered in this case, the rate calculations can have anomalies and bumps such that smoothing is necessary to identify the actual trend over time. To find the trend for the SCDC population mortality

[3] The individuals died either during their incarceration or after their release from SCDC. Reliance on mortality information both during incarceration and after release is standard methodology in the actuarial field for calculating the life expectancy of individuals who have been incarcerated. Using this data provides the most reliable calculation for the life expectancy of a juvenile sentenced to a prison term of any length of time. Other analyses, including a study of deaths of incarcerated individuals serving life sentences shows the observed age at the time of death for those individuals who died while incarcerated is substantially lower than the life expectancy calculated from the data obtained from DHEC. *See* ¶¶ 17-18.

rate, I calculated the three-year moving average of the mortality rates by averaging a given age's mortality rate with the two ages surrounding it. As the data became sparser at the older ages, I used a five-year moving average, which included the mortality rate at a given age and the two ages above and below it. This calculation found the trend in these mortality rates for a more accurate calculation of life expectancies at each age.

11. *Mortality Ratio Calculation:* I next compared the SCDC Population mortality rates with the general United States population mortality rates.

    a. The seventh column on Exhibits 2-4 labeled **US Population Mortality Rate** provides the most current mortality rates by age for males in the US population available at the time of this analysis. These mortality rates were determined by the Centers for Disease Control ("CDC") and is used in life tables published in the CDC's Vital Statistics Reports. The CDC mortality rates are calculated for life tables for the all US males, for black US males only, and for white US males only; these life tables are attached as Exhibits 5, 6, and 7 respectively.[4] On SCDC Population Mortality Rate tables (Exhibits 2-4) for various races, the US Mortality rate was obtained from the US Life Table for the same race.

    b. The eighth, and final column, on Exhibits 2-4 labeled **Mortality Ratios** compares the smoothed mortality rate from the SCDC Population at a given age with the US Population mortality rate for the same age. The mortality ratio is calculated by dividing the SCDC Population mortality rate by the US Population mortality rate, meaning any mortality ratio over 1.0 indicates the SCDC Population mortality rate is higher than the US Population mortality rate. Mortality ratios are provided only for ages in which there were at least five deaths among the SCDC Population in order to ensure the accuracy of the resulting ratios and life expectancies.

12. *Race Specific Calculations:* I created mortality rate and mortality ratio tables for all races, blacks only, and whites only because doing so is consistent with the CDC analysis of the US population, which shows that race has a significant effect on mortality rates.

13. *Creation of Life Tables:* Life tables provide life expectancies based on mortality rates from a given population. Using the mortality ratios calculated in Exhibits 2-4, I created life tables for the SCDC Population. I created individual life tables for all males, all black males, and all white males, which are attached as Exhibits 8, 9, and 10, respectively. The following is a description of the life expectancy calculations, using column references to the tables in Exhibits 8, 9, and 10.

---

[4] The mortality rates on the CDC US Population Life Tables are found in the column labeled **Probability of dying between ages x and x + 1** on Exhibits 5-7.

a. The first column labeled **Age** lists all ages 0-100.

b. The second column labeled **Basic Mortality** provides the mortality rate at a given age from the US Population Life Tables (Exhibits 5-7).

c. The third column labeled **Mortality Risk Factor** is the mortality ratio calculated on the SCDC Population Mortality Rate Tables in Exhibits 2-4.

d. The fourth column labeled **Adjusted Mortality** provides the US mortality rate for a given age adjusted by the mortality risk factor (mortality ratio) using multiplication.[5] At ages where there was sufficient mortality data (five or more deaths at any given age) from the SCDC Population, the adjusted mortality rate equals the mortality rate calculated from the SCDC Population data.[6] At ages where there was insufficient mortality data (four or less deaths at any given age) from the SCDC Population, the adjusted mortality rate equals the US Population mortality rates.

e. The fifth column labeled **Population at Risk** starts with a hypothetical cohort, or population of 100,000 at age 0. This population is decreased at each successive age by the number of deaths that occurred at the previous age. For example, in the SCDC Life Table for all races (Exhibit 8), the population at risk in age 0-1 is the full hypothetical cohort of 100,000 less 658 deaths that occurred during the first year of life.

f. The sixth column labeled **Deaths** provides the number of deaths expected to occur at a given age. This number is calculated by multiplying the adjusted mortality rate (column four) by the population at risk (column five).

g. The seventh column labeled **Interval Person-years** provides the number of years lived by the remaining population during a given age. This is calculated by subtracting one half of the number of deaths during that age from the population at risk during a given age (this assumes the individuals who die during that year live an average of half the year before dying).

h. The eighth column labeled **Cumulative Person-years** provides the total number of years left to be lived by the entire population surviving to a given

---

[5] I used the mortality ratio (comparing the SCDC Population mortality rates to the US Population mortality rates) because I did not have mortality rates for all ages from the SCDC Population data. Specifically, there is not sufficient data for male SCDC inmates at the very youngest and very oldest ages. In order to create a credible life table, one needs to have mortality rates for all of the ages. Use of the mortality ratio to create an adjusted mortality rate is standard practice in the actuarial field when reviewing populations that do not have enough data to calculate credible mortality rates for all ages.

[6] These ages are designated by highlighting in the Mortality Risk Factor column.

age. This is calculated by totaling the interval-person years for a given age and all of the ages after that age.

i. The ninth column labeled **Life Expectancy** provides the remaining life expectancy for any SCDC inmate surviving to a given age. It is calculated by dividing the cumulative person-years (column eight) by the population at risk (column five) at a given age.

j. To use the life expectancy to calculate the age to which an SCDC inmate is expected to live, on average, locate the age of the inmate in the age column and identify the corresponding life expectancy, then add the person's age to the life expectancy. For example, on the Life Table for blacks only (Exhibit 9), a black male inmate in SCDC at age 18 has a remaining life expectancy of 38.2 years. This individual would, therefore, be expected to live to age 56 (18 + 38.2).

14. *Notes on Using Life Tables:* Because race is a risk factor affecting life expectancy, it is most appropriate to use the life table for the race corresponding to the actual inmate to determine the life expectancy for that inmate. For example, a black male inmate's life expectancy is most accurately determined by using the Life Table for black males only (Exhibit 9). A white male inmate's life expectancy is most accurately determined by using the Life Table for white males only (Exhibit 10). Hispanic or Latino inmates' life expectancies are most accurately calculated by using the Life Table for white males only (Exhibit 10) because SCDC classifies them as white.[7] Life expectancies for inmates of other races can most accurately be calculated by using the Life Table for all races[8] (Exhibit 8).

15. *Findings:* The SCDC Population Life Tables (Exhibits 8-10) can be compared to the US Population Life Tables (Exhibits 5-7). Comparing the life expectancy for 18 year old males of any race in the general US Population and the SCDC Population reveals that an 18 year old in the general US Population has a remaining life expectancy of 59.1 years (expected death at 77 years old) and an 18 year old male in SCDC has a remaining life expectancy of 37.3 years (expected death at 55 years old). The 18 year old who is incarcerated in SCDC, accordingly, has a life expectancy that is 21.8 years shorter than a male in the general US Population.

---

[7] Because SCDC does not classify Hispanic or Latino inmates separately from whites, the white male only mortality rates and life table include data from Hispanic and Latino inmates.

[8] In addition to classifying inmates as black or white, SCDC uses classifications for Pacific Islander, Asian, American Indian, unknown, and other, but these categories of inmates did not include a sufficient number of inmates to allow for creation of a life table specific to them. Thus, all races are included in the Life Table for all races and that table can be used for inmates who do not fall within the black, white or Hispanic/Latino categories.

16. The Life Tables created based on the SCDC Population clearly indicate that any person who has been incarcerated in SCDC has a lower life expectancy than a person in the general US Population.

17. *Observed Data on Deaths in SCDC:* SCDC also provided me with information on all inmates serving a life sentence who died in SCDC between January 2001 and June 2016. The number of deaths during this period was not sufficient to create a credible life table for inmates serving life sentences who died while incarcerated.[9] I was, however, able to compare the actual life span of the individuals who died to their expected age of death based on the US Population Life Tables.[10] I grouped these individuals by the age of their last admission to SCDC and calculated the average number of years difference between their actual age at death and their expected age at death in the table below.

Age at Last Admission Group	Average Difference Observed vs Expected Age at Death
16 to 19	-31.8
20 to 24	-26.5
25 to 29	-21.4
30 to 39	-21.7
40 to 49	-16.8
50 to 59	-10.0
60 up	-4.9

As this table shows, the individuals sentenced to life who entered SCDC between the ages of 16 and 19 died while incarcerated an average of 31.8 years earlier than predicted by the US Population life expectancies.

18. The SCDC Population Life Table for all races shows (Exhibit 8) a life expectancy for a 16 year old male incarcerated in SCDC for any length of time is 39.2 years, which is 21.8 years less than the life expectancy of a 16 year old male in the general US Population. The calculations above, based on observed deaths, show the actual

[9] In order to create a credible life table, the population data must include five deaths at each age. During the period of 2001 to 2016, there were 262 deaths among inmates serving a life sentence. This was insufficient data to create a life table. While the data set is not large enough to create a life table, it is sufficient to show the mortality risk trend of people serving life imprisonment in SCDC as compared to the general US Population.

[10] Because these deaths occurred between 2001 and 2016, I used the life expectancies published in 2000 for the general US Population. Since 2000, the life expectancies for the general population have increased.

life span of a 16 year old serving life imprisonment was 31.8 years less than the life expectancy of a 16 year old male in the general US Population. This demonstrates that a male incarcerated in SCDC for life is at a much higher risk of mortality and has a significantly shorter life expectancy than the general US Population.

19. *Other Notes:* My life expectancy calculations were completed in 2016 with records from 1996 to 2015 and mortality data through 2016. I recommend updating mortality data and mortality ratios every five years. I recommend a full twenty-year look back, as was completed here, be completed again in ten years.

I affirm, under the penalty of perjury, that the foregoing is true and correct.

VERA F. DOLAN

Sworn to and subscribed before me
This 5 day of May, 2017

Notary Public for the State of Nevada
My commission expires: 10-18-2020

PATRICIA A. GLASPER
Notary Public, State of Nevada
Appointment No. 12-9064-1
My Appt. Expires Oct 18, 2020

Exhibit 1

Vera F. Dolan

6238 Belgium Drive, Las Vegas, Nevada 89122-7592
702.476.8500 / dolanvp@consultancy.com

EDUCATION and PROFESSIONAL CERTIFICATIONS

MSPH University of North Carolina at Chapel Hill, Epidemiology, 1981
BA The Johns Hopkins University, Public Health, 1979
FALU Fellow of the Academy of Life Underwriting, 1998
ELS Editor in the Life Sciences, 2003

EXPERIENCE

Principal, VFD Consulting, Inc., 1989 to Present
Providing life and health insurance and related industries mortality and underwriting research, market research, product development, business development and technology, underwriting education and training, and litigation support to multinational clients, including:

AIG American General Life Cos.
American Family Life Insurance Co.
AVS Underwriting
Bank of America
Calypte Biomedical
Canada Life Reinsurance
Charles Schwab & Co.
Clinical Reference Laboratory
decydeWARE
Drinker, Biddle & Reath
Edwards Lifesciences
EMSI (formerly PMSI)
Farmers Mutual Insurance Co.
FaxWatch
Federal Home Loan Bank (San Francisco)
First Financial Underwriting Services
General American Life Insurance Co.
Golden Gateway Financial
Hank George, Inc.
Health Net of California
Heritage Labs
HSBC Insurance Services
Independent Order of Foresters
Insure.com
LabOne
Life Settlement Consulting & Management
Los Angeles County Crime Laboratories
MetLife Canada
MIB Group
Millennium Pharmaceuticals
Mutual of Omaha
North Coast Opportunities
On The Risk – The Journal of the Academy of Life Underwriting
PartnerRe Life (formerly Winterthur Life Reinsurance)
Pacific Blue Cross
PPO Oklahoma
Protective Life Insurance Co.
Safe Harbor Resources
Sagicor Financial Corporation
Society of Actuaries
Thomson Management Solutions
21st Services
Wells Fargo Bank
Western Reserve Life Assurance Co. of Ohio
Xcelerate Corporation

Vera F. Dolan
Curriculum Vitae, continued

Expert witness services provided to the following:

Multiple retentions:

Andres, Andres & Moore, Santa Ana, CA
Barger & Wolen, Irvine, CA and New York, NY
County of Hawaii, Hilo, HI
Donahue Horrow, El Segundo, CA
Lewis & Roca, Phoenix, AZ
McCue-Pauley & Associates, Dallas, TX
Taylor Anderson, Denver, CO
U.S. Department of Justice
Wilson Elser Moskowitz Edelman & Dicker, Los Angeles and San Diego, CA

Expert witness brokers:

AMFS / Medical Experts Nationwide
Consolidated Consultants
Insurance Expert Network
ForensisGroup
LITILI
Medical Advisors, Inc
Medical Consultant Services
The TASA Group
Thomson Reuters Expert Witness Service

Single cases:

Andrews Kurth, Dallas, TX
Bolt Keenley Kim, Berkeley, CA
Campano Law Group, Lancaster, CA
Carlin & Buchsbaum, Long Beach, CA
Carmody Torrance Sandak Hennessey, Waterbury, CT
City of Torrance, Torrance, CA
Corr Cronin Michelson Baumgardner Preece, Seattle, WA
Coughlin Law Firm, San Diego, CA
Cozen O'Connor, Wilmington, DE
Deitchman & Deitchman, Placerville, CA
Demas Law Group, Sacramento, CA
Dressler Law Office, New Haven, CT
Egan & Pechtel, Kennewick, WA
Epstein Becker & Green, Los Angeles, CA
Evan Freirich, Boulder, CO
Fairchild, Price, Haley & Smith, Nacogdoches, TX
Fallgatter Farmand & Catlin, Jacksonville, FL
Ferguson, Skipper, Shaw, Keyser, Baron & Tirabassi, Sarasota, FL
Friedman, Rubin & White, Anchorage, AL
Gilchrist & Rutter, Santa Monica, CA
Graves & King, Riverside, CA
Greenberg Traurig, Denver, CO
Greene Broillet & Wheeler, Santa Monica, CA
The Healy Law Firm, Chicago, IL
Hinshaw & Culbertson, Los Angeles, CA
Hoagland, Fitzgerald & Pranaitis, Alton, IL
Diana Holt, LLC, Columbia, SC
Jardine Law Office, DeForest, WI
Kent D. Jensen Law Office, Burley, ID
Johnson Schachter & Lewis, Sacramento, CA
Kantor & Kantor, Northridge, CA
Katten Muchin Rosenman, Los Angeles, CA
Kitch Drutchas Wagner Valitutti & Sherbrook, Detroit, MI
Knapp Petersen Clarke, Glendale, CA
Koch Degn & Gomez, Visalia, CA
Law Office of Andy Basseri, Beverly Hills, CA
Law Offices of Benjamin Blakeman, Los Angeles, CA
Law Offices of Robert A. Brenner, Woodland Hills, CA
Law Office of Sean Brew, San Diego, CA
Law Offices of James Matthew Brown, San Diego, CA
Law Offices of Clyde I. Butts, Walnut Creek, CA
Law Offices of Michael Jay Green, Honolulu, HI
Law Office of Katherine MacKinnon, St. Louis Park, MN
Law Office of Stephen W. Penn, Morgan Hill, CA
Law Office of Charles M. Ray, Newport Beach, CA
Law Office of Kenneth U. Reyes, Los Angeles, CA
Law Offices of Cary T. Tanaka, Honolulu, HI
Law Office of Edward J. Thomas, Bakersfield, CA
Littler Mendelson, San Jose, CA
MacMorris & Carbone, Stockton, CA
Daniel Q. Mahone, Frederick, MD
McArdle, Frost & Brinton, Chicago, IL
McDermott Will & Emery, Chicago, IL
McDowell & Osburn, Manchester, NH
McPall Burnett & Brinton, Manteca, CA
Meyers McConnell Reisz Siderman, Los Angeles, CA
Milavetz Gallop & Milavetz, Edina, MN
Morris Polich & Purdy, San Francisco, CA
Myers & Gomel, Las Vegas, NV
Nicholas & Tomasevic, San Diego, CA
Norton Rose Fulbright US, Houston, TX
Ogden Murphy Wallace, Seattle, WA
Pyle Sims Duncan & Stevenson, San Diego, CA
Renaud Cook Drury Mesaros, Phoenix, AZ
Riverside County Public Defender, Riverside, CA
Saur Law Office, Laguna Hills, CA
Schumacher Francis & Nelson, Charleston, WV
Segal and Kirby, Sacramento, CA
Seyfarth Shaw, Chicago, IL
SGH Martineau, London, England
Shook Hardy & Bacon, Kansas City, MO
Sigelman Law Corporation, Beverly Hills, CA
Snell & Wilmer, Phoenix, AZ
South Carolina Commission on Indigent Defense, Columbia, SC
Stanley Law Offices, Syracuse, NY
Stennett & Casino, San Diego, CA
Vaka Law Group, Tampa, FL
Webb Bordson Law Group, San Diego, CA
David K. Wilson & Associates, Sherman, TX
Whitfield & Eddy, Des Moines, IA
Winters & Associates, San Diego, CA

Consulting Projects – Underwriting

- Life Underwriting Requirements Research, 2004 to Present Providing methodologies, analysis and write-up of insurance testing laboratory data to initiate new products and services. Conducting cohort mortality studies to improve life underwriting risk assessment.
- Life Policy and Procedures Manual, 2014 Revised and updated life insurance policy and procedures manual based on current underwriting and business operations.
- Health Medical Underwriting Manual, 2010 Adapted medical underwriting manual for supplemental health insurance products.
- Structured Settlement Underwriting Manual, 2008 Developed underwriting manual for structured settlements based on current processes.
- Life Claims Audit, 2007 Performed random selection of cases and designed case data extraction sheet for large life insurance claims study.
- Critical Illness and Disability Income Training, 2006 Prepared and presented training to life underwriters in critical illness and disability income underwriting.
- Underwriting Manual Research and Writing, 2006 Adapted traditional life underwriting manual for simplified life, disability and waiver of premium products.
- Life Settlement Experience Analysis, 2006 Analysis of life settlement mortality to determine predictive factors.
- Life Underwriting Research, 2001 to 2003 Constructed life tables from medical literature to validate life underwriting guidelines. Produced quantitative and qualitative life underwriting manual guidance.
- Life Settlement Underwriting Research, 1998 to 2004 Provided model and design of automated life expectancy calculation system, data collection instruments, evaluation scoring and impairment risk factor weights.
- Insurance Services Product Development, 1997 to 1998 Provided analysis of disease mortality, incidence and prevalence to develop new insurance services product.
- Pension Underwriting Research, 1994 Provided biostatistical research basis to a multinational consortium for a new type of impaired risk European pension product.

Consulting Projects - Business Development and Technology

- Simplified Products Survey and Report, 2005 Conducted survey of top-selling simplified products for underwriting and business process lessons learned.
- New Business Process Review and Optimization, 2004 to 2005 Examined current life new business processes to identify opportunities for decreasing redundancies, handoffs, and inefficiencies.
- Underwriting Decision Software Development, 2004 to 2005 Product and market development of life underwriting software that uses advanced logic engine
- Freelance Writing and Editing, 2004 Editing and writing summaries of medical articles, medical conferences, and insurance topics for physicians and consumers.
- Underwriting Operations Annual Report, 2004 Assisted in editing, writing and analysis of metrics presented in life underwriting operations report for 2003.
- Business Process Improvement, 2003 Interviewed underwriting and business support staff to prepare future improvement in life insurance business process workflow.

Consulting Projects - Banking

- Enterprise Technology Plan, 2000 Collaborated on design of three-year technology plan for a Federal bank.
- Financial Services Experience Analysis and Strategy, 1995 to 1998 Provided statistical analysis and models to select business and consumer customers for acquisition and retention programs. Estimated bank account life expectancies using actuarial life rable methods.
- Human Resources Automation Plan, 1993 Collaborated in development of plan and prototype for automated human resources management.

Certificate of Appreciation for 30 Years of Contribution, *On The Risk - Journal of the Academy of Life Underwriting,* May 4, 2016
Associate Editor, *On The Risk - Journal of the Academy of Life Underwriting,* 2004-Present
Contributing Editor, *On The Risk - Journal of the Academy of Life Underwriting,* 1994-1997

Kaiser Foundation Health Plan, Oakland, California
Medical Economics and Statistics, 1988 to 1989
Converted community-based pricing approach to experience-based rating for a $2.5 billion premium enterprise. Conducted underwriting market study of 20,000 employers. Conducted analyses to determine competitive pricing for 2+ million member optical and pharmaceutical programs.

Transamerica Occidental Life Insurance Company, Los Angeles, California
New Business Underwriting Research, 1985 to 1988
Provided analysis of company data and medical literature to support management and underwriting decisions. Developed original methods for actuarial analyses now used for automated systems underwriting $1.5 billion in annual business.

Lincoln National Reinsurance, Ft. Wayne, Indiana
Underwriting Research, 1982 to 1985
Provided analysis of company data and medical literature to support management and underwriting decisions.

University of North Carolina, Chapel Hill, North Carolina
Department of Biostatistics, 1981 to 1982
Performed statistical analyses for multinational clinical trials.

National Institute of Occupational Safety and Health, Cincinnati, Ohio
Industrywide Studies Branch, Biometry Section, Summer 1980
Performed proportionate mortality analysis of death certificate data for evidence of excess brain tumors among petrochemical workers. Performed analysis of medical records for evidence of excess birth anomalies among railroad workers exposed to dioxin.

PUBLICATIONS - INSURANCE

"Advantages of a Life Expectancy Using Life Insurance Underwriting and Life Settlement Methods in the Legal Setting" VFD Consulting, Inc.

"Highlights of the 2016 CLIMOA Annual Scientific Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 32, No. 4, 2016

"Hemoglobin Screening Independently Predicts All-Cause Mortality" J. Insurance Medicine, Vol. 45, No. 2, 2015, with Michael Fulks and Robert L. Stout

"Adjusting Measured Creatinine for Low Serum Glucose to Improve Mortality Prediction" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 3, 2015, with Michael Fulks and Robert L. Stout

"Changing the 'Normal Range' for Blood Pressure from 140/90 to 130/any Improves Risk Assessment" J. Insurance Medicine, Vol. 45, No. 1, 2015, with Michael Fulks and Robert L. Stout

"2014 CRL Blood Pressure Study of Life Insurance Applicants" J. Insurance Medicine, Vol. 45, No. 1, 2015, with Michael Fulks and Robert L. Stout

"Which eGFR Calculation Offers the Best Mortality Prediction for Insurance?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 2, 2015, with Michael Fulks and Robert L. Stout

"Using Urine Protein Creatinine Ratio Alone or Reflexing to Urine Albumin in the Applicant with HhA1c Elevation" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 1, 2015, with Michael Fulks and Robert L. Stout

"Basic Laboratory Testing" In: Basic Life Insurance Underwriting, ALU 101 Textbook, Sixth Ed. Academy of Life Underwriting, 2014, with Michael Fulks and Robert L. Stout

"Evaluating the Risk of Renal Disease Using Urine Proteinuria or Urine Albuminuria in the Applicant with HbA1c Elevation" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 4, 2014, with Michael Fulks and Robert L. Stout

"Advantages of a Life Expectancy Using Life Insurance Underwriting and Life Settlement Methods in the Legal Setting" Defense Research Institute Life, Health and Disability Newsletter, Vol. 25, Issue 2, June 26, 2014

"Serum Globulin Predicts All-Cause Mortality for Life Insurance Applicants" J. Insurance Medicine, Vol. 44, No. 2, 2014, with Michael Fulks and Robert L. Stout

"NT-proBNP as a Predictor of All-Cause Mortality in a Population of Insurance Applicants" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 2, 2014, with Michael Clark, Valerie Kaufman, Michael Fulks and Robert L. Stout

Vera F. Dolan
Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Beware That Low Urine Creatinine!" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 1, 2014, with Michael Fulks and Robert L. Stout

"NT-proBNP as a Predictor of All-Cause Mortality in a Population of Insurance Applicants" J. Insurance Medicine, Vol. 44, No. 1, 2014, with Michael Clark, Valerie Kaufman, Michael Fulks and Robert L. Stout

"Scoring Life Insurance Applicants' Laboratory Results, Blood Pressure and Build to Predict All-Cause Mortality Risk" J. Insurance Medicine, Vol. 43, No. 3, 2012, with Michael Fulks and Robert L. Stout

"Urine Protein/Creatinine Ratio as a Risk Predictor in Non-Diabetics with Normal Renal Function" J. Insurance Medicine, Vol. 43, No. 2, 2012, with Michael Fulks and Robert L. Stout

"Trends in Mortality of Insurance Applicants with HIV Infection" J. Insurance Medicine, Vol. 43, No. 2, 2012, with Robert L. Stout and Michael Fulks

"PSA: What Values Predict Increased Mortality Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 3, 2011, with Michael Fulks and Robert L. Stout

"Letter to the Editor: The Use of Modeling for Associating Test Values and Mortality Risk" J. Insurance Medicine, Vol. 43, No. 1, 2012, with Michael Fulks and Robert L. Stout

"Isolated Hematuria as a Mortality Risk Predictor" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 4, 2011, with Michael Fulks and Robert L. Stout

"Highlights of the 2011 AHOU Annual Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 3, 2011

"Correction to article: Association of Cholesterol, LDL, HDL, Cholesterol/HDL and Triglyceride with All-Cause Mortality in Life Insurance Applicants" J. Insurance Medicine, Vol. 42, No. 2-4, 2011, with Michael Fulks and Robert L. Stout

"CDT and Serum Alcohol: What Is the Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 27, No. 1, 2011, with Robert L. Stout and Michael Fulks

"Albumin and All-Cause Mortality Risk in Insurance Applicants" J. Insurance Medicine, Vol. 42, No. 1, 2010, with Michael Fulks and Robert L. Stout

"Mortality Associated with Positive Hepatitis C and B Test Results" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 3, 2010, with Robert L. Stout and Michael Fulks

"Glucosuria as a Mortality Risk Predictor When Blood Is Not Collected" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 2, 2010, with Robert L. Stout and Michael Fulks

PUBLICATIONS - INSURANCE, continued

"Mortality Associated with Positive Cocaine Test Results" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 1, 2010, with Robert L. Stout and Michael Fulks

"Association of Cholesterol, LDL, HDL, Cholesterol/HDL and Triglyceride with All-Cause Mortality in Life Insurance Applicants" J. Insurance Medicine, Vol. 41, No. 4, 2009, with Michael Fulks and Robert L. Stout

"Letter to the Editor: The Authors Reply" J. Insurance Medicine, Vol. 41, No. 3, 2009, with Michael Fulks and Robert L. Stout

"Underwriting Implications of Elevated Carcinoembryonic Antigen" On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 3, 2009, with Robert L. Stout and Michael Fulks

"Mortality Associated with Bilirubin Levels in Insurance Applicants" J. Insurance Medicine, Vol. 41, No. 1, 2009, with Michael Fulks and Robert L. Stout

"Non-Cigarette Tobacco Use – What is the Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 2, 2009, with Robert L. Stout and Michael Fulks

"Hemoglobin A1c and Mortality in Insurance Applicants: A 5-Year Follow-Up Study", On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 1, 2009, with Robert L. Stout and Michael Fulks

"Using Liver Enzymes as Screening Tests to Predict Mortality Risk" J. Insurance Medicine, Vol. 40, No. 4, 2008, with Michael Fulks and Robert L. Stout

"Underwriting Integrity: Lessons from the Subprime Mortgage Crisis" On The Risk - Journal of the Academy of Life Underwriting, Vol. 24, No. 4, 2008

"Highlights from the 2007 AHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 24, No. 1, 2008

"Increased Mortality Associated with Elevated Carcinoembryonic Antigen in Insurance Applicants" J. Insurance Medicine, Vol. 39, No. 4, 2007, with Robert L. Stout, Michael Fulks, Mark E. Magee and Luis Suarez

"Relationship of Hemoglobin A1c to Mortality in Nonsmoking Insurance Applicants" J. Insurance Medicine, Vol. 39, No. 3, 2007, with Robert L. Stout, Michael Fulks, Mark E. Magee and Luis Suarez

"Highlights from the 2006 AHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 23, No. 1, 2007

"The Reproductive System" In: Intermediate Medical Life Insurance Underwriting ALU 201, 1st ed., Education Committee of the Academy of Life Underwriting, chapter 4, 2006

Vera F. Dolan
Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Highlights from the 2006 CIU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 3, 2006

"Improvements in Cotinine Testing of Insurance Applicants" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 2, 2006 with Robert L. Stout and Mark Magee

"Highlights from the LOMA Emerging Technology Conference: Understanding How to Use New Technology" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 2, 2006

Panelist, "Contemplating Pandemic Risk" by Steven C. Siegel, The Actuary, Vol. 3, Issue 3, 2006

"Highlights of the 2005 AHOU Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 1, 2006

"Simplified Products: Something Old, Something New, and Something That May Just Make You Blue!" On The Risk - Journal of the Academy of Life Underwriting, with Ernest A. Testa, Vol. 22, No. 1, 2006

"2005 Simplified Product Survey: Final Report" for MIB Group, with Ernest A. Testa, January 2006

"Highlights of the 2005 CIU Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 21, No. 4, 2005

"Underwriting for the New Millennium: Simplified Product Survey" NewsDirect, September 2005

"Sleep Problems and Accidents" On The Risk - Journal of the Academy of Life Underwriting, Vol. 21, No. 1, 2005

"Customer Relationship Management: A Reinsurer's Experience" On The Risk - Journal of the Academy of Life Underwriting, Vol. 20, No. 2, 2004

"Current Concepts in the Insulin Resistance Syndrome" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 20, No. 1, 2004

"Highlights of the 2003 AAIM" On The Risk - Journal of the Academy of Life Underwriting, Vol. 20, No. 1, 2004

"Current Concepts in Multiple Sclerosis" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 19, No. 4, 2003

"Multiple Sclerosis" Canada Life Review Online, Third Quarter 2003, with Robert Weir

"Highlights of the 2003 CIU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 3, 2003

PUBLICATIONS - INSURANCE, continued

"Web-Assisted Inspection Reports: Part 2 of 2" On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 3, 2003

"Keynote Presentation to the Annual Meeting, Canadian Institute of Underwriters" Canada Life Review Online, Second Quarter 2003

"Web-Assisted Inspection Reports: Part 1 of 2" On The Risk - Journal of the Academy of Life Underwriting, On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 2, 2003

"Highlights of the 2002 AAIM" On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 1, 2003

Project Manager, "Report of the 2002 Automated Risk Assessment System Study" Thomson Management Solutions, February 2003

"Insulin Resistance Syndrome" Canada Life Review Online, Fourth Quarter 2002

"The New Paradigm of Coronary Artery Disease: Part 1. The Pathophysiology of Vulnerable Plaque" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 18, No. 4, 2002

"Orthostatic Hypotension" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 18, No. 3, 2002

"Highlights of the 2002 CLIMOA" On The Risk - Journal of the Academy of Life Underwriting, Vol. 18, No. 3, 2002

"Treatment of Localized Prostate Cancer" On The Risk - Journal of the Academy of Life Underwriting, Vol. 18, No. 2, 2002

"Privacy Rules and Regulations: An Interview with Linda S. Kaiser, Esq." On The Risk - Journal of the Academy of Life Underwriting, Vol. 18, No. 1, 2002

"Treated Cholesterol; A Preferred Risk?" Canada Life Review Online, First Quarter 2002, with Robert Weir

"Body Mass Index and Mortality" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 4, 2001, with Robert Weir

"Innovations in Underwriting Build" Canada Life Review No. 2, 2001

"Honoring Past HOLUA Presidents" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 3, 2001

Vera F. Dolan
Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Highlights of the 2001 HOLUA: An Underwriter's Odyssey" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 3, 2001

"Genetic Testing Provides Challenge to Insurers" American Clinical Laboratory, Vol. 20, No. 4, 2001 pp. 18-9

"Highlights of the Spring 2001 Risk Appraisal Forum" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 2, 2001

"Highlights of the 2000 IHOU: Gateway to Change" On The Risk- Journal of the Academy of Life Underwriting, Vol. 17, No. 1, 2001

"Progress in Establishing the Association of Home Office Underwriters" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 1, 2001

"Innovative Technologies for Detecting Alcohol Abuse and Monitoring Drinking Status" American Clinical Laboratory, Vol. 20, No. 1, 2001

"Highlights of the 2000 CIU: Take a Risk!" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 4, 2000

"Alternative/Complementary Medicine" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 4, 2000

"Life Settlements" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 4, 2000, with Chris Cook

"Underwriting Settlements" In: Viatical and Life Settlements: The Challenge Facing the Life Insurance Industry, Jean Gora, ed., Life Office Management Association, Chapter 4, 2000

"Detecting Alcohol Abuse and Monitoring Drinking Status" Lab*One* Insight, Fall 2000

"Building Corporate E-Commerce" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 3, 2000

"Highlights of the 2000 HOLUA: Brave New World" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 3, 2000

"Progress Report on the Formation of the New Underwriting Organization" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 3, 2000

"Highlights of the Spring 2000 Risk Appraisal Forum" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 2, 2000

Vera F. Dolan
Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Les Grubin Hosts Risk Appraisal Forum in the City by the Bay" Broker World, Vol. 20, No. 6, 2000

"Highlights of the 1999 IHOU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 1, 2000

"A Substandard Life Brokerage Agent's Perspective on Underwriting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 1, 2000

"Liquid Gold: What Urine Can Do for You" NAILBA Magazine, Winter 2000, with Kip Whitefield

"Highlights of the 1999 CIU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 4, 1999

"Highlights of the 2nd International Underwriting Congress" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 3, 1999

"Highlights of the 1999 HOLUA Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 3, 1999

"Predicting Motor Vehicle Accidents Among the Elderly" Underwriter Alert, Vol. 9, No. 2, 1999
"Risk Factors for Elder Abuse" Journal of Insurance Medicine, Vol. 31, No. 1, 1999, pp 13-20

"Insurance Securitization" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 1, 1999

"Highlights of the 1998 HOLUA: Capitol Crossfire" On The Risk - Journal of the Academy of Life Underwriting, Vol. 14, No. 3, 1998

"DNA Typing for Individual Identification" On The Risk - Journal of the Academy of Life Underwriting, Vol. 14, No. 2, 1998

"DNA Typing for Individual Identification" FALU Paper, 1998

Highlights of the 1997 IHOU: Remember Our Mission" On The Risk - Journal of the Academy of Life Underwriting, Vol. 14, No. 1, 1998

"Underwriting and Risk Classification" Society of Actuaries' International Section News, No. 15, February 1998, with Chris Cook

"Highlights of the 1997 CIU: Reach for the Top" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 4, 1997

PUBLICATIONS - INSURANCE, continued

"Highlights of the 1997 HOLUA: The Heat Is On" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 3, 1997

"First International Underwriting Congress" Society of Actuaries' International Section News, No. 14, August 1997, with Chris Cook

"Highlights of the 1997 International Underwriting Congress" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 2, with Chris Cook

"International Outlook: Highlights of the 1997 International Underwriting Congress" Resources, Vol. 17, No. 6 Supplement, 1997, with Chris Cook

"Highlights of the 1996 IHOU: Building Bridges" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 1, 1997

"Medical Studies: Where Do They Come From? Transferring Medical Knowledge to Risk Selection" (Part 2 of 2)" Underwriter Alert, Vol. 6, No. 6, 1997

"Elevated GGT, Hypertension and Obesity" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 4, 1996

"Clinical Trials and Population Studies (Part 1 of 2)" Underwriter Alert, Vol. 6, No. 5, 1996

"Highlights of the 1996 HOLUA: Navigating the Waves of Change" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 3, 1996

"Underwriting Cultural Markets: Focus on Asian Indian Ethnicity" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 3, 1996

"Highlights of the Spring 1996 Risk Appraisal Forum" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 2, 1996

"Tobacco and User/Abstainer Pricing" Product Development News Society of Actuaries, Issue 40, May 1996

"Underwriting Research Resources Among Life Insurers: A Survey" VFD Consulting, Inc. 1996

"Highlights of the 1995 ICLAM/AAIM Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 1, 1996, with John J. Krinik

"The Quest for Excellence: Highlights of the 1995 IHOU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 1, 1996

Vera F. Dolan
Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Conference Review: 1995 Nucleic Acid-Based Technologies" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 4, 1995

"Scaling New Peaks - Highlights of the 1995 HOLUA Annual Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 3, 1995

"OTR Meeting Review: 1995 Society of Insurance Research Planning and Economics Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 3, 1995

"Tobacco and User/Abstainer Pricing" On The Risk - Journal of the Academy of Life Underwriting Vol. 11, No. 2, 1995

"OTR Meeting Review: Highlights of the 1994 IHOU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 1, 1995

"Underwriting Marital Violence" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 5, 1994

"Highlights of the 1994 HOLUA Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 4, 1994

"How Agents Can Cope With Reluctance to Sell DI" National Underwriter, Vol. 97, No. 49, 1993

"Both 'Supply' and 'Demand' Causing Sales Doldrums" National Underwriter, Vol. 97, No. 44, 1993

"Sailing for Success: Highlights of the 1993 IHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 2, 1994

"Moderate Alcohol Intake and Reduced Mortality: Illusion or Preferred Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 1, 1993

"Expanding Horizons: Highlights of the 1993 HOLUA" On The Risk - Journal of the Academy of Life Underwriting, Vol. 9. No. 4, 1993

"Underwriters Urged to Tap More Into Elderly Mkt" National Underwriter, Vol. 97, No. 23, 1993

Contributing Analyst, Medical Risks: Trends in Mortality by Age and Time Elapsed, Edward Lew and Jerzy Gajewski, Praeger Publishers, New York, 1990 (as Vera F. Kelly)

"Notes on Breast Cancer" On The Risk - Journal of the Academy of Life Underwriting, Vol. 4, No. 3, 1988 (as Vera F. Kelly)

PUBLICATIONS - INSURANCE, continued

"Underwriting Epilepsy" On The Risk - Journal of the Academy of Life Underwriting, Vol. 2, No. 4, 1986 (as Vera F. Kelly)

PUBLICATIONS – BUSINESS, HEALTH and OTHER

"Selling Our Children in the U.S.: An Interview with Russ Combs" The Voice: The Journal of the Domestic Violence Movement, Winter 2005

Contributor, After the Guns Fall Silent: The Enduring Legacy of Landmines, S. Roberts and J. Williams, Vietnam Veterans of America Foundation, Washington, D.C. 1995

Editor, The Politics of Information Systems, Paul Strassmann, Information Economics Press, New Canaan, CT, 1994

Invited Editorial Response, American Programmer, January, 1993

Editor-Producer, Win Some, Lose Some: My 40 Years in Corporate America, John Titsworth, Information Economics Press, New Canaan, CT, 1992

Editor, The Business Value of Computers, Paul Strassmann, Information Economics Press, New Canaan, CT, 1990

Editor, Information Payoff: The Transformation of Work in the Electronic Age, Paul Strassmann, Macmillan Free Press, NY, 1985 (as Vera F. Kelly)

"A Proportionate Mortality Study of an Oil, Chemical and Atomic Workers Local in Texas City, Texas" Annals of the New York Academy of Sciences, 381(1982): 54-61, with Reeve, Waxweiler, Thomas and Itaya (as Vera F. Kelly)

PRESENTATIONS

"Life Expectancy for Litigation" Collegium of Pecuniary Damage Experts, Las Vegas, Nevada, March 31, 2017

"Juvenile Life Without Parole Sentencing and Resentencing Case Update" CLE presentation (4.5 hours, course no. 168516), University of South Carolina School of Law, Columbia, South Carolina, December 16, 2016

"Isolated Hematuria: What Is the Risk?" Northern California Life Insurance Association, Walnut Creek, California, May 10, 2012

"Positive Cocaine Tests and Mortality" Northern California Life Insurance Association, Berkeley, California, September 17, 2009

PRESENTATIONS, continued

"Actuaries and Public Health: From Analysis to Action" Society of Actuaries Health Spring Meeting, Los Angeles, California, May 28, 2008, with Grady Catterall and Dana Goldman

"Research Results: Potential Impact of a Pandemic on the U.S. Health Insurance System" Society of Actuaries Health Spring Meeting, Los Angeles, California, May 28, 2008, with Jim Toole and Jim Walbridge

"How the World Has Changed, and How Medical Underwriting Will Benefit Your Applicants and Your Companies' Bottom Line" Annual Product Development Actuary Symposium, Denver, Colorado, June 26, 2007, with Robert L. Stout

"Non-Underwritten Life Products – Do They Work?" Annual Product Development Actuary Symposium, Denver, Colorado, June 25, 2007, with Jack Simon

"Pandemics and Extreme Events" Actuarial Society of Greater New York Annual Meeting, New York City, New York, November 9, 2006, with Janet Carstens

"Underwriting Simplified Issue Life Insurance Products" Group Underwriting Association of America, San Diego, California, October 31, 2006, with Ernie Testa

"The Life Settlements Market" Society of Actuaries Annual Meeting, Chicago, Illinois, October 18, 2006, with Tony Duscio and Jay Vadiveloo

"Preparing for Extreme Events" Society of Actuaries Annual Meeting, Chicago, Illinois, October 18, 2006, with Janet Carstens and Max Rudolph

"Pandemic Exposure and Risk Management Strategies in Asia as Compared to the United States" Society of Actuaries Life Spring Meeting, Hollywood, Florida, May 24, 2006, with Ronald Klein

"Current Trends in Distribution Channels: New Underwriting for a New Millennium" Society of Actuaries Life Spring Meeting, New Orleans, Louisiana, May 23, 2005, with Jim McArdle and Ernie Testa

"Gynecologic and Obstetric Disorders" Institute of Caribbean Home Office Underwriters, Almond Beach Resort, Barbados, September 14, 2004

"Sleep Dysfunction and Disorders" Institute of Caribbean Home Office Underwriters, Almond Beach Resort, Barbados, September 13, 2004

"Sleep Dysfunction and Disorders" Western Home Office Underwriters Association, Colorado Springs, Colorado, June 3, 2004

"Nail a Front Door on Your Back Room" Social Enterprise Alliance, San Francisco, California, March 5, 2004, with David Allburn and Russ Combs

PRESENTATIONS, continued

"Multiple Sclerosis" Northern California Life Insurance Association, Emeryville, California, October 22, 2003

"Post-Stroke Morbidity" Northern California Life Insurance Association, San Rafael, California, March 21, 2001

"Variable Life Insurance – The New Frontier!" National Association of Variable Annuities, Palm Beach, Florida, November 6, 2000, with Mark Daley

"Analysis of Profitahility by Customer: Banking Case Study" Society of Actuaries, Orlando, Florida, June 19, 1997, with Rex Atwood and Nancy Church

"Establishing Underwriting Guidelines Using General Population Data" International Underwriting Congress, Mexico City, Mexico, February 25, 1997, with Rick Bergstrom

"They Came for AIDS; They Stayed for Liver" Society of Actuaries, Orlando, Florida, October 28, 1996, with Rick Bergstrom and Hank George

"Detecting and Evaluating Marital Violence" Western Home Office Underwriters Association, Squaw Valley, California, June 9, 1995

Last update March 31, 2017

Exhibit 2

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for all races; N=64,204
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

	All races				Smoothed	US Population	Mortality
Age	Alive	Dead	Total	Mortality Rate	Mortality Rate	Mortality Rate	Ratios (≥5 deaths only)
15	3	0	3	0.000000		0.000439	
16	90	0	90	0.000000		0.000552	
17	831	0	831	0.000000		0.000675	
18	2,272	6	2,278	0.002634	0.002701	0.000807	3.3
19	4,322	12	4,334	0.002769	0.003011	0.000942	3.2
20	6,585	24	6,609	0.003631	0.003233	0.001085	3.0
21	8,457	28	8,485	0.003300	0.003812	0.001216	3.1
22	9,725	44	9,769	0.004504	0.004359	0.001310	3.3
23	10,374	55	10,429	0.005274	0.005486	0.001353	4.1
24	10,409	70	10,479	0.006680	0.006254	0.001358	4.6
25	10,065	69	10,134	0.006809	0.006646	0.001351	4.9
26	9,552	62	9,614	0.006449	0.007431	0.001349	5.5
27	8,993	82	9,075	0.009036	0.007899	0.001353	5.8
28	8,454	70	8,524	0.008212	0.008922	0.001371	6.5
29	8,014	77	8,091	0.009517	0.009048	0.001399	6.5
30	7,681	73	7,754	0.009414	0.009188	0.001432	6.4
31	7,465	65	7,530	0.008632	0.010131	0.001464	6.9
32	7,199	90	7,289	0.012347	0.010670	0.001496	7.1
33	6,904	77	6,981	0.011030	0.011365	0.001528	7.4
34	6,738	73	6,811	0.010718	0.010614	0.001563	6.8
35	6,473	66	6,539	0.010093	0.010348	0.001613	6.4
36	6,288	65	6,353	0.010231	0.011223	0.001682	6.7
37	5,989	81	6,070	0.013344	0.012599	0.001764	7.1
38	5,823	84	5,907	0.014220	0.014226	0.001857	7.7
39	5,670	87	5,757	0.015112	0.015292	0.001964	7.8
40	5,529	93	5,622	0.016542	0.016436	0.002083	7.9
41	5,286	95	5,381	0.017655	0.017101	0.002227	7.7
42	5,114	89	5,203	0.017106	0.017659	0.002414	7.3
43	5,012	93	5,105	0.018217	0.018047	0.002653	6.8
44	4,901	94	4,995	0.018819	0.019173	0.002939	6.5
45	4,734	99	4,833	0.020484	0.021675	0.003243	6.7
46	4,545	120	4,665	0.025723	0.025268	0.003563	7.1
47	4,164	127	4,291	0.029597	0.027663	0.003922	7.1
48	3,971	113	4,084	0.027669	0.030107	0.004320	7.0
49	3,715	127	3,842	0.033056	0.032962	0.004749	6.9
50	3,453	137	3,590	0.038162	0.038314	0.005193	7.4
51	3,193	146	3,339	0.043726	0.041608	0.005647	7.4
52	2,920	131	3,051	0.042937	0.044710	0.006122	7.3
53	2,669	133	2,802	0.047466	0.045803	0.006630	6.9
54	2,372	117	2,489	0.047007	0.050491	0.007181	7.0
55	2,068	125	2,193	0.057000	0.053517	0.007779	6.9
56	1,852	111	1,963	0.056546	0.055167	0.008415	6.6
57	1,624	89	1,713	0.051956	0.057715	0.009074	6.4
58	1,418	98	1,516	0.064644	0.061413	0.009727	6.3
59	1,213	88	1,301	0.067640	0.069713	0.010371	6.7
60	1,057	88	1,145	0.076856	0.078531	0.011034	7.1
61	878	88	966	0.091097	0.082366	0.011738	7.0
62	733	63	796	0.079146	0.086399	0.012489	6.9
63	635	62	697	0.088953	0.083857	0.013335	6.3
64	549	50	599	0.083472	0.085654	0.014319	6.0
65	444	41	485	0.084536	0.087103	0.015482	5.6
66	379	39	418	0.093301	0.096722	0.016824	5.7
67	324	41	365	0.112329	0.097724	0.018330	5.3
68	271	26	297	0.087542	0.091657	0.019900	4.6
69	234	19	253	0.075099	0.089544	0.021539	4.2

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for all races; N=64,204
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	All races Alive	Dead	Total	Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
70	194	23	217	0.105991	0.095649	0.023396	4.1
71	152	20	172	0.116279	0.090170	0.025476	3.5
72	136	14	150	0.093333	0.096203	0.027794	3.5
73	125	8	133	0.060150	0.097922	0.030350	3.2
74	102	12	114	0.105263	0.091534	0.033204	2.8
75	85	11	96	0.114583	0.094742	0.036345	2.6
76	76	7	83	0.084337	0.109378	0.039788	2.7
77	57	7	64	0.109375	0.111855	0.043720	2.6
78	52	8	60	0.133333	0.114580	0.048335	2.4
79	45	6	51	0.117647	0.116462	0.053650	2.2
80	34	5	39	0.128205	0.125356	0.059565	2.1
81	29	3	32	0.093750		0.065848	
82	22	4	26	0.153846		0.072956	
83	20	1	21	0.047619		0.080741	
84	19	0	19	0.000000		0.089357	
85	17	1	18	0.055556		0.099650	
86	14	2	16	0.125000		0.110901	
87	13	1	14	0.071429		0.123146	
88	10	3	13	0.230769		0.136412	
89	13	0	13	0.000000		0.150710	
90	9	0	9	0.000000		0.166038	
91	8	0	8	0.000000		0.182374	
92	7	0	7	0.000000		0.199676	
93	10	0	10	0.000000		0.217880	
94	15	1	16	0.062500		0.236903	
95	2	0	2	0.000000		0.256636	
96	2	0	2	0.000000		0.276954	
97	2	0	2	0.000000		0.297713	
	Total deaths	4,239					

Exhibit 3

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for blacks only; N=40,454
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	Black Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
15	2	0	2	0.000000		0.000655	
16	60	0	60	0.000000		0.000822	
17	543	0	543	0.000000		0.001004	
18	1,504	5	1,509	0.003313	0.003033	0.001206	2.5
19	2,898	8	2,906	0.002753	0.003351	0.001421	2.4
20	4,498	18	4,516	0.003986	0.003383	0.001654	2.0
21	5,847	20	5,867	0.003409	0.004059	0.001874	2.2
22	6,867	33	6,900	0.004783	0.004333	0.002041	2.1
23	7,453	36	7,489	0.004807	0.005139	0.002134	2.4
24	7,508	44	7,552	0.005826	0.005656	0.002168	2.6
25	7,216	46	7,262	0.006334	0.005943	0.002186	2.7
26	6,842	39	6,881	0.005668	0.006574	0.002212	3.0
27	6,426	50	6,476	0.007721	0.007412	0.002230	3.3
28	5,938	53	5,991	0.008847	0.008178	0.002245	3.6
29	5,604	45	5,649	0.007966	0.008357	0.002259	3.7
30	5,284	44	5,328	0.008258	0.007893	0.002267	3.5
31	5,059	38	5,097	0.007455	0.008957	0.002276	3.9
32	4,786	54	4,840	0.011157	0.009753	0.002300	4.2
33	4,554	49	4,603	0.010645	0.010648	0.002350	4.5
34	4,392	45	4,437	0.010142	0.010346	0.002426	4.3
35	4,152	43	4,195	0.010250	0.009901	0.002527	3.9
36	3,937	37	3,974	0.009311	0.010548	0.002646	4.0
37	3,679	45	3,724	0.012084	0.012161	0.002772	4.4
38	3,525	54	3,579	0.015088	0.013441	0.002896	4.6
39	3,452	46	3,498	0.013150	0.015186	0.003027	5.0
40	3,291	58	3,349	0.017319	0.015133	0.003179	4.8
41	3,101	47	3,148	0.014930	0.015972	0.003369	4.7
42	3,016	48	3,064	0.015666	0.015002	0.003607	4.2
43	2,941	43	2,984	0.014410	0.014833	0.003902	3.8
44	2,870	42	2,912	0.014423	0.015822	0.004251	3.7
45	2,739	52	2,791	0.018631	0.019842	0.004616	4.3
46	2,611	71	2,682	0.026473	0.024402	0.005016	4.9
47	2,421	70	2,491	0.028101	0.026482	0.005513	4.8
48	2,274	58	2,332	0.024871	0.026654	0.006129	4.3
49	2,127	59	2,186	0.026990	0.028625	0.006838	4.2
50	1,988	70	2,058	0.034014	0.032107	0.007586	4.2
51	1,830	67	1,897	0.035319	0.035336	0.008344	4.2
52	1,681	64	1,745	0.036676	0.038086	0.009145	4.2
53	1,541	68	1,609	0.042262	0.041294	0.010011	4.1
54	1,360	64	1,424	0.044944	0.046430	0.010959	4.2
55	1,183	65	1,248	0.052083	0.049429	0.011995	4.1
56	1,055	57	1,112	0.051259	0.050691	0.013107	3.9
57	937	48	985	0.048731	0.056749	0.014274	4.0
58	794	60	854	0.070258	0.061732	0.015455	4.0
59	677	48	725	0.066207	0.072218	0.016630	4.3
60	585	51	636	0.080189	0.082261	0.017888	4.6
61	466	52	518	0.100386	0.093277	0.019207	4.9
62	363	40	403	0.099256	0.093367	0.020451	4.6
63	320	28	348	0.080460	0.093350	0.021595	4.3
64	269	30	299	0.100334	0.089763	0.022717	4.0
65	206	20	226	0.088496	0.097257	0.023933	4.1
66	183	21	204	0.102941	0.107622	0.025369	4.2
67	152	23	175	0.131429	0.114021	0.027104	4.2
68	116	14	130	0.107692	0.117090	0.029089	4.0
69	95	12	107	0.112150	0.107763	0.031191	3.5

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for blacks only; N=40,454
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	Black Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
70	78	9	87	0.103448	0.115344	0.033429	3.5
71	60	9	69	0.130435	0.116942	0.035780	3.3
72	55	4	59	0.067797		0.038397	
73	48	3	51	0.058824		0.041254	
74	39	5	44	0.113636		0.044174	
75	30	5	35	0.142857		0.047704	
76	27	2	29	0.068966		0.051047	
77	18	3	21	0.142857		0.054624	
78	17	3	20	0.150000		0.059628	
79	15	2	17	0.117647		0.064976	
80	11	2	13	0.153846		0.070676	
81	9	1	10	0.100000		0.076651	
82	8	0	8	0.000000		0.085516	
83	7	0	7	0.000000		0.092664	
84	6	0	6	0.000000		0.100307	
85	5	0	5	0.000000		0.108460	
86	4	1	5	0.200000		0.117140	
87	5	0	5	0.000000		0.126357	
88	4	0	4	0.000000		0.136120	
89	3	0	3	0.000000		0.146432	
90	2	0	2	0.000000		0.157294	
91	3	0	3	0.000000		0.168701	
92	2	0	2	0.000000		0.180641	
93	3	0	3	0.000000		0.193099	
94	7	0	7	0.000000		0.206052	
95	1	0	1	0.000000		0.219470	
96	1	0	1	0.000000		0.233321	
97	1	0	1	0.000000		0.247561	
Total deaths		2,351					

Exhibit 4

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for whites only; N=22,081
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	White Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
15	1	0	1	0.000000		0.000414	
16	28	0	28	0.000000		0.000522	
17	268	0	268	0.000000		0.000641	
18	717	1	718	0.001393		0.000773	
19	1,325	4	1,329	0.003010		0.000909	
20	1,944	6	1,950	0.003077	0.003181	0.001053	3.0
21	2,427	8	2,435	0.003285	0.003500	0.001185	3.0
22	2,647	11	2,658	0.004138	0.004806	0.001283	3.7
23	2,697	19	2,716	0.006996	0.006919	0.001333	5.2
24	2,676	26	2,702	0.009623	0.008440	0.001349	6.3
25	2,620	23	2,643	0.008702	0.009056	0.001354	6.7
26	2,466	22	2,488	0.008842	0.010391	0.001365	7.6
27	2,316	32	2,348	0.013629	0.009974	0.001379	7.2
28	2,265	17	2,282	0.007450	0.011864	0.001401	8.5
29	2,173	32	2,205	0.014512	0.011735	0.001432	8.2
30	2,161	29	2,190	0.013242	0.013335	0.001467	9.1
31	2,177	27	2,204	0.012250	0.013876	0.001502	9.2
32	2,195	36	2,231	0.016136	0.013753	0.001536	9.0
33	2,147	28	2,175	0.012874	0.013955	0.001570	8.9
34	2,150	28	2,178	0.012856	0.012136	0.001609	7.5
35	2,131	23	2,154	0.010678	0.011928	0.001665	7.2
36	2,177	27	2,204	0.012250	0.013112	0.001742	7.5
37	2,158	36	2,194	0.016408	0.014128	0.001829	7.7
38	2,156	30	2,186	0.013724	0.016339	0.001921	8.5
39	2,078	40	2,118	0.018886	0.016139	0.002023	8.0
40	2,117	34	2,151	0.015807	0.019133	0.002135	9.0
41	2,066	48	2,114	0.022706	0.019370	0.002273	8.5
42	2,001	40	2,041	0.019598	0.022267	0.002459	9.1
43	1,991	50	2,041	0.024498	0.023331	0.002703	8.6
44	1,956	52	2,008	0.025896	0.024755	0.002997	8.3
45	1,922	47	1,969	0.023870	0.025127	0.003309	7.6
46	1,864	49	1,913	0.025614	0.027223	0.003631	7.5
47	1,684	56	1,740	0.032184	0.030095	0.003984	7.6
48	1,638	55	1,693	0.032487	0.035454	0.004366	8.1
49	1,540	67	1,607	0.041693	0.039239	0.004768	8.2
50	1,428	65	1,493	0.043537	0.046941	0.005179	9.1
51	1,325	78	1,403	0.055595	0.050285	0.005596	9.0
52	1,210	66	1,276	0.051724	0.054307	0.006034	9.0
53	1,104	65	1,169	0.055603	0.052714	0.006508	8.1
54	990	53	1,043	0.050815	0.057024	0.007026	8.1
55	868	60	928	0.064655	0.060073	0.007591	7.9
56	780	54	834	0.064748	0.062302	0.008191	7.6
57	672	41	713	0.057504	0.060358	0.008812	6.8
58	608	38	646	0.058824	0.062585	0.009425	6.6
59	520	40	560	0.071429	0.068333	0.010028	6.8
60	458	37	495	0.074747	0.076123	0.010645	7.2
61	402	36	438	0.082192	0.072227	0.011305	6.4
62	362	23	385	0.059740	0.079569	0.012031	6.6
63	308	33	341	0.096774	0.074694	0.012880	5.8
64	276	20	296	0.067568	0.082340	0.013896	5.9
65	233	21	254	0.082677	0.085880	0.015110	5.7
66	191	18	209	0.086124	0.079940	0.016503	4.8
67	169	18	187	0.096257	0.074702	0.018045	4.1
68	153	11	164	0.067073	0.079705	0.019623	4.1
69	139	6	145	0.041379	0.083840	0.021262	3.9

South Carolina DC men admitted 1996 to 2015, followed to 2016
Last admission only, duplicate IDs removed, admission year errors removed
Exposure for whites only; N=22,081
Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	White Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥5 deaths only)
70	116	14	130	0.107692	0.086566	0.023146	3.7
71	92	11	103	0.106796	0.085347	0.025278	3.4
72	81	10	91	0.109890	0.097071	0.027630	3.5
73	77	5	82	0.060976	0.095204	0.030219	3.2
74	63	7	70	0.100000	0.092364	0.033126	2.8
75	55	6	61	0.098361	0.088990	0.036255	2.5
76	49	5	54	0.092593	0.095477	0.039716	2.4
77	39	4	43	0.093023		0.043757	
78	35	5	40	0.125000		0.048405	
79	30	4	34	0.117647		0.053785	
80	23	3	26	0.115385		0.059839	
81	20	2	22	0.090909		0.066176	
82	14	4	18	0.222222		0.073348	
83	13	1	14	0.071429		0.081302	
84	13	0	13	0.000000		0.090236	
85	12	1	13	0.076923		0.100743	
86	10	1	11	0.090909		0.112235	
87	8	1	9	0.111111		0.124750	
88	6	3	9	0.333333		0.138311	
89	7	0	7	0.000000		0.152931	
90	6	0	6	0.000000		0.168603	
91	5	0	5	0.000000		0.185302	
92	5	0	5	0.000000		0.202980	
93	7	0	7	0.000000		0.221569	
94	8	1	9	0.111111		0.240976	
95	1	0	1	0.000000		0.261085	
96	1	0	1	0.000000		0.281762	
97	1	0	1	0.000000		0.302853	
Total deaths		1,874					

EXHIBIT 5

Table 2. Life table for males: United States, 2011

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table02.xlsx.

Age (years)	Probability of dying between ages x and $x+1$	Number surviving to age x	Number dying between ages x and $x+1$	Person-years lived between ages x and $x+1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0–1	0.006575	100,000	658	99,427	7,629,389	76.3
1–2	0.000445	99,342	44	99,320	7,529,961	75.8
2–3	0.000301	99,298	30	99,283	7,430,641	74.8
3–4	0.000240	99,268	24	99,256	7,331,358	73.9
4–5	0.000183	99,244	18	99,235	7,232,101	72.9
5–6	0.000169	99,226	17	99,218	7,132,866	71.9
6–7	0.000150	99,210	15	99,202	7,033,648	70.9
7–8	0.000134	99,195	13	99,188	6,934,446	69.9
8–9	0.000115	99,181	11	99,176	6,835,258	68.9
9–10	0.000097	99,170	10	99,165	6,736,082	67.9
10–11	0.000085	99,160	8	99,156	6,636,917	66.9
11–12	0.000092	99,152	9	99,147	6,537,761	65.9
12–13	0.000132	99,143	13	99,136	6,438,613	64.9
13–14	0.000213	99,130	21	99,119	6,339,477	64.0
14–15	0.000323	99,109	32	99,093	6,240,358	63.0
15–16	0.000439	99,077	43	99,055	6,141,265	62.0
16–17	0.000552	99,033	55	99,006	6,042,210	61.0
17–18	0.000675	98,979	67	98,945	5,943,204	60.0
18–19	0.000807	98,912	80	98,872	5,844,259	59.1
19–20	0.000942	98,832	93	98,785	5,745,387	58.1
20–21	0.001085	98,739	107	98,685	5,646,602	57.2
21–22	0.001216	98,632	120	98,572	5,547,917	56.2
22–23	0.001310	98,512	129	98,447	5,449,345	55.3
23–24	0.001353	98,383	133	98,316	5,350,898	54.4
24–25	0.001358	98,250	133	98,183	5,252,582	53.5
25–26	0.001351	98,116	133	98,050	5,154,399	52.5
26–27	0.001349	97,984	132	97,918	5,056,349	51.6
27–28	0.001353	97,852	132	97,785	4,958,431	50.7
28–29	0.001371	97,719	134	97,652	4,860,646	49.7
29–30	0.001399	97,585	137	97,517	4,762,994	48.8
30–31	0.001432	97,449	140	97,379	4,665,477	47.9
31–32	0.001464	97,309	143	97,238	4,568,098	46.9
32–33	0.001496	97,167	145	97,094	4,470,860	46.0
33–34	0.001528	97,021	148	96,947	4,373,766	45.1
34–35	0.001563	96,873	151	96,797	4,276,819	44.1
35–36	0.001613	96,722	156	96,643	4,180,022	43.2
36–37	0.001682	96,565	162	96,484	4,083,378	42.3
37–38	0.001764	96,403	170	96,318	3,986,894	41.4
38–39	0.001857	96,233	179	96,144	3,890,576	40.4
39–40	0.001964	96,054	189	95,960	3,794,432	39.5
40–41	0.002083	95,866	200	95,766	3,698,472	38.6
41–42	0.002227	95,666	213	95,560	3,602,706	37.7
42–43	0.002414	95,453	230	95,338	3,507,147	36.7
43–44	0.002653	95,223	253	95,096	3,411,809	35.8
44–45	0.002939	94,970	279	94,830	3,316,713	34.9
45–46	0.003243	94,691	307	94,537	3,221,882	34.0
46–47	0.003563	94,384	336	94,216	3,127,345	33.1
47–48	0.003922	94,047	369	93,863	3,033,129	32.3
48–49	0.004320	93,679	405	93,476	2,939,266	31.4
49–50	0.004749	93,274	443	93,052	2,845,790	30.5
50–51	0.005193	92,831	482	92,590	2,752,738	29.7
51–52	0.005647	92,349	522	92,088	2,660,148	28.8
52–53	0.006122	91,827	562	91,546	2,568,060	28.0
53–54	0.006630	91,265	605	90,963	2,476,514	27.1
54–55	0.007181	90,660	651	90,335	2,385,551	26.3
55–56	0.007779	90,009	700	89,659	2,295,216	25.5
56–57	0.008415	89,309	752	88,933	2,205,557	24.7
57–58	0.009074	88,557	804	88,156	2,116,624	23.9
58–59	0.009727	87,754	854	87,327	2,028,469	23.1
59–60	0.010371	86,900	901	86,450	1,941,141	22.3
60–61	0.011034	85,999	949	85,525	1,854,692	21.6

See footnote at end of table.

Table 2. Life table for males: United States, 2011—Con.

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table02.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
61–62	0.011738	85,050	998	84,551	1,769,167	20.8
62–63	0.012489	84,052	1,050	83,527	1,684,616	20.0
63–64	0.013335	83,002	1,107	82,449	1,601,089	19.3
64–65	0.014319	81,895	1,173	81,309	1,518,641	18.5
65–66	0.015482	80,723	1,250	80,098	1,437,332	17.8
66–67	0.016824	79,473	1,337	78,804	1,357,234	17.1
67–68	0.018330	78,136	1,432	77,420	1,278,430	16.4
68–69	0.019900	76,703	1,526	75,940	1,201,010	15.7
69–70	0.021539	75,177	1,619	74,367	1,125,070	15.0
70–71	0.023396	73,558	1,721	72,697	1,050,702	14.3
71–72	0.025476	71,837	1,830	70,922	978,005	13.6
72–73	0.027794	70,007	1,946	69,034	907,083	13.0
73–74	0.030350	68,061	2,066	67,028	838,049	12.3
74–75	0.033204	65,995	2,191	64,900	771,021	11.7
75–76	0.036345	63,804	2,319	62,645	706,121	11.1
76–77	0.039788	61,485	2,446	60,262	643,477	10.5
77–78	0.043720	59,039	2,581	57,748	583,215	9.9
78–79	0.048335	56,458	2,729	55,093	525,467	9.3
79–80	0.053650	53,729	2,883	52,287	470,374	8.8
80–81	0.059565	50,846	3,029	49,332	418,086	8.2
81–82	0.065848	47,817	3,149	46,243	368,754	7.7
82–83	0.072956	44,669	3,259	43,039	322,511	7.2
83–84	0.080741	41,410	3,343	39,738	279,472	6.7
84–85	0.089357	38,066	3,402	36,366	239,734	6.3
85–86	0.099650	34,665	3,454	32,938	203,368	5.9
86–87	0.110901	31,211	3,461	29,480	170,430	5.5
87–88	0.123146	27,749	3,417	26,041	140,950	5.1
88–89	0.136412	24,332	3,319	22,672	114,910	4.7
89–90	0.150710	21,013	3,167	19,429	92,237	4.4
90–91	0.166038	17,846	2,963	16,364	72,808	4.1
91–92	0.182374	14,883	2,714	13,526	56,443	3.8
92–93	0.199676	12,169	2,430	10,954	42,918	3.5
93–94	0.217880	9,739	2,122	8,678	31,964	3.3
94–95	0.236903	7,617	1,804	6,715	23,286	3.1
95–96	0.256636	5,812	1,492	5,067	16,571	2.9
96–97	0.276954	4,321	1,197	3,722	11,505	2.7
97–98	0.297713	3,124	930	2,659	7,782	2.5
98–99	0.318755	2,194	699	1,844	5,123	2.3
99–100	0.339914	1,495	508	1,241	3,279	2.2
100 and over	1.000000	987	987	2,038	2,038	2.1

SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 6

Table 17. Life table for non-Hispanic black males: United States, 2011

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table17.xlsx.

Age (years)	Probability of dying between ages x and $x+1$	Number surviving to age x	Number dying between ages x and $x+1$	Person-years lived between ages x and $x+1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0–1	0.012502	100,000	1,250	98,927	7,173,820	71.7
1–2	0.000674	98,750	67	98,716	7,074,893	71.6
2–3	0.000494	98,683	49	98,659	6,976,177	70.7
3–4	0.000356	98,634	35	98,617	6,877,518	69.7
4–5	0.000316	98,599	31	98,584	6,778,901	68.8
5–6	0.000258	98,568	25	98,555	6,680,317	67.8
6–7	0.000224	98,543	22	98,532	6,581,762	66.8
7–8	0.000193	98,521	19	98,511	6,483,230	65.8
8–9	0.000161	98,502	16	98,494	6,384,719	64.8
9–10	0.000128	98,486	13	98,480	6,286,225	63.8
10–11	0.000107	98,473	11	98,468	6,187,746	62.8
11–12	0.000118	98,463	12	98,457	6,089,278	61.8
12–13	0.000183	98,451	18	98,442	5,990,821	60.9
13–14	0.000310	98,433	31	98,418	5,892,379	59.9
14–15	0.000481	98,402	47	98,379	5,793,961	58.9
15–16	0.000655	98,355	64	98,323	5,695,583	57.9
16–17	0.000822	98,291	81	98,250	5,597,260	56.9
17–18	0.001004	98,210	99	98,160	5,499,010	56.0
18–19	0.001206	98,111	118	98,052	5,400,849	55.0
19–20	0.001421	97,993	139	97,923	5,302,797	54.1
20–21	0.001654	97,854	162	97,773	5,204,874	53.2
21–22	0.001874	97,692	183	97,600	5,107,101	52.3
22–23	0.002041	97,509	199	97,409	5,009,501	51.4
23–24	0.002134	97,310	208	97,206	4,912,092	50.5
24–25	0.002168	97,102	211	96,997	4,814,886	49.6
25–26	0.002186	96,891	212	96,786	4,717,890	48.7
26–27	0.002212	96,680	214	96,573	4,621,104	47.8
27–28	0.002230	96,466	215	96,358	4,524,531	46.9
28–29	0.002245	96,251	216	96,143	4,428,173	46.0
29–30	0.002259	96,035	217	95,926	4,332,030	45.1
30–31	0.002267	95,818	217	95,709	4,236,104	44.2
31–32	0.002276	95,600	218	95,492	4,140,395	43.3
32–33	0.002300	95,383	219	95,273	4,044,904	42.4
33–34	0.002350	95,163	224	95,052	3,949,631	41.5
34–35	0.002426	94,940	230	94,825	3,854,579	40.6
35–36	0.002527	94,709	239	94,590	3,759,755	39.7
36–37	0.002646	94,470	250	94,345	3,665,165	38.8
37–38	0.002772	94,220	261	94,089	3,570,820	37.9
38–39	0.002896	93,959	272	93,823	3,476,730	37.0
39–40	0.003027	93,687	284	93,545	3,382,908	36.1
40–41	0.003179	93,403	297	93,255	3,289,363	35.2
41–42	0.003369	93,106	314	92,949	3,196,108	34.3
42–43	0.003607	92,793	335	92,625	3,103,159	33.4
43–44	0.003902	92,458	361	92,277	3,010,533	32.6
44–45	0.004251	92,097	392	91,901	2,918,256	31.7
45–46	0.004616	91,706	423	91,494	2,826,355	30.8
46–47	0.005016	91,282	458	91,053	2,734,861	30.0
47–48	0.005513	90,824	501	90,574	2,643,807	29.1
48–49	0.006129	90,324	554	90,047	2,553,233	28.3
49–50	0.006838	89,770	614	89,463	2,463,186	27.4
50–51	0.007586	89,156	676	88,818	2,373,723	26.6
51–52	0.008344	88,480	738	88,111	2,284,905	25.8
52–53	0.009145	87,742	802	87,340	2,196,794	25.0
53–54	0.010011	86,939	870	86,504	2,109,454	24.3
54–55	0.010959	86,069	943	85,597	2,022,950	23.5
55–56	0.011995	85,126	1,021	84,615	1,937,352	22.8
56–57	0.013107	84,105	1,102	83,553	1,852,737	22.0
57–58	0.014274	83,002	1,185	82,410	1,769,184	21.3
58–59	0.015455	81,817	1,264	81,185	1,686,774	20.6
59–60	0.016630	80,553	1,340	79,883	1,605,589	19.9
60–61	0.017888	79,213	1,417	78,505	1,525,705	19.3

See footnotes at end of table.

Table 17. Life table for non-Hispanic black males: United States, 2011—Con.

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table17.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
61–62	0.019207	77,796	1,494	77,049	1,447,201	18.6
62–63	0.020451	76,302	1,560	75,522	1,370,151	18.0
63–64	0.021595	74,742	1,614	73,935	1,294,629	17.3
64–65	0.022717	73,128	1,661	72,297	1,220,695	16.7
65–66	0.023933	71,466	1,710	70,611	1,148,398	16.1
66–67	0.025369	69,756	1,770	68,871	1,077,787	15.5
67–68	0.027104	67,986	1,843	67,065	1,008,915	14.8
68–69	0.029089	66,144	1,924	65,182	941,851	14.2
69–70	0.031191	64,220	2,003	63,218	876,669	13.7
70–71	0.033429	62,216	2,080	61,177	813,451	13.1
71–72	0.035780	60,137	2,152	59,061	752,274	12.5
72–73	0.038397	57,985	2,226	56,872	693,214	12.0
73–74	0.041254	55,759	2,300	54,608	636,342	11.4
74–75	0.044174	53,458	2,361	52,278	581,733	10.9
75–76	0.047704	51,097	2,438	49,878	529,456	10.4
76–77	0.051047	48,659	2,484	47,417	479,578	9.9
77–78	0.054624	46,175	2,522	44,914	432,161	9.4
78–79	0.059628	43,653	2,603	42,352	387,246	8.9
79–80	0.064976	41,050	2,667	39,716	344,895	8.4
80–81	0.070676	38,383	2,713	37,026	305,178	8.0
81–82	0.076651	35,670	2,734	34,303	268,152	7.5
82–83	0.085516	32,936	2,817	31,528	233,849	7.1
83–84	0.092664	30,119	2,791	28,724	202,321	6.7
84–85	0.100307	27,328	2,741	25,958	173,597	6.4
85–86	0.108460	24,587	2,667	23,254	147,639	6.0
86–87	0.117140	21,920	2,568	20,637	124,386	5.7
87–88	0.126357	19,353	2,445	18,130	103,749	5.4
88–89	0.136120	16,907	2,301	15,757	85,619	5.1
89–90	0.146432	14,606	2,139	13,537	69,862	4.8
90–91	0.157294	12,467	1,961	11,487	56,326	4.5
91–92	0.168701	10,506	1,772	9,620	44,839	4.3
92–93	0.180641	8,734	1,578	7,945	35,219	4.0
93–94	0.193099	7,156	1,382	6,465	27,274	3.8
94–95	0.206052	5,774	1,190	5,179	20,809	3.6
95–96	0.219470	4,584	1,006	4,081	15,630	3.4
96–97	0.233321	3,578	835	3,161	11,548	3.2
97–98	0.247561	2,743	679	2,404	8,388	3.1
98–99	0.262144	2,064	541	1,794	5,984	2.9
99–100	0.277019	1,523	422	1,312	4,190	2.8
100 and over	1.000000	1,101	1,101	2,878	2,878	2.6

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates.
SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 7

Table 14. Life table for non-Hispanic white males: United States, 2011

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table14.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
0–1	0.005524	100,000	552	99,517	7,643,091	76.4
1–2	0.000413	99,448	41	99,427	7,543,575	75.9
2–3	0.000273	99,407	27	99,393	7,444,148	74.9
3–4	0.000229	99,379	23	99,368	7,344,755	73.9
4–5	0.000156	99,357	15	99,349	7,245,387	72.9
5–6	0.000160	99,341	16	99,333	7,146,038	71.9
6–7	0.000146	99,325	14	99,318	7,046,705	70.9
7–8	0.000132	99,311	13	99,304	6,947,387	70.0
8–9	0.000114	99,298	11	99,292	6,848,082	69.0
9–10	0.000095	99,286	9	99,282	6,748,790	68.0
10–11	0.000082	99,277	8	99,273	6,649,509	67.0
11–12	0.000088	99,269	9	99,264	6,550,236	66.0
12–13	0.000125	99,260	12	99,254	6,450,972	65.0
13–14	0.000201	99,248	20	99,238	6,351,718	64.0
14–15	0.000305	99,228	30	99,213	6,252,480	63.0
15–16	0.000414	99,197	41	99,177	6,153,268	62.0
16–17	0.000522	99,156	52	99,130	6,054,091	61.1
17–18	0.000641	99,105	64	99,073	5,954,960	60.1
18–19	0.000773	99,041	77	99,003	5,855,888	59.1
19–20	0.000909	98,964	90	98,920	5,756,885	58.2
20–21	0.001053	98,875	104	98,822	5,657,965	57.2
21–22	0.001185	98,770	117	98,712	5,559,143	56.3
22–23	0.001283	98,653	127	98,590	5,460,431	55.3
23–24	0.001333	98,527	131	98,461	5,361,841	54.4
24–25	0.001349	98,395	133	98,329	5,263,380	53.5
25–26	0.001354	98,263	133	98,196	5,165,051	52.6
26–27	0.001365	98,130	134	98,063	5,066,855	51.6
27–28	0.001379	97,996	135	97,928	4,968,792	50.7
28–29	0.001401	97,860	137	97,792	4,870,864	49.8
29–30	0.001432	97,723	140	97,653	4,773,072	48.8
30–31	0.001467	97,583	143	97,512	4,675,419	47.9
31–32	0.001502	97,440	146	97,367	4,577,907	47.0
32–33	0.001536	97,294	149	97,219	4,480,540	46.1
33–34	0.001570	97,145	153	97,068	4,383,321	45.1
34–35	0.001609	96,992	156	96,914	4,286,252	44.2
35–36	0.001665	96,836	161	96,755	4,189,338	43.3
36–37	0.001742	96,675	168	96,591	4,092,583	42.3
37–38	0.001829	96,506	177	96,418	3,995,992	41.4
38–39	0.001921	96,330	185	96,237	3,899,574	40.5
39–40	0.002023	96,145	195	96,047	3,803,337	39.6
40–41	0.002135	95,950	205	95,848	3,707,290	38.6
41–42	0.002273	95,745	218	95,637	3,611,442	37.7
42–43	0.002459	95,528	235	95,410	3,515,805	36.8
43–44	0.002703	95,293	258	95,164	3,420,395	35.9
44–45	0.002997	95,035	285	94,893	3,325,231	35.0
45–46	0.003309	94,750	313	94,594	3,230,338	34.1
46–47	0.003631	94,437	343	94,266	3,135,744	33.2
47–48	0.003984	94,094	375	93,907	3,041,479	32.3
48–49	0.004366	93,719	409	93,515	2,947,572	31.5
49–50	0.004768	93,310	445	93,088	2,854,058	30.6
50–51	0.005179	92,865	481	92,625	2,760,970	29.7
51–52	0.005596	92,384	517	92,126	2,668,345	28.9
52–53	0.006034	91,867	554	91,590	2,576,220	28.0
53–54	0.006508	91,313	594	91,016	2,484,630	27.2
54–55	0.007026	90,719	637	90,400	2,393,614	26.4
55–56	0.007591	90,081	684	89,739	2,303,214	25.6
56–57	0.008191	89,397	732	89,031	2,213,475	24.8
57–58	0.008812	88,665	781	88,274	2,124,444	24.0
58–59	0.009425	87,884	828	87,470	2,036,169	23.2
59–60	0.010028	87,056	873	86,619	1,948,700	22.4
60–61	0.010645	86,183	917	85,724	1,862,081	21.6

See footnotes at end of table.

Table 14. Life table for non-Hispanic white males: United States, 2011—Con.

Spreadsheet version available from: ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table14.xlsx.

Age (years)	Probability of dying between ages x and $x+1$ q_x	Number surviving to age x l_x	Number dying between ages x and $x+1$ d_x	Person-years lived between ages x and $x+1$ L_x	Total number of person-years lived above age x T_x	Expectation of life at age x e_x
61–62	0.011305	85,265	964	84,783	1,776,357	20.8
62–63	0.012031	84,301	1,014	83,794	1,691,574	20.1
63–64	0.012880	83,287	1,073	82,751	1,607,780	19.3
64–65	0.013896	82,214	1,142	81,643	1,525,029	18.5
65–66	0.015110	81,072	1,225	80,459	1,443,386	17.8
66–67	0.016503	79,847	1,318	79,188	1,362,927	17.1
67–68	0.018045	78,529	1,417	77,821	1,283,739	16.3
68–69	0.019623	77,112	1,513	76,355	1,205,919	15.6
69–70	0.021262	75,599	1,607	74,795	1,129,563	14.9
70–71	0.023146	73,991	1,713	73,135	1,054,768	14.3
71–72	0.025278	72,279	1,827	71,365	981,633	13.6
72–73	0.027630	70,452	1,947	69,478	910,268	12.9
73–74	0.030219	68,505	2,070	67,470	840,789	12.3
74–75	0.033126	66,435	2,201	65,335	773,319	11.6
75–76	0.036255	64,234	2,329	63,070	707,985	11.0
76–77	0.039716	61,905	2,459	60,676	644,915	10.4
77–78	0.043757	59,447	2,601	58,146	584,239	9.8
78–79	0.048405	56,845	2,752	55,470	526,093	9.3
79–80	0.053785	54,094	2,909	52,639	470,623	8.7
80–81	0.059839	51,184	3,063	49,653	417,984	8.2
81–82	0.066176	48,122	3,184	46,529	368,331	7.7
82–83	0.073348	44,937	3,296	43,289	321,802	7.2
83–84	0.081302	41,641	3,385	39,948	278,513	6.7
84–85	0.090236	38,256	3,452	36,530	238,565	6.2
85–86	0.100743	34,804	3,506	33,050	202,035	5.8
86–87	0.112235	31,297	3,513	29,541	168,985	5.4
87–88	0.124750	27,785	3,466	26,052	139,444	5.0
88–89	0.138311	24,319	3,364	22,637	113,392	4.7
89–90	0.152931	20,955	3,205	19,353	90,755	4.3
90–91	0.168603	17,750	2,993	16,254	71,402	4.0
91–92	0.185302	14,758	2,735	13,390	55,149	3.7
92–93	0.202980	12,023	2,440	10,803	41,758	3.5
93–94	0.221569	9,583	2,123	8,521	30,955	3.2
94–95	0.240976	7,459	1,798	6,561	22,435	3.0
95–96	0.261085	5,662	1,478	4,923	15,874	2.8
96–97	0.281762	4,184	1,179	3,594	10,951	2.6
97–98	0.302853	3,005	910	2,550	7,357	2.4
98–99	0.324194	2,095	679	1,755	4,807	2.3
99–100	0.345609	1,416	489	1,171	3,052	2.2
100 and over	1.000000	926	926	1,881	1,881	2.0

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates.
SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 8

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
0-1	0.006575	1.0	0.0065750	100,000	658	99,427	5,474,009	54.7
1-2	0.000445	1.0	0.0004450	99,342	44	99,320	5,374,582	54.1
2-3	0.000301	1.0	0.0003010	99,298	30	99,283	5,275,262	53.1
3-4	0.000240	1.0	0.0002400	99,268	24	99,256	5,175,979	52.1
4-5	0.000183	1.0	0.0001830	99,244	18	99,235	5,076,723	51.2
5-6	0.000169	1.0	0.0001690	99,226	17	99,218	4,977,488	50.2
6-7	0.000150	1.0	0.0001500	99,209	15	99,202	4,878,271	49.2
7-8	0.000134	1.0	0.0001340	99,194	13	99,188	4,779,069	48.2
8-9	0.000115	1.0	0.0001150	99,181	11	99,176	4,679,882	47.2
9-10	0.000097	1.0	0.0000970	99,170	10	99,165	4,580,706	46.2
10-11	0.000085	1.0	0.0000850	99,160	8	99,156	4,481,541	45.2
11-12	0.000092	1.0	0.0000920	99,152	9	99,148	4,382,385	44.2
12-13	0.000132	1.0	0.0001320	99,143	13	99,137	4,283,238	43.2
13-14	0.000213	1.0	0.0002130	99,130	21	99,120	4,184,101	42.2
14-15	0.000323	1.0	0.0003230	99,109	32	99,093	4,084,982	41.2
15-16	0.000439	1.0	0.0004390	99,077	43	99,056	3,985,889	40.2
16-17	0.000552	1.0	0.0005520	99,034	55	99,007	3,886,833	39.2
17-18	0.000675	1.0	0.0006750	98,979	67	98,946	3,787,827	38.3
18-19	0.000807	3.3	0.0027013	98,912	267	98,779	3,688,881	37.3
19-20	0.000942	3.2	0.0030114	98,645	297	98,497	3,590,103	36.4
20-21	0.001085	3.0	0.0032334	98,348	318	98,189	3,491,606	35.5
21-22	0.001216	3.1	0.0038118	98,030	374	97,843	3,393,417	34.6
22-23	0.001310	3.3	0.0043592	97,656	426	97,443	3,295,574	33.7
23-24	0.001353	4.1	0.0054859	97,230	533	96,964	3,198,131	32.9
24-25	0.001358	4.6	0.0062542	96,697	605	96,395	3,101,168	32.1
25-26	0.001351	4.9	0.0066459	96,092	639	95,773	3,004,773	31.3

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
26-27	0.001349	5.5	0.0074312	95,453	709	95,099	2,909,001	30.5
27-28	0.001353	5.8	0.0078989	94,744	748	94,370	2,813,902	29.7
28-29	0.001371	6.5	0.0089216	93,996	839	93,577	2,719,532	28.9
29-30	0.001399	6.5	0.0090478	93,157	843	92,736	2,625,956	28.2
30-31	0.001432	6.4	0.0091878	92,314	848	91,890	2,533,220	27.4
31-32	0.001464	6.9	0.0101313	91,466	927	91,003	2,441,330	26.7
32-33	0.001496	7.1	0.0106698	90,539	966	90,056	2,350,328	26.0
33-34	0.001528	7.4	0.0113651	89,573	1,018	89,064	2,260,272	25.2
34-35	0.001563	6.8	0.0106137	88,555	940	88,085	2,171,208	24.5
35-36	0.001613	6.4	0.0103475	87,615	907	87,162	2,083,123	23.8
36-37	0.001682	6.7	0.0112230	86,708	973	86,222	1,995,961	23.0
37-38	0.001764	7.1	0.0125987	85,735	1,080	85,195	1,909,740	22.3
38-39	0.001857	7.7	0.0142256	84,655	1,204	84,053	1,824,545	21.6
39-40	0.001964	7.8	0.0152915	83,451	1,276	82,813	1,740,492	20.9
40-41	0.002083	7.9	0.0164363	82,175	1,351	81,500	1,657,679	20.2
41-42	0.002227	7.7	0.0171008	80,824	1,382	80,133	1,576,179	19.5
42-43	0.002414	7.3	0.0176592	79,442	1,403	78,741	1,496,046	18.8
43-44	0.002653	6.8	0.0180473	78,039	1,408	77,335	1,417,306	18.2
44-45	0.002939	6.5	0.0191735	76,631	1,469	75,897	1,339,971	17.5
45-46	0.003243	6.7	0.0216755	75,162	1,629	74,348	1,264,074	16.8
46-47	0.003563	7.1	0.0252682	73,533	1,858	72,604	1,189,727	16.2
47-48	0.003922	7.1	0.0276631	71,675	1,983	70,684	1,117,123	15.6
48-49	0.004320	7.0	0.0301072	69,692	2,098	68,643	1,046,439	15.0
49-50	0.004749	6.9	0.0329621	67,594	2,228	66,480	977,796	14.5
50-51	0.005193	7.4	0.0383143	65,366	2,504	64,114	911,316	13.9
51-52	0.005647	7.4	0.0416080	62,862	2,616	61,554	847,202	13.5

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
52-53	0.006122	7.3	0.0447095	60,246	2,694	58,899	785,648	13.0
53-54	0.006630	6.9	0.0458032	57,552	2,636	56,234	726,749	12.6
54-55	0.007181	7.0	0.0504908	54,916	2,773	53,530	670,515	12.2
55-56	0.007779	6.9	0.0535175	52,143	2,791	50,748	616,986	11.8
56-57	0.008415	6.6	0.0551671	49,352	2,723	47,991	566,238	11.5
57-58	0.009074	6.4	0.0577152	46,629	2,691	45,284	518,248	11.1
58-59	0.009727	6.3	0.0614132	43,938	2,698	42,589	472,964	10.8
59-60	0.010371	6.7	0.0697133	41,240	2,875	39,803	430,375	10.4
60-61	0.011034	7.1	0.0785312	38,365	3,013	36,859	390,573	10.2
61-62	0.011738	7.0	0.0823663	35,352	2,912	33,896	353,714	10.0
62-63	0.012489	6.9	0.0863986	32,440	2,803	31,039	319,818	9.9
63-64	0.013335	6.3	0.0838569	29,637	2,485	28,395	288,780	9.7
64-65	0.014319	6.0	0.0856537	27,152	2,326	25,989	260,385	9.6
65-66	0.015482	5.6	0.0871033	24,826	2,162	23,745	234,396	9.4
66-67	0.016824	5.7	0.0967221	22,664	2,192	21,568	210,651	9.3
67-68	0.018330	5.3	0.0977241	20,472	2,001	19,472	189,083	9.2
68-69	0.019900	4.6	0.0916566	18,471	1,693	17,625	169,612	9.2
69-70	0.021539	4.2	0.0895439	16,778	1,502	16,027	151,987	9.1
70-71	0.023396	4.1	0.0956488	15,276	1,461	14,546	135,960	8.9
71-72	0.025476	3.5	0.0901705	13,815	1,246	13,192	121,415	8.8
72-73	0.027794	3.5	0.0962033	12,569	1,209	11,965	108,223	8.6
73-74	0.030350	3.2	0.0979219	11,360	1,112	10,804	96,258	8.5
74-75	0.033204	2.8	0.0915335	10,248	938	9,779	85,454	8.3

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
75-76	0.036345	2.6	0.0947418	9,310	882	8,869	75,675	8.1
76-77	0.039788	2.7	0.1093784	8,428	922	7,967	66,806	7.9
77-78	0.043720	2.6	0.1118552	7,506	840	7,086	58,839	7.8
78-79	0.048335	2.4	0.1145796	6,666	764	6,284	51,753	7.8
79-80	0.053650	2.2	0.1164621	5,902	687	5,559	45,469	7.7
80-81	0.059565	2.1	0.1253563	5,215	654	4,888	39,911	7.7
81-82	0.065848	1.0	0.0658480	4,561	300	4,411	35,023	7.7
82-83	0.072956	1.0	0.0729560	4,261	311	4,106	30,612	7.2
83-84	0.080741	1.0	0.0807410	3,950	319	3,791	26,506	6.7
84-85	0.089357	1.0	0.0893570	3,631	324	3,469	22,716	6.3
85-86	0.099650	1.0	0.0996500	3,307	330	3,142	19,247	5.8
86-87	0.110901	1.0	0.1109010	2,977	330	2,812	16,105	5.4
87-88	0.123146	1.0	0.1231460	2,647	326	2,484	13,293	5.0
88-89	0.136412	1.0	0.1364120	2,321	317	2,163	10,809	4.7
89-90	0.150710	1.0	0.1507100	2,004	302	1,853	8,646	4.3
90-91	0.166038	1.0	0.1660380	1,702	283	1,561	6,793	4.0
91-92	0.182374	1.0	0.1823740	1,419	259	1,290	5,233	3.7
92-93	0.199676	1.0	0.1996760	1,160	232	1,044	3,943	3.4
93-94	0.217880	1.0	0.2178800	928	202	827	2,899	3.1
94-95	0.236903	1.0	0.2369030	726	172	640	2,072	2.9
95-96	0.256636	1.0	0.2566360	554	142	483	1,432	2.6
96-97	0.276954	1.0	0.2769540	412	114	355	949	2.3
97-98	0.297713	1.0	0.2977130	298	89	254	594	2.0
98-99	0.318755	1.0	0.3187550	209	67	176	341	1.6
99-100	0.339914	1.0	0.3399140	142	48	118	165	1.2
100+	1.00000	1.0	1.0000000	94	94	47	47	0.5

EXHIBIT 9

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
0-1	0.012502	1.0	0.0125020	100,000	1,250	99,007	5,516,944	55.2
1-2	0.000674	1.0	0.0006740	98,750	67	98,717	5,417,937	54.9
2-3	0.000494	1.0	0.0004940	98,683	49	98,659	5,319,221	53.9
3-4	0.000356	1.0	0.0003560	98,634	35	98,617	5,220,562	52.9
4-5	0.000316	1.0	0.0003160	98,599	31	98,584	5,121,946	51.9
5-6	0.000258	1.0	0.0002580	98,568	25	98,556	5,023,362	51.0
6-7	0.000224	1.0	0.0002240	98,543	22	98,532	4,924,807	50.0
7-8	0.000193	1.0	0.0001930	98,521	19	98,512	4,826,275	49.0
8-9	0.000161	1.0	0.0001610	98,502	16	98,494	4,727,763	48.0
9-10	0.000128	1.0	0.0001280	98,486	13	98,480	4,629,269	47.0
10-11	0.000107	1.0	0.0001070	98,473	11	98,468	4,530,790	46.0
11-12	0.000118	1.0	0.0001180	98,462	12	98,456	4,432,322	45.0
12-13	0.000183	1.0	0.0001830	98,450	18	98,441	4,333,866	44.0
13-14	0.000310	1.0	0.0003100	98,432	31	98,417	4,235,425	43.0
14-15	0.000481	1.0	0.0004810	98,401	47	98,378	4,137,009	42.0
15-16	0.000655	1.0	0.0006550	98,354	64	98,322	4,038,631	41.1
16-17	0.000822	1.0	0.0008220	98,290	81	98,250	3,940,309	40.1
17-18	0.001004	1.0	0.0010040	98,209	99	98,160	3,842,060	39.1
18-19	0.001206	2.5	0.0030332	98,110	298	97,961	3,743,900	38.2
19-20	0.001421	2.4	0.0033507	97,812	328	97,648	3,645,939	37.3
20-21	0.001654	2.0	0.0033826	97,484	330	97,319	3,548,291	36.4
21-22	0.001874	2.2	0.0040591	97,154	394	96,957	3,450,972	35.5
22-23	0.002041	2.1	0.0043329	96,760	419	96,551	3,354,015	34.7
23-24	0.002134	2.4	0.0051386	96,341	495	96,094	3,257,465	33.8
24-25	0.002168	2.6	0.0056559	95,846	542	95,575	3,161,371	33.0
25-26	0.002186	2.7	0.0059428	95,304	566	95,021	3,065,796	32.2

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
26-27	0.002212	3.0	0.0065743	94,738	623	94,427	2,970,775	31.4
27-28	0.002230	3.3	0.0074117	94,115	698	93,766	2,876,349	30.6
28-29	0.002245	3.6	0.0081778	93,417	764	93,035	2,782,583	29.8
29-30	0.002259	3.7	0.0083570	92,653	774	92,266	2,689,548	29.0
30-31	0.002267	3.5	0.0078932	91,879	725	91,517	2,597,282	28.3
31-32	0.002276	3.9	0.0089569	91,154	816	90,746	2,505,765	27.5
32-33	0.002300	4.2	0.0097525	90,338	881	89,898	2,415,019	26.7
33-34	0.002350	4.5	0.0106481	89,457	953	88,981	2,325,122	26.0
34-35	0.002426	4.3	0.0103458	88,504	916	88,046	2,236,141	25.3
35-36	0.002527	3.9	0.0099009	87,588	867	87,155	2,148,095	24.5
36-37	0.002646	4.0	0.0105482	86,721	915	86,264	2,060,941	23.8
37-38	0.002772	4.4	0.0121608	85,806	1,043	85,285	1,974,677	23.0
38-39	0.002896	4.6	0.0134407	84,763	1,139	84,194	1,889,393	22.3
39-40	0.003027	5.0	0.0151857	83,624	1,270	82,989	1,805,199	21.6
40-41	0.003179	4.8	0.0151330	82,354	1,246	81,731	1,722,210	20.9
41-42	0.003369	4.7	0.0159715	81,108	1,295	80,461	1,640,479	20.2
42-43	0.003607	4.2	0.0150020	79,813	1,197	79,215	1,560,019	19.5
43-44	0.003902	3.8	0.0148330	78,616	1,166	78,033	1,480,804	18.8
44-45	0.004251	3.7	0.0158215	77,450	1,225	76,838	1,402,771	18.1
45-46	0.004616	4.3	0.0198424	76,225	1,512	75,469	1,325,934	17.4
46-47	0.005016	4.9	0.0244018	74,713	1,823	73,802	1,250,465	16.7
47-48	0.005513	4.8	0.0264818	72,890	1,930	71,925	1,176,663	16.1
48-49	0.006129	4.3	0.0266542	70,960	1,891	70,015	1,104,738	15.6
49-50	0.006838	4.2	0.0286250	69,069	1,977	68,081	1,034,724	15.0
50-51	0.007586	4.2	0.0321075	67,092	2,154	66,015	966,643	14.4
51-52	0.008344	4.2	0.0353362	64,938	2,295	63,791	900,628	13.9

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
52-53	0.009145	4.2	0.0380858	62,643	2,386	61,450	836,838	13.4
53-54	0.010011	4.1	0.0412941	60,257	2,488	59,013	775,388	12.9
54-55	0.010959	4.2	0.0464298	57,769	2,682	56,428	716,375	12.4
55-56	0.011995	4.1	0.0494287	55,087	2,723	53,726	659,947	12.0
56-57	0.013107	3.9	0.0506911	52,364	2,654	51,037	606,221	11.6
57-58	0.014274	4.0	0.0567492	49,710	2,821	48,300	555,184	11.2
58-59	0.015455	4.0	0.0617318	46,889	2,895	45,442	506,885	10.8
59-60	0.016630	4.3	0.0722177	43,994	3,177	42,406	461,443	10.5
60-61	0.017888	4.6	0.0822606	40,817	3,358	39,138	419,038	10.3
61-62	0.019207	4.9	0.0932768	37,459	3,494	35,712	379,900	10.1
62-63	0.020451	4.6	0.0933672	33,965	3,171	32,380	344,188	10.1
63-64	0.021595	4.3	0.0933499	30,794	2,875	29,357	311,808	10.1
64-65	0.022717	4.0	0.0897633	27,919	2,506	26,666	282,452	10.1
65-66	0.023933	4.1	0.0972571	25,413	2,472	24,177	255,786	10.1
66-67	0.025369	4.2	0.1076218	22,941	2,469	21,707	231,609	10.1
67-68	0.027104	4.2	0.1140207	20,472	2,334	19,305	209,902	10.3
68-69	0.029089	4.0	0.1170901	18,138	2,124	17,076	190,597	10.5
69-70	0.031191	3.5	0.1077634	16,014	1,726	15,151	173,521	10.8
70-71	0.033429	3.5	0.1153442	14,288	1,648	13,464	158,370	11.1
71-72	0.035780	3.3	0.1169415	12,640	1,478	11,901	144,906	11.5
72-73	0.038397	1.0	0.0383970	11,162	429	10,948	133,005	11.9
73-74	0.041254	1.0	0.0412540	10,733	443	10,512	122,058	11.4
74-75	0.044174	1.0	0.0441740	10,290	455	10,063	111,546	10.8

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
75-76	0.047704	1.0	0.0477040	9,835	469	9,601	101,484	10.3
76-77	0.051047	1.0	0.0510470	9,366	478	9,127	91,883	9.8
77-78	0.054624	1.0	0.0546240	8,888	485	8,646	82,756	9.3
78-79	0.059628	1.0	0.0596280	8,403	501	8,153	74,111	8.8
79-80	0.064976	1.0	0.0649760	7,902	513	7,646	65,958	8.3
80-81	0.070676	1.0	0.0706760	7,389	522	7,128	58,313	7.9
81-82	0.076651	1.0	0.0766510	6,867	526	6,604	51,185	7.5
82-83	0.085516	1.0	0.0855160	6,341	542	6,070	44,581	7.0
83-84	0.092664	1.0	0.0926640	5,799	537	5,531	38,511	6.6
84-85	0.100307	1.0	0.1003070	5,262	528	4,998	32,980	6.3
85-86	0.108460	1.0	0.1084600	4,734	513	4,478	27,982	5.9
86-87	0.117140	1.0	0.1171400	4,221	494	3,974	23,505	5.6
87-88	0.126357	1.0	0.1263570	3,727	471	3,492	19,531	5.2
88-89	0.136120	1.0	0.1361200	3,256	443	3,035	16,039	4.9
89-90	0.146432	1.0	0.1464320	2,813	412	2,607	13,005	4.6
90-91	0.157294	1.0	0.1572940	2,401	378	2,212	10,398	4.3
91-92	0.168701	1.0	0.1687010	2,023	341	1,853	8,186	4.0
92-93	0.180641	1.0	0.1806410	1,682	304	1,530	6,333	3.8
93-94	0.193099	1.0	0.1930990	1,378	266	1,245	4,803	3.5
94-95	0.206052	1.0	0.2060520	1,112	229	998	3,558	3.2
95-96	0.219470	1.0	0.2194700	883	194	786	2,561	2.9
96-97	0.233321	1.0	0.2333210	689	161	609	1,775	2.6
97-98	0.247561	1.0	0.2475610	528	131	463	1,166	2.2
98-99	0.262144	1.0	0.2621440	397	104	345	704	1.8
99-100	0.277019	1.0	0.2770190	293	81	253	359	1.2
100+	1.00000	1.0	1.0000000	212	212	106	106	0.5

EXHIBIT 10

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
0-1	0.005524	1.0	0.0055240	100,000	552	99,517	5,349,849	53.5
1-2	0.000413	1.0	0.0004130	99,448	41	99,428	5,250,332	52.8
2-3	0.000273	1.0	0.0002730	99,407	27	99,394	5,150,905	51.8
3-4	0.000229	1.0	0.0002290	99,380	23	99,369	5,051,511	50.8
4-5	0.000156	1.0	0.0001560	99,357	15	99,350	4,952,143	49.8
5-6	0.000160	1.0	0.0001600	99,342	16	99,334	4,852,793	48.8
6-7	0.000146	1.0	0.0001460	99,326	15	99,319	4,753,459	47.9
7-8	0.000132	1.0	0.0001320	99,311	13	99,305	4,654,141	46.9
8-9	0.000114	1.0	0.0001140	99,298	11	99,293	4,554,836	45.9
9-10	0.000095	1.0	0.0000950	99,287	9	99,283	4,455,544	44.9
10-11	0.000082	1.0	0.0000820	99,278	8	99,274	4,356,261	43.9
11-12	0.000088	1.0	0.0000880	99,270	9	99,266	4,256,987	42.9
12-13	0.000125	1.0	0.0001250	99,261	12	99,255	4,157,722	41.9
13-14	0.000201	1.0	0.0002010	99,249	20	99,239	4,058,467	40.9
14-15	0.000305	1.0	0.0003050	99,229	30	99,214	3,959,228	39.9
15-16	0.000414	1.0	0.0004140	99,199	41	99,179	3,860,014	38.9
16-17	0.000522	1.0	0.0005220	99,158	52	99,132	3,760,835	37.9
17-18	0.000641	1.0	0.0006410	99,106	64	99,074	3,661,703	36.9
18-19	0.000773	1.0	0.0007730	99,042	77	99,004	3,562,629	36.0
19-20	0.000909	1.0	0.0009090	98,965	90	98,920	3,463,626	35.0
20-21	0.001053	3.0	0.0031812	98,875	315	98,718	3,364,706	34.0
21-22	0.001185	3.0	0.0035003	98,560	345	98,388	3,265,988	33.1
22-23	0.001283	3.7	0.0048065	98,215	472	97,979	3,167,601	32.3
23-24	0.001333	5.2	0.0069188	97,743	676	97,405	3,069,622	31.4
24-25	0.001349	6.3	0.0084401	97,067	819	96,658	2,972,217	30.6
25-26	0.001354	6.7	0.0090557	96,248	872	95,812	2,875,559	29.9

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
26-27	0.001365	7.6	0.0103911	95,376	991	94,881	2,779,747	29.1
27-28	0.001379	7.2	0.0099736	94,385	941	93,915	2,684,867	28.4
28-29	0.001401	8.5	0.0118636	93,444	1,109	92,890	2,590,952	27.7
29-30	0.001432	8.2	0.0117347	92,335	1,084	91,793	2,498,063	27.1
30-31	0.001467	9.1	0.0133350	91,251	1,217	90,643	2,406,270	26.4
31-32	0.001502	9.2	0.0138762	90,034	1,249	89,410	2,315,627	25.7
32-33	0.001536	9.0	0.0137534	88,785	1,221	88,175	2,226,218	25.1
33-34	0.001570	8.9	0.0139552	87,564	1,222	86,953	2,138,043	24.4
34-35	0.001609	7.5	0.0121357	86,342	1,048	85,818	2,051,090	23.8
35-36	0.001665	7.2	0.0119280	85,294	1,017	84,786	1,965,272	23.0
36-37	0.001742	7.5	0.0131122	84,277	1,105	83,725	1,880,487	22.3
37-38	0.001829	7.7	0.0141275	83,172	1,175	82,585	1,796,762	21.6
38-39	0.001921	8.5	0.0163393	81,997	1,340	81,327	1,714,178	20.9
39-40	0.002023	8.0	0.0161387	80,657	1,302	80,006	1,632,851	20.2
40-41	0.002135	9.0	0.0191327	79,355	1,518	78,596	1,552,845	19.6
41-42	0.002273	8.5	0.0193702	77,837	1,508	77,083	1,474,249	18.9
42-43	0.002459	9.1	0.0222673	76,329	1,700	75,479	1,397,166	18.3
43-44	0.002703	8.6	0.0233308	74,629	1,741	73,759	1,321,687	17.7
44-45	0.002997	8.3	0.0247547	72,888	1,804	71,986	1,247,928	17.1
45-46	0.003309	7.6	0.0251269	71,084	1,786	70,191	1,175,942	16.5
46-47	0.003631	7.5	0.0272227	69,298	1,886	68,355	1,105,751	16.0
47-48	0.003984	7.6	0.0300949	67,412	2,029	66,398	1,037,396	15.4
48-49	0.004366	8.1	0.0354544	65,383	2,318	64,224	970,999	14.9
49-50	0.004768	8.2	0.0392386	63,065	2,475	61,828	906,775	14.4
50-51	0.005179	9.1	0.0469414	60,590	2,844	59,168	844,947	13.9
51-52	0.005596	9.0	0.0502853	57,746	2,904	56,294	785,779	13.6

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
52-53	0.006034	9.0	0.0543075	54,842	2,978	53,353	729,485	13.3
53-54	0.006508	8.1	0.0527141	51,864	2,734	50,497	676,132	13.0
54-55	0.007026	8.1	0.0570244	49,130	2,802	47,729	625,635	12.7
55-56	0.007591	7.9	0.0600728	46,328	2,783	44,937	577,906	12.5
56-57	0.008191	7.6	0.0623023	43,545	2,713	42,189	532,970	12.2
57-58	0.008812	6.8	0.0603584	40,832	2,465	39,600	490,781	12.0
58-59	0.009425	6.6	0.0625852	38,367	2,401	37,167	451,182	11.8
59-60	0.010028	6.8	0.0683332	35,966	2,458	34,737	414,015	11.5
60-61	0.010645	7.2	0.0761226	33,508	2,551	32,233	379,278	11.3
61-62	0.011305	6.4	0.0722265	30,957	2,236	29,839	347,046	11.2
62-63	0.012031	6.6	0.0795687	28,721	2,285	27,579	317,207	11.0
63-64	0.012880	5.8	0.0746940	26,436	1,975	25,449	289,628	11.0
64-65	0.013896	5.9	0.0823396	24,461	2,014	23,454	264,180	10.8
65-66	0.015110	5.7	0.0858800	22,447	1,928	21,483	240,726	10.7
66-67	0.016503	4.8	0.0799398	20,519	1,640	19,699	219,243	10.7
67-68	0.018045	4.1	0.0747021	18,879	1,410	18,174	199,544	10.6
68-69	0.019623	4.1	0.0797052	17,469	1,392	16,773	181,370	10.4
69-70	0.021262	3.9	0.0838395	16,077	1,348	15,403	164,597	10.2
70-71	0.023146	3.7	0.0865662	14,729	1,275	14,092	149,194	10.1
71-72	0.025278	3.4	0.0853467	13,454	1,148	12,880	135,102	10.0
72-73	0.027630	3.5	0.0970708	12,306	1,195	11,709	122,222	9.9
73-74	0.030219	3.2	0.0952045	11,111	1,058	10,582	110,514	9.9
74-75	0.033126	2.8	0.0923638	10,053	929	9,589	99,932	9.9

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy $\dot{e}_x$
75-76	0.036255	2.5	0.0889904	9,124	812	8,718	90,343	9.9
76-77	0.039716	2.4	0.0954766	8,312	794	7,915	81,625	9.8
77-78	0.043757	1.0	0.0437570	7,518	329	7,354	73,710	9.8
78-79	0.048405	1.0	0.0484050	7,189	348	7,015	66,357	9.2
79-80	0.053785	1.0	0.0537850	6,841	368	6,657	59,342	8.7
80-81	0.059839	1.0	0.0598390	6,473	387	6,280	52,685	8.1
81-82	0.066176	1.0	0.0661760	6,086	403	5,885	46,405	7.6
82-83	0.073348	1.0	0.0733480	5,683	417	5,475	40,521	7.1
83-84	0.081302	1.0	0.0813020	5,266	428	5,052	35,046	6.7
84-85	0.090236	1.0	0.0902360	4,838	437	4,620	29,994	6.2
85-86	0.100743	1.0	0.1007430	4,401	443	4,180	25,375	5.8
86-87	0.112235	1.0	0.1122350	3,958	444	3,736	21,195	5.4
87-88	0.124750	1.0	0.1247500	3,514	438	3,295	17,459	5.0
88-89	0.138311	1.0	0.1383110	3,076	425	2,864	14,164	4.6
89-90	0.152931	1.0	0.1529310	2,651	405	2,449	11,301	4.3
90-91	0.168603	1.0	0.1686030	2,246	379	2,057	8,852	3.9
91-92	0.185302	1.0	0.1853020	1,867	346	1,694	6,796	3.6
92-93	0.202980	1.0	0.2029800	1,521	309	1,367	5,102	3.4
93-94	0.221569	1.0	0.2215690	1,212	269	1,078	3,735	3.1
94-95	0.240976	1.0	0.2409760	943	227	830	2,658	2.8
95-96	0.261085	1.0	0.2610850	716	187	623	1,828	2.6
96-97	0.281762	1.0	0.2817620	529	149	455	1,206	2.3
97-98	0.302853	1.0	0.3028530	380	115	323	751	2.0
98-99	0.324194	1.0	0.3241940	265	86	222	429	1.6
99-100	0.345609	1.0	0.3456090	179	62	148	207	1.2
100+	1.00000	1.0	1.0000000	117	117	59	59	0.5

ATTACHMENT 6

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF CHEROKEE	)	CASE NO.: 2015-CP-11-0381
John B. Bonner #338030, Petitioner,	)	
v.	)	**Order of the Court**
State of South Carolina, Respondent.	)	

FILED IN THE OFFICE
CLERK OF COURT
2017 JAN 30 P 3:23
RANDY W. HOBBS
CHEROKEE COUNTY, SC

DATE OF HEARING: Wednesday, November 9, 2016
TRIAL JUDGE: The Hon. Frank R. Addy, Jr.
PETITIONER'S ATTORNEY: Steven D. Epps, Esq.
RESPONDENT'S ATTORNEY: Alicia A. Olive, Esq
COURT REPORTER: Julie A. Ashbrook

THIS MATTER came before the Court pursuant to Petitioner's application for Post-Conviction Relief (PCR) filed May 12, 2015 which was amended by a Supplemental Petition filed October 26, 2016. This Court reviewed the file and conducted a PCR hearing in this matter on the above date where Petitioner and Petitioner's former attorneys, Joshua Schultz and Susan Hackett, were sworn in and presented testimony. Based upon the evidence presented to the Court and the arguments of counsel, the Court makes the following findings of fact and conclusions of law:

Findings of Fact

1. Petitioner was charged with various crimes which occurred while he was a juvenile. He proceeded to trial and was convicted of Burglary, 1st Degree, Burglary, 2nd Degree, Kidnapping, Armed Robbery, Assault and Battery of a High and Aggravated Nature (ABHAN), and Grand Larceny on November 18, 2009 in Cherokee County. Petitioner was sentenced as follows: Burglary 1st, Life without Parole (LWoP); Burglary 2nd, 15 years; Kidnapping, 30 years; Armed Robbery, 30 years; ABHAN, 10 years; and Grand

Larceny, 5 years. All of the above sentences were to run concurrent except for the 10-year sentence to ABHAN which ran consecutive to all sentences.

2. On May 17, 2010, the United States Supreme Court issued its decision in Graham v. Florida, 130 S.Ct. 2011 ("Graham"). Among other things, the Court held "[t]he Constitution prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide. A State need not guarantee the offender eventual release, but if it imposes a sentence of life it must provide him or her with some realistic opportunity to obtain release before the end of that term." Graham, 130 S.Ct. ____, 560 U.S. ___ (slip. op. at 32) (2010).

3. On appeal, the Court of Appeals found Petitioner's LWoP sentence to his charge of Burglary, 1st degree violated the Eighth and Fourteenth Amendments of the U.S. Constitution pursuant to Graham and remanded that sentence for resentencing on November 14, 2012. See State v. Bonner, Op. No. 5048 (S.C. Ct. App. filed November 14, 2012).

FILED IN THE OFFICE
CLERK OF COURT
2013 JAN 30 P 3:23
CHEROKEE COUNTY, SC

4. Petitioner, represented by his original trial counsel, Joshua Schultz, was resentenced on January 22, 2013 by The Honorable J. Derham Cole. At the resentencing, Judge Cole sentenced Petitioner to a term of 60 years on the Burglary, 1st degree charge. This sentence, in following with the other sentences handed down after the trial, would be followed by a 10-year consecutive sentence on an ABHAN charge, as mentioned above.

5. Attorney Schultz did not object to the 60-year sentence handed down by Judge Cole during Petitioner's resentencing hearing nor did he request a reconsideration of the 60-year sentence. He further did not object to, or request reconsideration of, that

sentence relative to the consecutive 10-year ABHAN sentence which was to be served after it. He did file a Notice of Appeal as to the 60-year sentence but the Court of Appeals affirmed holding no issue had been preserved for appellate review. See State v. Bonner, Op. No. 14-UP-401 (S.C. Ct. App. filed November 12, 2014).

6. Evidence was presented to the Court that Petitioner is currently confined within the Department of Corrections on the above charges with a release date of February 5, 2064. At that point in time, Petitioner will be 73 years and 13 days old. He is classified by the Department of Corrections as ineligible for parole as his sentence "max out" date comes before his parole eligibility date. Therefore, there is a strong possibility that Judge Cole's resentencing of Petitioner to a 60-year sentence on a Burglary 1st degree charge coupled with a 10-year consecutive sentence to ABHAN will result in a *de facto* life sentence depriving Petitioner of a realistic opportunity to obtain release before the end of his prison term in violation of Graham.

FILED IN THE OFFICE
CLERK OF COURT
2017 JAN 10 P 3:23
BARBARA W. MCBEE
CHEROKEE COUNTY, SC

Conclusions of Law

1. These above issues were not preserved for appellate review by attorney Schultz and, thus, the Court of Appeals did not rule upon them. This Court finds Mr. Schultz was ineffective for failing to object to, or file a motion to reconsider, Judge Cole's 60-year resentencing on the LWoP charge, particularly in that there was also a 10-year concurrent sentence for ABHAN after it. This ineffectiveness was prejudicial to Petitioner as it denied him any meaningful opportunity to appeal this 60 + 10 year sentence, as shown above.

2. Accordingly, this Court grants Petitioner's request for relief in this PCR solely on the issue of whether Petitioner may file a motion for reconsideration as to the 60-year sentence for Burglary, 1st degree with a consecutive sentence of 10 years for ABHAN.

AND IT IS SO ORDERED.

~~December~~ Jan. 26, 2017
Greenwood, South Carolina

~~The Honorable~~ Frank R. Addy, Jr.
Circuit Court Judge

FILED IN THE OFFICE
CLERK OF COURT
2017 JAN 30 P 3:23
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

FILED IN THE OFFICE
CLERK OF COURT

2017 JAN 30 P 3:24

BRANDY W. MCBEE
CHEROKEE COUNTY, SC

Steven D. Epps
104-A Franklin Ave
#281
Spartanburg, SC 29301



ZIP 29340
041L11245001

neopost
01/30/2017
US POSTAGE
$00.46°

FIRST-CLASS MAIL

After 5 Days Return To:
Mrs. Brandy W. McBee
Clerk Of Court, Cherokee County
Post Office Drawer 2289
Gaffney, S.C. 29342

After 5 Days Return To:
Mrs. Brandy W. McBee
Clerk Of Court, Cherokee County
Post Office Drawer 2289
Gaffney, S.C. 29342



neopost
01/30/2017
US POSTAGE
$00.46°

FIRST-CLASS MAIL

ZIP 29340
041L11245001

Office Of Attorney General
P. O. Box 11549
Columbia, SC 29211

Attention: Ashley Haworth

ATTACHMENT 7

The Supreme Court of South Carolina

John B. Bonner, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2017-000758
Lower Court Case No. 2015-CP-11-00381

ORDER

Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY _____
CLERK

Columbia, South Carolina

February 20, 2019

cc:
Lindsey Sterling Vann, Esquire
Johnny Ellis James, Jr., Esquire

2019A46 20300468 - 473
SCANNED

FILED-RECEIVED
2021 OCT -5 PM 2:41
DAVID HAMILTON
C.C.C.P. & G.S.
YORK COUNTY, SC

STATE OF SOUTH CAROLINA COUNTY OF York	IN THE COURT OF GENERAL SESSIONS SIXTEENTH JUDICIAL CIRCUIT OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION AND REDUCTION OF SENTENCE
State of South Carolina, vs. Terry Shaimek Tyler, Defendant.	2019GS4601336-1340 & 2019GS4601336A

Assistant Solicitors Sharon Ohayon and Christopher Epting represented the State of South Carolina at a sentencing hearing on the above referenced indictments held on August 16, 2021, in front of this Honorable Court, and the defendant was represented by his retained counsel, Zachary Merritt of the Michael Brown Law Firm. The sentencing hearing was lengthy, spanning over four hours, and the Court heard from the State regarding sentencing, including testimony from the Victim, as well as lengthy mitigation from the Defendant, including a defense expert. At the conclusion of both presentations, the Court sentenced the Defendant to two 30 year sentences, to be served consecutively. On August 26, 2021, the State was served with the Defendant's Motion to Reconsider and Reduce Sentence with additional affidavits and a memorandum served on September 27, 2021. The State answers as follows using the same numbering system as the Defendant:

1. As to the objection under the United States Constitution, as well as the South Carolina Constitution, that this Court's sentence amounts to a *de facto* life sentence, the State avers that the Court both heard argument on this issue and ruled correctly according to the law as it existed at the time of sentencing. Defense's argument has been specifically addressed in State v. Finley, 427 S.C. 419, 427-28, 831 S.E.2d 158, 162 (Ct. App. 2019) (providing that a juvenile sentenced to life was not entitled to a Byars hearing since he was eligible for parole after 30 years).
2. The State respectfully disagrees with the Defendant's assertion that the Court did not sufficiently consider the factors in Aiken v. Byars. First, the Court correctly concluded that Aiken v. Byars did not apply to the sentencing at hand. Finally, even in light of this correct finding, the Court, after lengthy presentations from both the State and the Defense, out of an

abundance of caution, weighed the factors that require analysis under Aiken v. Byars, after hearing from the Defendant, a defense expert, and the Defendant's family regarding the defendant's chronological age; his home environment; his ability to assist his attorneys in preparing the case; the role of peer pressure (or lack thereof) in the crime, as well as the Defendant's possibility of rehabilitation. Aiken v. Byars, 410 S.C. 534, 544, 765 S.E.2d 572, 577 (2014). The Court's analysis was both thorough and correct, and the defense was able to gather material over a period of representation of over a year (as well as an additional extension from a month prior to the sentencing, when the defendant entered his plea of guilt). The court noted that there was no credible evidence that the Defendant faced any peer pressure in committing this crime and that the details of the crime exhibited preparation and planning.

3. The State respectfully disagrees that the defendant was given a more severe sentence because of his youth in violation of the Constitution. The State avers that the Defendant was sentenced on the facts of the case and evidence presented regarding his potential for rehabilitation. This Court repeatedly stated when announcing the sentence that the Court took into consideration the defendant's complete lack of contrition and remorse as well as the preparation and planning that obviously went into this crime. His age did not adversely affect the Court's judgment.
4. The State respeetfully disagrees that the Court's sentence was not proportional. As was observed in the sentencing, the facts of this case were unique and aggravating, and received due consideration from the court.
5. As this point was withdrawn by the Defense, the State will not address the assertions made.
6. The State respectfully disagrees that the Court gave incorrect weight to Dr. Salas's findings. Dr. Salas presented her findings to the court, along with accompanying documentation and a lengthy in court presentation. After reviewing the materials provided by Dr. Salas, the Court engaged in a lengthy discussion on the reeord with the expert discussing her findings. The State avers that the Court thoroughly reviewed the findings of Dr. Salas and gave her testimony and opinion the appropriate weight.
7. The State respectfully disagrees with the points made in this portion of the Defendant's motion with qualification. Defense cites to S.C. Code Ann. § 63-1-40; it is the State's position that the governing statute is code S.C. Code Ann. § 63-19-20, which at the time of the Defendant's arrest and charging in 2019 provided that "'Child' or 'juvenile' does not mean a person sixteen years of age or older who is charged with a Class A, B, C, or D felony..." Both of the crimes for which the defendant was charged and ultimately sentenced

are Class A felonies. S.C. Code Ann. § 63-19-20 as it exists today went into effect after the Defendant was charged and had no provision for retroactive application. Moreover, despite the lack of retroactive application, the Court gave proper consideration to the factors listed by the defense in the course of the sentencing hearing. Put simply, the Defendant was not a juvenile under the legal definitions that existed at the time of his arrest due to the crimes charged.

In conclusion, the State respectfully disagrees with the Defendant's assertions. The Defendant was afforded sufficient time to prepare for the sentencing that occurred, as sentencing was extended from the date of entry of the guilty plea by request of the Defendant to grant additional time to prepare; indeed, the sentencing hearing itself took most of the day in Court, and both side's positions, arguments, and testimony were fully stated and considered by this Honorable Court. The State respectfully requests that the Court deny the Motion for Reconsideration and Reduction of Sentence.

Respectfully submitted,

Chris Epting, SC Bar #76321
Assistant Solicitor
Sixteenth Judicial Circuit

York, South Carolina

October 5, 2021

FILED-RECEIVED
2021 OCT -5 PM 2:41
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

2019A 20300467-472
SCANNED

FILED-RECEIVED
2021 OCT 28 PM 2:35
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

STATE OF SOUTH CAROLINA **YORK COUNTY**	)	**THE COURT OF GENERAL SESSIONS** **SIXTEENTH JUDICIAL CIRCUIT**
State of South Carolina,	)	ORDER DENYING MOTION TO RECONSIDER AND TO REDUCE SENTENCE
vs.	)	
Terry Shaimek Tyler,	)	2019GS4601336, 1336a, 1337, 1338, 1339, 1340.
Defendant.	)	

Defendant Terry Shaimek Tyler has moved to reconsider the Court's two consecutive 30-year sentences on charges of Armed Robbery and Criminal Sexual Conduct, 1st Degree. The Court fully considered the facts, the law, and the arguments of counsel at the August 16th sentencing and sees no reason to disturb its prior sentence. The Court finds its sentence does not violate the South Carolina Constitution, South Carolina law, or the United States Constitution. The Defendant's Motion to Reconsider and to Reduce the Sentence is therefore DENIED.

PROCEDURAL AND FACUTAL HISTORTY

Defendant Tyler pled guilty on July 8th, 2021 to Kidnapping, Criminal Sexual Conduct in the First Degree, Armed Robbery, Possession of a Weapon During Commission of a Violent Offense, Unlawful Possession of a Pistol, and Grand Larceny, $10,000 or greater. Sentencing was deferred at the request of the Defendant until August 16, 2021. Defendant Tyler was sixteen years old when he committed the offenses and is eighteen now. At both the guilty plea and sentencing, Defendant was represented by his retained counsel, Zachary Merritt of the

Michael Brown Law Firm. The sentencing hearing was lengthy, lasting more than four hours, and the Court heard from the State regarding sentencing, including testimony from the victim, as well as lengthy mitigation from the Defendant, including a defense expert psychiatrist, Dr. Amanda Salas. Following the hearing, this Court sentenced Defendant to consecutive 30-year sentences on the charges of Armed Robbery and Criminal Sexual Conduct, 1st Degree, and concurrent sentences on the remaining four charges.

The Defendant through his retained counsel, Zachary Merritt, filed a Motion to Reconsider and Reduce Sentence on August 26, 2021 along with additional affidavits and a memorandum filed on September 27, 2021. Defendant Tyler argues that two consecutive 30-year sentences represent an illegal sentence for a defendant who was 16 years old at the time of the offenses. The Court has reviewed The State's Motion in Opposition, filed on October 5, 2021 as well as all of Defendant's submissions, including the new affidavits.

The horrific facts that Defendant pled guilty to include the following: that he waited in the parking lot of Victim's apartment complex in the wee hours of the morning until the victim returned to her apartment complex, he was dressed in black, and he was armed with a handgun. He then falsely told Victim he was a student to convince her to let him in to the building, at which point he showed her the handgun and forced her to a secluded area where he raped her vaginally and orally. Defendant then took Victim's keys, car, and wallet, left Victim naked from the waist down. The Defendant was found later that day joyriding around Charlotte with friends in the victim's car.

Defendant's primary argument is that the consecutive sentence is unlawful under State v. Slocumb, 426 S.C. 297 (2019). The Court does not agree. Slocumb upheld a 130-year

sentence for non-homicide crimes committed at age 13 and 16. The Slocumb court summarized its holding as:

> Slocumb now contends an aggregate 130-year sentence for multiple offenses committed on multiple dates violates the Eighth Amendment to the United States Constitution, as extrapolated from the principles set forth in the United States Supreme Court's ... decisions in Graham v. Florida and Miller v. Alabama, among others. We acknowledge ostensible merit in Slocumb's argument, for it is arguably a reasonable extension of Graham and Miller. Yet precedent dictates that only the Supreme Court may extend and enlarge the protections guaranteed by the United States Constitution. Once the Supreme Court has drawn a line in the sand, the authority to redraw that line and broaden federal constitutional protections is limited to our nation's highest court. Because the decision to expand the reach and protections of the Eighth Amendment lies exclusively with the Supreme Court, we are constrained to deny Slocumb relief.

Id. at 299. Later, the Slocumb court added: "We agree Graham's explicit holding applies to de jure life sentences alone, and its rationale may implicate de facto life sentences ... Nonetheless, several factors caution us against extending the reach of Graham to provide Slocumb with relief without further input from the Supreme Court." Id. at 306 (internal citation and quotation omitted). The Slocumb decision could not be plainer: the recent US Supreme Court decisions apply only to de jure life sentences, and the Slocumb court would not extend that any further. Here, Defendant asks this court to do exactly what our Supreme Court in Slocumb said it could not do: "extend and enlarge the protections guaranteed by the United States Constitution" to encompass not just actual life sentences, but de facto life sentences as well. This Court cannot do so under Slocumb.

It is true that the Slocumb court did discuss factual differences between that case and the crime at issue in Graham v. Fla., 560 U.S. 48 (2010), principally noting that Slocumb committed two different assaults that were three years apart and further tried to kill one of his victims. However, that discussion is entirely dicta. The holding of Slocumb was that our

Supreme Court lacked the authority to expand federal constitutional rights beyond the limits set out by the U.S. Supreme Court. "[O]ur duty to follow binding precedent is fixed upon case-specific holdings rather than general expressions in an opinion that exceed the scope of any particular holding." Slocumb, 426 S.C. at 307. Defendant in this case invites this Court to do exactly what Slocumb counsels lower courts not to do: read broad dicta to expand rights beyond the actual holding of the court. This Court therefore declines to expand the holding of Slocumb, and as a trial court, lacks the authority to do so.

Defendant also argues that the sentence is unlawful for failing to consider the juvenile sentencing factors from Aiken v Byars:

> (1) the chronological age of the offender and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate the risks and consequence; (2) the family and home environment that surrounded the offender; (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected him; (4) the incompetencies associated with youth—for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender's] incapacity to assist his own attorneys; and (5) the possibility of rehabilitation.

Aiken v. Byars, 410 S.C. 534 (2014) (internal citations omitted). The first difficulty with this argument is that Byars, by its own holding is explicitly limited to de jure life sentences, not de facto life sentences, as Defendant asserts is the case for Defendant Tyler. The Byars court described the cases to which the decision applied as: "any juvenile offender who receives a sentence of life without the possibility of parole." Id. at 544. Defendant Tyler did not receive such a sentence.

Nevertheless, out of an abundance of caution, the Court did consider the Byars factors both at the original sentencing and subsequent to the motion to reconsider. The Byars factors

weigh against the Defendant in this case. Under the first factor, Defendant was 16 years old and so possessed the mind of an adolescent. But there was no testimony or evidence that the Defendant had a traumatic home life under factor two. Nor was there any testimony the Defendant could not assist his lawyers or refused to meet or cooperate with the psychiatrist retained by the Defense, Dr. Amanda Salas, with regard to factor three. In fact, Dr. Salas testified Defendant had an IQ in the normal range. With regard to factor four, this offense was exceptionally heinous for the following reasons:

1) Defendant was not a student at Winthrop University, but waited in ambush for a student victim in the early hours of the morning, dressed in black and armed with a handgun. These factors evince significant premeditation;
2) Defendant raped the victim at gunpoint;
3) Defendant left the victim without any pants and took her cell phone;
4) Defendant took the victim's keys and car, and was arrested later in the day joyriding in the stolen car with his friends;
5) Defendant attempted to mislead the investigating officers with a yarn about a mysterious person named "Bodybag" who forced Defendant to commit these acts. Law enforcement expended considerable effort investigating this story and found absolutely no evidence supporting it;
6) Defendant has still not told law enforcement what happened to the firearm;
7) When discussing his case with his own retained private psychiatrist after his guilty plea, but before sentencing, and knowing the psychiatrist's report would be used in mitigation, Defendant offered another mysterious figure, "Eli", who told him to

commit these acts. No evidence of "Eli" exists;

8) Most disturbingly, Defendant reported to his psychiatrist that while he admitted that he robbed the victim, he believed the sex was consensual. This statement is offensive, not credible in the least, and suggests a total lack of remorse and empathy.

Finally, as to the fifth Byars factor, the fact that Defendant told his psychiatrist that he believed the sex-at-gunpoint was consensual certainly does not weigh in favor of rehabilitation.

The court did not give incorrect weight to Dr. Salas' findings. The Court accepts Defendant's brain is less developed than that of an adult, and that he suffers from A.D.H.D. and uses marijuana. The Court took these factors into account, and felt that a 60-year sentence was appropriate. In addition to the significant aggravating factors outlined previously, the Court did not observe the Defendant express any remorse, and even at the end, speaking to his retained psychiatrist, Defendant was trying to deflect blame onto the imaginary "Eli" and claim the sex was consensual. Even though the Defendant was sixteen at the time of the incident, used marijuana, and suffered from A.D.H.D., these factors do not justify a reduced sentence when considered along with the horrific and premediated nature of the crimes, the tremendous suffering of the victim, and the Defendant's lack of remorse for these crimes.

Consequently, the Defendant's sentence of two 30-year sentences served consecutively is within the Constitutional and statutory limitations and appropriate to the facts of this case.

CONCLUSION

Therefore, the Motion to reconsider the sentence is DENIED for the reasons set forth in this order.

6

IT IS SO ORDERED.

2761

The Honorable William A. McKinnon
Chief Judge for Administrative Purposes &
Resident Circuit Judge

York, South Carolina

October 28, 2021

FILED-RECEIVED
2021 OCT 28 PM 2:32
DAVID HAMILTON
C.C.P.,G.S. & GS
YORK COUNTY, SC

WAM

WITNESSES

RHPD

Witnessing Officer: R Smith

ARREST WARRANT NUMBER

COUNT ONE 2019A4620300467
COUNT TWO 2019A4620300472

ACTION OF GRAND JURY

TRUE BILL

Sarah Nix
Foreperson of Grand Jury
Date: 6/20/19

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01336
2019-GS-46-01336A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 20, TERM 2019

THE STATE

VS.

TERRY SHAIMEK TYLER

INDICTMENT FOR

COUNT ONE - CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

SC Code: § 16-03-0652
CDR Code: 0160

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

236

STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of York County present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

That Terry Shaimek Tyler did in York, on or about on or about February 15, 2019, engage in sexual battery with E.P., accompanied by the following circumstance(s): the defendant used aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act and/or the actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

The defendant, Terry Shaimek Tyler, did on or about February 15, 2019, in York County, South Carolina, while committing the violent crime of Criminal Sexual Conduct, possess a firearm. All in violation of 16-23-0490, *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SHARON J. OHAYON
ASSISTANT SOLICITOR

WITNESSES

RHPD

Witnessing Officer: R. Smith

ARREST WARRANT NUMBER

2019A4620300471

ACTION OF GRAND JURY

TRUE BILL

Sarah Nivi

Foreperson of Grand Jury

Date: 6/20/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-46-01337

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 20, TERM 2019

THE STATE

VS.

TERRY SHAIMEK TYLER

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

238

STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of York County present upon their oath:

KIDNAPPING

That Terry Shaimek Tyler did in York County, South Carolina, on or about February 15, 2019, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away EP [redacted] by any means whatsoever, without the authority of law. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SHARON J. OHAYON
ASSISTANT SOLICITOR

WITNESSES

RHPD

Witnessing Officer: R. Smith

ARREST WARRANT NUMBER

2019A4620300468

ACTION OF GRAND JURY

TRUE BILL

Sarah Nivens

Foreperson of Grand Jury

Date: 6/20/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-46-01338

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 20, TERM 2019

THE STATE

VS.

TERRY SHAIMEK TYLER

INDICTMENT FOR

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

240

STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of York County present upon their oath:

ARMED ROBBERY

The defendant, Terry Shaimek Tyler, did on or about February 15, 2019, in York County, South Carolina, while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, take by means of force, threats, or intimidation, goods or monies described as an iPhone, a wallet, and keys, among other items, from the person or presence of EP [redacted] All in violation of 16-11-0330(A) of the *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SHARON J. OHAYON
ASSISTANT SOLICITOR

WITNESSES

RHPD

Witnessing Officer: R. Smith

ARREST WARRANT NUMBER

2019A4620300470

ACTION OF GRAND JURY

TRUE BILL

Sarah Nivens

Foreperson of Grand Jury

Date: 6/20/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-46-01339

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 20, TERM 2019

THE STATE

VS.

TERRY SHAIMEK TYLER

INDICTMENT FOR

GRAND LARCENY, VALUE $10,000 OR MORE

SC Code: § 16-13-0030(B)
CDR Code: 3421

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

242

STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of York County present upon their oath:

GRAND LARCENY, VALUE $10,000 OR MORE

The defendant, Terry Shaimek Tyler, did on or about February 15, 2019, in York County, South Carolina, feloniously take and carry away a 2012 Cadillac SRX, valued at ten thousand dollars ($10,000) or more, belonging to EP [redacted] with intent to deprive the owner permanently of such property. All in violation of 16-13-0030(B), *Code of Laws of South Carolina*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SHARON J. OHAYON
ASSISTANT SOLICITOR

WITNESSES

RHPD

Witnessing Officer: R. Smith

ARREST WARRANT NUMBER

2019A4620300469

ACTION OF GRAND JURY

TRUE BILL

Sarah Nivens

Foreperson of Grand Jury

Date: 6/20/19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-46-01340

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 20, TERM 2019

THE STATE

VS.

TERRY SHAIMEK TYLER

INDICTMENT FOR

POSSESSION OF A HANDGUN BY PERSONS UNDER 18

SC Code: § 16-23-0030
CDR Code: 2364

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

244

STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of York County present upon their oath:

POSSESSION OF A HANDGUN BY PERSONS UNDER 18

The defendant, Terry Shaimek Tyler, did on or about February 15, 2019, in York County, South Carolina, unlawfully possess or acquire a handgun while under the age of eighteen., all in violation of Section 16-23-0030, *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SHARON J. OHAYON
ASSISTANT SOLICITOR

246

STATE OF SOUTH CAROLINA
COUNTY OF YORK
STATE VS.
TERRY SHAIMEK TYLER
AKA: _____
Race: Black Sex: M Age: 18
DOB: [redacted] SS#: _____
Address: [redacted] Forst Glen Drive
City, State, Zip: Rock Hill, SC 29732
DL# _____ SID# SCJ9014736
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

ORIGINAL

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019-GS-46-01336
A/W: 2019A4620300467
Date of Offense: 02/15/2019
S.C. Code §: 16-03-0652
CDR Code #: 0160

JAIL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: **Criminal Sexual Conduct, First Degree (NMT 30 years)**
In violation of § **16-03-0652** of the S.C. Code of Laws, bearing CDR Code # **0160**

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Sharon J. Ohayon, Assistant Solicitor — 100713 SC Bar # — COV ID Defendant — Attorney for Defendant — 943 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 30 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: to 2019-GS-46-1338, otherwise concurrent
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

credit for 914 days

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing**
Total: $_____ plus 20% fee: _____ $_____
Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Probation)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

☐ **Ordered** **PTUP** _____
_____ days/hours Public Service Employment
Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____
$_____ Paid to Public Defender Fund

Other: Sex offender registration. Consecutive to armed robbery.

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: **DAVID HAMILTON**
Court Reporter: Linda Moffitt

Presiding Judge: _____
Judge Code: 2761 McKinnon
Sentence Date: 07/08/21
Plea
Sentence date 8/16/21

SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

247

COUNTY OF YORK

STATE VS.

TERRY SHAIMEK TYLER

AKA: _____

Race: Black Sex: M Age: 18

DOB: [redacted] SS#: _____

Address: [redacted] Forst Glen Drive

City, State, Zip: Rock Hill, SC 29732

DL# _____ SID# SCJ9014736

ORIGINAL

INDICTMENT/CASE#: 2019-GS-46-01336A

A/W: 2019A4620300472

Date of Offense: 02/15/2019

Code §: 16-23-0490

CDR Code #: 0549

JAIL

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: **Possession Of A Weapon During The Commission Of A Violent Crime (5 years)**

In violation of § **16-23-0490** of the S.C. Code of Laws, bearing CDR Code # **0549**

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Sharon J. Ohayon, Assistant Solicitor 100713 SC Bar #

COVID

Defendant

Attorney for Defendant 943 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 917 8-16-21 sentences

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Credit for 914 days

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing**

Total: $_____ plus 20% fee: _____ $_____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Probation)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

☐ **Ordered** **PTUP** _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____

$_____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: **DAVID HAMILTON**

Court Reporter: Linda Moffitt

Presiding Judge: _____

Judge Code: 2761 McGinnon

Sentence Date: 07/08/21

Plea Sentence date 8/16/21

SCCA/217 (04/2018)

248

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF GENERAL SESSIONS

STATE VS.
TERRY SHAIMEK TYLER ☐ ORIGINAL

INDICTMENT/CASE#: 2019-GS-46-01337
A/W: 2019A4620300471
Date of Offense: 02/15/2019
S.C. Code §: 16-03-0910
CDR Code #: 0095

JAIL

AKA: _____
Race: Black Sex: M Age: 18
DOB [redacted] SS#: _____
Address: [redacted] Forst Glen Drive
City, State, Zip: Rock Hill, SC 29732
DL# _____ SID# SCJ901 4736

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: **Kidnapping (NMT 30 years)**
In violation of § **16-03-0910** of the S.C. Code of Laws, bearing CDR Code # **0095**

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence. ☐ Recommendation by the State.
ATTEST:

Sharon J. Ohayon, Assistant Solicitor 100713 SC Bar # | COVID Defendant | Attorney for Defendant 943 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 30 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all 8-16-21 sentences
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

credit for 914 days

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing**
Total: $_____ plus 20% fee: _____ $_____
Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Probation)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

☐ **Ordered** **PTUP** _____
_____ days/hours Public Service Employment
Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____
$_____ Paid to Public Defender Fund
Other: Sex offender registration

☐ Appointed PD or appointed other counsel,
Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: Linda Moffitt

Presiding Judge: _____
Judge Code: JTM McGinnon
Sentence Date: 8/10/21

SCCA/217 (04/2018)

Plea
Sentence date 8/10/21

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

249

COUNTY OF YORK

STATE VS.

TERRY SHAIMEK TYLER ORIGINAL

AKA: _____

Race: Black Sex: M Age: 18

DOB: [redacted] SS#: _____

Address: [redacted] Forst Glen Drive

City, State, Zip: Rock Hill, SC 29732

DL# _____ SID# SCJ9014736

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2019-GS-46-01338
A/W: 2019A4620300468
Date of Offense: 02/15/2019
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

JAIL

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: **Armed Robbery (NLT 10 years to 30 years)**

In violation of § **16-11-0330(A)** of the S.C. Code of Laws, bearing CDR Code # **0139**

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Sharon J. Ohayon, Assistant Solicitor 100713 SC Bar # | COVID Defendant | Attorney for Defendant 943 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 30 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: to 2019-GS-46-1336, otherwise concurrent

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Credit for 914 days

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing**

Total: $_____ plus 20% fee: _____ $_____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Probation)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

☐ **Ordered** **PTUP** _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____

$_____ Paid to Public Defender Fund

Other: Armed robbery + CSC sentences are consecutive

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees

Presiding Judge: _____

Judge Code: 2761 McGinnon

Sentence Date: 07/08/21

Clerk of Court/Deputy Clerk: DAVID HAMILTON

Court Reporter: Linda Maffitt

Plea sentence date 8/16/21

SCCA/217 (04/2018)

250

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF GENERAL SESSIONS

STATE VS.
TERRY SHAIMEK TYLER ☐ ORIGINAL

INDICTMENT/CASE#: 2019-GS-46-01339
A/W: 2019A4620300470
Date of Offense: 02/15/2019
S.C. Code §: 16-13-0030(B)
CDR Code #: 3421

JAIL

AKA: _____
Race: Black Sex: M Age: 18
DOB: [redacted] SS#: _____
Address: [redacted] Forst Glen Drive
City, State, Zip: Rock Hill, SC 29732
DL# _____ SID# SCJ9014736

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: **Grand Larceny, value $10,000 or more (NMT 10 years or discretionary fine)**
In violation of § **16-13-0030(B)** of the S.C. Code of Laws, bearing CDR Code # **3421**

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Sharon J. Ohayon, Assistant Solicitor 100713 SC Bar # | COVID Defendant | Attorney for Defendant 943 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 10 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 911 8-16-21 pleas
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Credit for 914 days

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered** **PTUP** _____
Total: $_____ plus 20% fee: _____ $_____ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Recipient: _____ Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐

*Fine: _____		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso (Public Def/Probation)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____
$_____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: Linda Maffitt

Presiding Judge: _____
Judge Code: 2761 McKinnon
Sentence Date: 07/08/21

Plea
sentence date 8/16/21

SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

251

COUNTY OF YORK

STATE VS.

TERRY SHAIMEK TYLER ☐ ORIGINAL

AKA: _____

Race: Black Sex: M Age: 18

DOB: [redacted] SS#: _____

Address: [redacted] Forst Glen Drive

City, State, Zip: Rock Hill, SC 29732

DL# _____ SID# SCJ9014736

INDICTMENT/CASE#: 2019-GS-46-01340

A/W: 2019A4620300469

Date of Offense: 02/15/2019

S.C. Code §: 16-23-0030

CDR Code #: 2364

JAIL

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: **Unlawful Sale Or Delivery Of Pistol To And Possession By Certain Persons Unlawful; Stolen Handguns (NMT 5 YEARS &/OR $2,000)**

In violation of § **16-23-0030** of the S.C. Code of Laws, bearing CDR Code # **2364**

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Sharon J. Ohayon, Assistant Solicitor 100713 SC Bar #

COVID Defendant

Attorney for Defendant 943 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all 8-16-21 sentences

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Credit for 914 days

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing**

Total: $_____ plus 20% fee: _____ $_____

Payment Terms: _____

☐ Sct by SCDPPPS _____

Recipient: _____

*Fine:		$_____
§14-1-206 (Assessments 107.5%)		$_____
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breatb Test)	$25	$_____
Proviso (Public Def/Probation)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$	$_____
TOTAL		$_____

☐ **Ordered** **PTUP** _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____

$_____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON

Court Reporter: Linda Moffitt

Presiding Judge: 2761 McKinnon

Judge Code: 2761

Sentence Date: 07/08/21

Plea

Sentence date 8/16/21

SCCA/217 (04/2018)

ARREST WARRANT

2019A4620300467

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
ROCK HILL

FILED-RECEIVED
19 FEB 21 PM 12:13

THE STATE

against

TYLER, TERRY SHAIMEK
Address: [redacted] FOREST GLEN DR
ROCK HILL SC 29732
Phone: 000-000-0000 SSN:
Sex: M Race: B Height: 509 Weight: 120
DL State: DL#:
DOB: [redacted] Agency ORI #: 460300
Prosecuting Agency: RHPD
Prosecuting Officer: MATTHEW BEACH
Offense: CRIMINAL SEXUAL COND (1ST
Offense Code:
Code/Ordinance Sec. 16-3-652

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The Accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Terry Tyler
on 2-15-19.
(5551)
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ROCK HILL

AFFIDAVIT

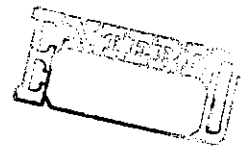
Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

252

Personally appeared before me the affiant M. Beach who being duly sworn deposes and says that defendant TYLER, TERRY SHAIMEK did within this county and state on 02/15/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) in the following particulars:

DESCRIPTION OF OFFENSE:
CRIMINAL SEXUAL COND (1ST DEGREE) - 16-3-652 0160

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT DID WILLFULLY AND UNLAWFULLY VIOLATE SC CODE OF LAWS 16-3-652 CRIMINAL SEXUAL CONDUCT 1ST DEGREE. THE DEFENDANT DID THIS BY PERPETRATING A SEXUAL BATTERY ON THE VICTIM, EP [redacted] WHILE ARMED WITH A HANDGUN. THE DEFENDANT THREATENED TO SHOOT EP [redacted] IF SHE DID NOT FOLLOW HIS COMMANDS. THE DEFENDANT THEN LED THE VICTIM BEHIND THE 600 BLOCK OF ROSE ST WHERE HE FORCED HER TO PERFORM ORAL SEX ON HIM BEFORE PENETRATING HER VAGINA WITH HIS FINGERS AND THEN HIS PENIS. THIS INCIDENT OCCURRED WITHIN THE CITY LIMITS OF ROCK HILL, SC COUNTY OF YORK.
1902150432 ***VICTIM STATEMENTS*** ***RECOVERED EVIDENCE***



Signature of Affiant

Affiant's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Affiant's Telephone - -

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ROCK HILL

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/15/2019 defendant TYLER, TERRY SHAIMEK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
CRIMINAL SEXUAL COND (1ST DEGREE) - 16-3-652

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 2/15/2019
_____ (L.S.)
Signature of Issuing Judge
Judge Code: 80610

Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ARREST WARRANT

2019A4620300472

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
ROCK HILL

FILED-RECEIVED
2019 FEB 21 PM 2:

THE STATE

against

TYLER, TERRY SHAIMEK
Address: [redacted] FOREST GLEN DR
ROCK HILL SC 29732
Phone: 000-000-0000 SSN:
Sex: M Race: B Height: 509 Weight: 120
DL State: DL#:
DOB: [redacted] Agency ORI #: 460300
Prosecuting Agency: RHPD
Prosecuting Officer: MATTHEW BEACH
Offense: POSS FIREARM/KNIFE DURING
Offense Code:
Code/Ordinance Sec. 16-23-490

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The Accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Terry Tyler
on 2-15-19

(5551)
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ROCK HILL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant M. Beach who being duly sworn deposes and says that defendant TYLER, TERRY SHAIMEK did within this county and state on 02/15/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) in the following particulars:

DESCRIPTION OF OFFENSE:
POSS FIREARM/KNIFE DURING CRIME OF VIOLENCE - 16-23-490 0549

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT DID WILLFULLY AND UNLAWFULLY VIOLATE SC CODE OF LAWS 16-23-490 POSSESSION OF A FIREARM/KNIFE DURING A CRIME OF VIOLENCE. THE DEFENDAND DID THIS BY POSSESSING A FIREARM WHILE PERPETRATING CRIMINAL SEXUAL CONDUCT 1ST DEGREE AND KIDNAPPING WHILE ON THE 600 BLOCK OF ROSE ST WITHIN THE CITY LIMITS OF ROCK HILL, COUNTY OF YORK, SC.
1902150432 ***POLICE INVESTIGATION*** ***VICTIM STATEMENT*** ***SUSPECT STATEMENT*** ***RECOVERED EVIDENCE***

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ROCK HILL

Affiant's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Affiant's Telephone - -

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/15/2019 defendant TYLER, TERRY SHAIMEK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
POSS FIREARM/KNIFE DURING CRIME OF VIOLENCE - 16-23-490

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 2/15/2019

_____ (L.S.)
Signature of Issuing Judge

Judge Code: 80106

Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

253

ARREST WARRANT

2019A4620300471

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
ROCK HILL

FILED-RECEIVED
2019 FEB 21

THE STATE

against

TYLER, TERRY SHAIMEK
Address: [redacted] FOREST GLEN DR
ROCK HILL SC 29732
Phone: 000-000-0000 SSN:
Sex: M Race: B Height: 509 Weight: 120
DL State: DL#:
DOB: [redacted] Agency ORI #: 460300
Prosecuting Agency: RHPD
Prosecuting Officer: BRITNEY MAY
Offense: KIDNAPPING - 16-3-910
Offense Code:
Code/Ordinance Sec. 16-3-910

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The Accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Terry Tyler
on 2-15-19
_____ (5551)
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ROCK HILL)

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

254

Personally appeared before me the affiant M. Beach who being duly sworn deposes and says that defendant TYLER, TERRY SHAIMEK did within this county and state on 02/15/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) in the following particulars:

DESCRIPTION OF OFFENSE:
KIDNAPPING - 16-3-910 0096

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
On 02/15/19 the defendant did willfully and unlawfully violate SC Code of Law 16-3-910, Kidnapping, by intentionally and without justifiable cause threatening to harm victim EP's [redacted] with a firearm if she did not follow him. The defendant used this threat of force to lead EP [redacted] against her will to the railroad tracks behind 630 Rose Street, which is within the city limits of Rock Hill, South Carolina, where he then sexually assaulted her.

Police Investigation
Case #1902150432
Statement
The affiant is swearing to this based on information and belief provided by the arresting officer

Signature of Affiant

Affiant's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Affiant's Telephone - -

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ROCK HILL)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/15/2019 defendant TYLER, TERRY SHAIMEK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
KIDNAPPING - 16-3-910

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 2/15/2019
_____ (L.S.)
Signature of Issuing Judge
Judge Code: 80106

Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ARREST WARRANT

2019A4620300468

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
ROCK HILL

FILED-RECEIVED
2019 FEB 21 PM 12:13
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY

THE STATE

against

TYLER, TERRY SHAIMEK
Address: [redacted] FOREST GLEN DR
ROCK HILL SC 29732
Phone: 000-000-0000 SSN:
Sex: M Race: B Height: 509 Weight: 120
DL State: DL#:
DOB: [redacted] Agency ORI #: 460300
Prosecuting Agency: RHPD
Prosecuting Officer: MATTHEW BEACH
Offense: ARMED ROBBERY - 16-11-330
Offense Code:
Code/Ordinance Sec. 16-11-330

This warrant is **CERTIFIED FOR SERVICE** in the

☐ County/ ☐ Municipality of

_____ . The Accused is to be arrested and brought before me to be dealt with according to law.

_____ **(L.S.)**
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Terry Tyler
on 2-15-19 .

(5551)
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ROCK HILL)

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant M. Beach who being duly sworn deposes and says that defendant TYLER, TERRY SHAIMEK did within this county and state on 02/15/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) in the following particulars:

DESCRIPTION OF OFFENSE:
ARMED ROBBERY - 16-11-330 0139

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT DID WILLFULLY AND UNLAWFULLY VIOLATE SC CODE OF LAWS 16-11-330 ARMED ROBBERY. THE DEFENDANT DID THIS BY POINTING AND PRESENTING A FIREARM AT THE VICTIM, EP[redacted] THE DEFENDANT THEN STOLE THE VICTIM'S PURSE, CELL PHONE, AND CAR KEYS. THE DEFENDANT THEN USED THE STOLEN KEYS TO STEAL EP[redacted] VEHICLE. THIS INCIDENT DID OCCUR BEHIND 600 BLOCK OF ROSE ST WITHIN THE CITY LIMITS OF ROCK HILL, COUNTY OF YORK SC.
1902150432 ***POLICE INVESTIGATION*** ***VICTIM STATEMENT*** ***SUSPECT STATEMENT*** ***RECOVERED EVIDENCE***

Signature of Affiant

Affiant's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Affiant's Telephone - -

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ROCK HILL)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/15/2019 defendant TYLER, TERRY SHAIMEK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
ARMED ROBBERY - 16-11-330

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 2/15/2019

_____ **(L.S.)**
Signature of Issuing Judge

Judge Code: 5066

Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

255

ARREST WARRANT

2019A4620300470

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of ROCK HILL

FILED-RECEIVED
2019 FEB 21 PM 12:13
DAVID FRANKLIN
CLERK OF COURT
YORK COUNTY, SC

THE STATE

against

TYLER, TERRY SHAIMEK
Address: [redacted] FOREST GLEN DR
ROCK HILL SC 29732
Phone: 000-000-0000 SSN:
Sex: M Race: B Height: 509 Weight: 120
DL State: DL#:
DOB: [redacted] Agency ORI #: 460300
Prosecuting Agency: RHPD
Prosecuting Officer: BRITNEY MAY
Offense: GRAND LARCENY AUTO - 16-13-0030
Offense Code:
Code/Ordinance Sec. 16-13-0030 (B)(1)

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The Accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Terry Tyler on 2-15-19.

_____ (5558)
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of ROCK HILL

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

256

Personally appeared before me the affiant M. Beach who being duly sworn deposes and says that defendant TYLER, TERRY SHAIMEK did within this county and state on 02/15/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) in the following particulars:

DESCRIPTION OF OFFENSE:
GRAND LARCENY AUTO - 16-13-0030 (B)(1) 3421

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
On 02/15/19 the defendant did willfully and unlawfully violate SC Code of Law 17-25-30, Grand Larceny Auto, by intentionally and without justifiable cause stealing victim EP's [redacted] 2012 Cadillac SRX bearing SC license plate 6493JL. The defendant took this vehicle without permission from the 630 block of Rose Street, within the city limits of Rock Hill, South Carolina, after sexually assaulting EP [redacted]

Police Investigation
Case #1902150432
Recovered Vehicle
The affiant is swearing to this based on information and belief provided by the arresting officer

Signature of Affiant _____

Affiant's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Affiant's Telephone - -

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of ROCK HILL

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/15/2019 defendant TYLER, TERRY SHAIMEK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
GRAND LARCENY AUTO - 16-13-0030 (B)(1)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me on 2/15/2019

_____ (L.S.)
Signature of Issuing Judge

Judge Code: 80606

Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ARREST WARRANT

2019A4620300469

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of ROCK HILL

FILED-RECEIVED

2019 FEB 21 PM 1:10

DAVID HAMILTON CLERK YORK COUNTY

THE STATE

against

TYLER, TERRY SHAIMEK
Address: [redacted] FOREST GLEN DR
ROCK HILL SC 29732
Phone: 000-000-0000 SSN:
Sex: M Race: B Height: 509 Weight: 120
DL State: DL#:
DOB: [redacted] Agency ORI #: 460300
Prosecuting Agency: RHPD
Prosecuting Officer: MATTHEW BEACH
Offense: POSS PISTOL BY PERSON UNDER 18
Offense Code:
Code/Ordinance Sec. 16-23-0030

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The Accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Terry Tyler on 2-15-19.

(5551)
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of ROCK HILL

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

Personally appeared before me the affiant M. Beach who being duly sworn deposes and says that defendant TYLER, TERRY SHAIMEK did within this county and state on 02/15/2019 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) in the following particulars:

DESCRIPTION OF OFFENSE:
POSS PISTOL BY PERSON UNDER 18 - 16-23-0030 2364

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT DID WILLFULLY AND UNLAWFULLY VIOLATE SC CODE OF LAWS 16-23-30 POSSESSION OF A PISTOL BY A PERSON UNDER 18. THE DEFENDANT DID THIS BY POSSESSING A PISTOL WHILE AT 630 ROSE ST WITHIN THE CITY LIMITS OF ROCK HILL, COUNTY OF YORK, SC 29320. THE DEFENDANT IS 16 YEARS OLD.
1902150432 ***POLICE INVESTIGATION*** ***RECOVERED EVIDENCE*** ***SUSPECT STATEMENT***

Signature of Affiant

Affiant's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Affiant's Telephone - -

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of ROCK HILL

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 02/15/2019 defendant TYLER, TERRY SHAIMEK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
POSS PISTOL BY PERSON UNDER 18 - 16-23-0030

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me on 2/15/2019

_____ (L.S.)
Signature of Issuing Judge

Judge Code: 80666

Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

257

ORIGINAL

PLEA WAIVER FORM

STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
COUNTY OF YORK	
vs.	TT = defendant's initials required
Terry Shaimek Tyler, Defendant.	Total Time Served (days) 875d as of 7/8/21

I want to plead guilty, no contest, or enter a plea under N.C. v. Alford to the charges listed below. I understand that the minimum and maximum penalties as well as some of the collateral consequences for the charges to which I am pleading are listed below:

True billed ☒ Waiver ☐
Indictment #: 2019-GS-46-01336 CDR: 0160
Statute #: 16-03-0652
Original Charge: Criminal Sexual Conduct, First Degree
Pleading To: Criminal Sexual Conduct, First Degree TT

Misdemeanor ☐ Felony ☒
Penalty: NMT 30 years

☐Non-Violent ☒Violent ☐Serious ☒Most Serious ☒No Parole ☒ Sex Offender Registry
☐Mandatory GPS ☐Increased Punishment for Future Offenses ☐Murder Day for Day

---

True billed ☐ Waiver ☐
Indictment #: 2019-GS-46-01336A CDR: 0549
Statute #: 16-23-0490
Original Charge: Possession Of A Weapon During The Commission Of A Violent Crime
Pleading To: Possession Of A Weapon During The Commission Of A Violent Crime TT

Misdemeanor ☐ Felony ☒
Penalty:

☒Non-Violent ☐Violent ☐Serious ☐Most Serious ☒Day for Day ☐ Sex Offender Registry
☐Mandatory GPS ☐Increased Punishment for Future Offenses ☐Murder Day for Day

---

True billed ☐ Waiver ☐
Indictment #: 2019-GS-46-01337 CDR: 0095
Statute #: 16-03-0910
Original Charge: Kidnapping
Pleading To: Kidnapping TT

Misdemeanor ☐ Felony ☒
Penalty: NMT 30 years

☐Non-Violent ☒Violent ☐Serious ☒Most Serious ☒No Parole ☒ Sex Offender Registry
☐Mandatory GPS ☐Increased Punishment for Future Offenses ☐Murder Day for Day

---

True billed ☒ Waiver ☐
Indictment #: 2019-GS-46-01338 CDR: 0139
Statute #: 16-11-0330(A)
Original Charge: Armed Robbery
Pleading To: Armed Robbery TT

Misdemeanor ☐ Felony ☒
Penalty: NLT 10 years to 30 years

☐Non-Violent ☒Violent ☐Serious ☒Most Serious ☒No Parole ☐ Sex Offender Registry
☐Mandatory GPS ☐Increased Punishment for Future Offenses ☐Murder Day for Day

---

True billed ☒ Waiver ☐
Indictment #: 2019-GS-46-01339 CDR: 3421
Statute #: 16-13-0030(B)
Original Charge: Grand Larceny, value $10,000 or more
Pleading To: Grand Larceny, value $10,000 or more TT

Misdemeanor ☐ Felony ☒
Penalty: NMT 10 years or discretionary fine

☒Non-Violent ☐Violent ☐Serious ☐Most Serious ☐No Parole ☐ Sex Offender Registry
☐Mandatory GPS ☒Increased Punishment for Future Offenses ☐Murder Day for Day

---

True billed ☒ Waiver ☐
Indictment #: 2019-GS-46-01340 CDR: 2364
Statute #: 16-23-0030
Original Charge: Unlawful Sale Or Delivery Of Pistol To And Possession By Certain Persons Unlawful; Stolen Handguns
Pleading To: Unlawful Sale Or Delivery Of Pistol To And Possession By Certain Persons Unlawful; Stolen Hand TT

Misdemeanor ☐ Felony ☒
Penalty: NMT 5 YEARS &/OR $2,000

☒Non-Violent ☐Violent ☐Serious ☐Most Serious ☐No Parole ☐ Sex Offender Registry
☐Mandatory GPS ☐Increased Punishment for Future Offenses ☐Murder Day for Day

---

List **General Sessions** Charges Being Dismissed: N/A

List Pending **General Sessions** Charges not being resolved: N/A

List Prior Convictions: N/A

YOA: ☐ Eligible ☒ Ineligible due to: ☐ Age ☒ Offense ☐ Other: Click here to enter text.

Currently on Probation? ☐Yes ☒No Is this plea a violation of the probation? ☐Yes ☐No

TT I have agreed to plead guilty, no contest, or enter a plea under N.C. v. Alford as part of a plea arrangement. The Solicitor, my lawyer, and I have informed the court that the following contains all of the terms of conditions of my plea:

Type of Plea	☒ Guilty	☐ N.C. v. Alford	☐ Nolo
	☐ Recommendation	☐ Negotiated	☒ Without Recommendation

TT State is recommending or the negotiation is: N/A

☐ This plea is not the product of any other promises or any threats whatsoever, except as indicated below:

_____

_____

☐ I understand that, upon entering a plea under N.C. vs. Alford, I will be treated as being guilty whether or not I admit that I am in fact guilty.

☐ I understand that a no contest plea is treated by the Court the same as a plea of guilty.

☐ The Solicitor is making a recommendation to the judge, as listed above. I understand the Judge is not required to accept the recommendation given by the Solicitor and the Judge may accept it, may go below the recommendation, or may go above the recommendation.

☐ This plea is a negotiated plea and the negotiation is listed above. I understand the Judge may refuse to accept the negotiation and that if the Judge refuses, the plea will not go forward.

TT This plea is without negotiation and I understand I could receive from the minimum to the maximum sentence on each charge to which I am pleading guilty and that those sentences could also be run consecutive to other.

TT I am not currently under the influence of any intoxicants, drugs, or narcotics.

☐ I currently DO take the following prescribed medications:

_____

_____

TT I am entering my plea today freely, voluntarily, knowingly, and intelligently.

TT I understand that I have the right to be represented by a lawyer at all stages of the proceedings. I can hire my own lawyer, or the court will appoint a lawyer for me if I cannot afford one. I understand an attorney would be of benefit to me, and since I am not an attorney, there is a danger in my representing myself. Understanding this, I give up this right.

TT I understand that I have the right to plead not guilty and be tried by a jury, and that I am presumed innocent until such time as the jury is convinced of my guilty beyond a reasonable doubt. Understanding this, I give up that right.

TT I understand I have the right to have the Court issue subpoenas to bring my witnesses and evidence to a trial at no cost to me. Understanding this, I give up that right.

TT I understand I have the right to testify or remain silent at trial. Understanding this, I give up this right.

TT My lawyer has reviewed with me all the factual and legal issues surrounding my case, including any defenses I

may have and he or she has done everything I have asked him to do. I am satisfied with his or her services.

[TT] I understand that I have the right to remain silent, that is, the right against self-incrimination. Understanding this, I give up this right.

[TT] I understand that in a jury trial I have the right to see and hear all witnesses called to testify against me and to confront, cross-examine, and question them.

[TT] I give up, for each of the charges listed above, my right to a jury trial, my right to a bench trial (trial by Judge with no jury), my right to confront and cross examine witnesses, my right to remain silent and not incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf.

[TT] I understand that by my pleading to each charge, I am waiving all defenses, including, but not limited to the right to challenge any evidence the State may have used in its case against me and the voluntariness of any statements made to law enforcement.

[TT] I understand that upon my conviction I may be ordered to pay restitution to any persons directly and proximately injured as a result of my commission of these crimes and that a civil judgement in favor of each person may be docketed against me and will be a lien against any real estate I own now or may own in the future.

[ ] I understand that if I am not a citizen of the United States, my plea of guilty, no contest, or my plea under N.C. v. Alford may result in my deportation, exclusion from re-entry to the United States, and denial of naturalization and amnesty.

[TT] I understand that I have 10 days within which to appeal this guilty plea.

[ ] I understand that I am pleading guilty, no contest, or under N.C. v. Alford to the charges shown above.

[TT] I now personally plead ☑ guilty; ☐ under N.C. v. Alford; ☐ no contest to the charges above.

Acknowledgement

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, the effects of any prior convictions and enhancements, have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Defendant's Signature: Tyler Tyler Date: _____

Defense Counsel's Statement

I, the attorney for the defendant in the above entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges, all discovery provided by the State, and possible defenses with the defendant and the consequences of the plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his or her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Print Name: Zach McGrath _____ Bar # 102079
Attorney Signature

Date: 7/8/21 Circle One: PD Retained Appointed

Judge's Confirmation

Upon consideration of the record, evidence or factual presentation offered, answers of defendant, and statements of the lawyer for the defendant and the prosecutor and the contents of this plea and waiver form, the undersigned finds that:

1. There is a factual basis for the entry of the plea,
2. The defendant is satisfied with his/her lawyer's legal services,
3. The defendant is competent to stand trial, and
4. The plea is the informed choice of the defendant and is made freely, voluntarily, knowingly, and intelligently.

The defendant's plea is hereby accepted by the Court.

_____ Judge's Code: _____ Date: _____

Judge's Signature

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED
Feb 28 2024
SC Court of Appeals

Respectfully Submitted,

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of February, 2024

RECEIVED
Feb 28 2024
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRY SHAIMEK TYLER,

APPELLANT.

APPELLATE CASE NO. 2021-001316

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 28th day of February, 2024.

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

From:	Stock, Chris
To:	mfarthing@scag.gov; SC - COLLINS CAROLINE
Cc:	Saxon, Jessica
Subject:	2021-001316 The State v. Terry Shaimek Tyler - Record on Appeal
Date:	Wednesday, February 28, 2024 3:08:06 PM
Attachments:	2021-001316 The State v. Terry Shaimek Tyler - Record on Appeal.pdf

Mr. Farthing,

Please find attached for service the record on appeal for Terry Shaimek Taylor's appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock
Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330