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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dorchester County
The Honorable Diane S. Goodstein, Circuit Court Judge
Appellate Case No. 2022-001302

In the Matter of the Care and Treatment
of Tracy Fabian,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Judge Goodstein did not abuse her discretion by admitting evidence regarding sex offense charges that were ultimately the subject of a guilty plea to lesser included offenses or dismissed as part of a plea agreement, because the testimony regarding the facts of the offenses was limited and did not include unduly graphic details, and the expert testified the offenses were part of the basis for her ultimate opinions regarding Appellant's diagnosis and risk to reoffend sexually.

STATEMENT OF THE CASE

Respondent concurs with Appellant's procedural Statement of the Case.

STATEMENT OF FACTS

In March 2019, Appellant Tracy Allen Fabian pled guilty to criminal sexual conduct in the third degree, which is a statutorily delineated sexually violent offense, and was sentenced to ten years incarceration, suspended upon service of seven years and thirty months probation. In April 2021, Respondent State of South Carolina initiated proceedings pursuant to the South Carolina Sexually Violent Predator Act (SVPA), S.C. Code Ann. §§44-48-10, *et seq.* (2018), seeking Appellant's civil commitment for long term control, care and treatment. The matter was called for a jury trial in August 2022 before the Honorable Dianne S. Goodstein, Circuit Court Judge.

Prior to trial, Appellant moved to limit the State's expert's testimony regarding statements contained in law enforcement official records, arguing it was beyond the scope of what the evidentiary rules allow for expert witnesses and would be very prejudicial. The State argued applicable SVPA case law allowed expert witnesses to testify about hearsay they relied on in forming their expert opinions. Judge Goodstein reserved ruling on the issue until the evidence was presented. (8/29 Trial Transcript [8/29 TT], pp. 81-92; Record on Appeal [R.], pp. 3-14).

The State presented testimony from Marie Gehle, Psy.D, who was qualified without objection as an expert in clinical forensic psychology and sex offender evaluations. Dr. Gehle is employed with the South Carolina Department of Mental Health (DMH), and was appointed by the court to evaluate Appellant pursuant to the SVPA. (8/30 Trial Transcript [8/30 TT], pp. 38-45; R., pp. 65-72).

Dr. Gehle testified her standard protocol includes reviewing all available records, including investigative records, criminal history records, witness statements, warrants,

indictments and sentencing sheets. She also conducts a comprehensive interview with the person being evaluated, scores two actuarial risk assessment tools, and considers a list of risk factors research has identified as related to increased recidivism. She testified the documents and information she reviewed are the type of documents and information typically considered by experts who conduct sex offender evaluations. (8/30 TT, pp. 45-47, 52; R., pp 72-74, 79).

According to the records Dr. Gehle reviewed, Appellant pled guilty[1] in 1994 to criminal sexual conduct first degree and kidnapping arising from the 1993 sexual assault of an eight year old female, and he was sentenced to thirty years incarceration. According to the records and statements Appellant made to Dr. Gehle, Appellant was friends with the victim's family, and the sexual assault occurred after Appellant took the victim to his house, where he performed oral sex on her, digitally penetrated her anus and simulated intercourse by putting his penis between her legs and moving it until he ejaculated. Appellant told Dr. Gehle the victim initiated the sex and "said things like this is fun." Dr. Gehle testified Appellant's account of the sexual assault indicated a dynamic risk factor of sexualizing children. (8/30 TT, pp. 56-60, Plaintiff's Exhibit 1 and 2; R., pp. 83-87, 276; 277-281).

Appellant was indicted in 2014 on two counts of criminal sexual conduct with a minor first degree arising from the sexual assaults of a five year old female and a six year old female, who were the daughters of Appellant's friend. The sexual assaults occurred in the back seat of Appellant's vehicle and in Appellant's bed, and his girlfriend was involved in them. On September 16, 2015, Appellant pled guilty to two counts of assault and battery first degree and

[1]Appellant pled guilty pursuant to North Carolina v. Alford, 400 U.S. 25 (1970).

was sentenced to time served (551 days).[2] (8/30 TT, pp. 61-63; Plaintiff's Exhibits 3 and 4; R., pp. 88-90; 282-286, 287-291).

On August 31, 2017, Appellant was indicted on one count of criminal sexual conduct with a minor first degree and one count of criminal sexual conduct with a minor third degree, arising from sexual assaults of a five year old male (first degree) and an eight year old male (third degree) on or about September 17, 2015. The assaults occurred within days of Appellant's release from jail on the time served sentences for the assault and battery convictions. According to the official documents Dr. Gehle reviewed, Appellant performed oral sex on the five year old victim and fondled the eight year old victim's genitals. Appellant was in a sexual relationship with the victims' mother at the time of the assaults. On March 14, 2019, Appellant pled guilty to criminal sexual conduct with a minor third degree as to the eight year old victim, and the criminal sexual conduct with a minor first degree was dismissed as part of the plea agreement.[3] (8/30 TT, pp. 63-64, Plaintiff's Exhibits 5 and 6; R. 90-91; 292-294, 295-299).

Dr. Gehle testified the timing of the 2015 offenses was significant because they occurred right after he was released from jail on the 2014 offenses, which showed impulsivity and a lack of control. In addition, the fact the last two victims were male was significant because the research indicates having a male victim increases recidivism risks. (8/30 TT, pp. 64-66; R., pp. 91-93).

Dr. Gehle interviewed Appellant one time in person and four times virtually for a total interview time of over 10.5 hours. (8/30 TT, pp. 53-54; R., pp. 80-81). She testified Appellant was difficult to interview because he wanted to talk and take control of the interview; he questioned Dr. Gehle a lot; he made comments indicating he did not think Dr. Gehle knew how

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[2]Appellant again pled guilty pursuant to Alford with a negotiated sentence.

[3] Once again, Appellant entered an Alford plea.

to do her job; and he tried to tell her how she should consider information. Appellant gave "very overly detailed, long, tangential" statements that were irrelevant, was "overly familiar," asked Dr. Gehle many personal questions, and even commented on a dress she wore for one interview. He also "lectured a lot" about how the criminal justice system operated, and how Dr. Gehle should understand the legal process. (8/30 TT, pp. 68-70; R., pp. 95-97).

Dr. Gehle testified one of the things she considers in evaluations is the possible presence of a personality disorder, which is the way the person views the world as reflected in all their responses, interactions, attitudes, their explanations, and where they put responsibility for things that happened. She stated she "very clearly" saw evidence of narcissistic personality disorder during Appellant's interview. (8/30 TT, pp. 70-71; R., pp. 97-98).

The Diagnostic and Statistical Manual of Mental Disorder, 5th Ed. (DSM-5-TR) sets out nine criteria for narcissistic personality disorder, with evidence of five criteria necessary in order to diagnose the disorder. The criteria include: a grandiose sense of self-importance; a preoccupation with fantasies of unlimited success, power, brilliance, beauty or ideal love; a belief the person is special and unique and can only be understood by, or associate with, other special or high status people or institutions; requiring excessive admiration; a sense of entitlement; interpersonally exploitative; lacking empathy; envious of others or believing other are envious of them; and showing arrogant, haughty behaviors or attitudes. Dr. Gehle testified that based on the records and her interview of Appellant, he had evidence of "most all of them." (8/30 TT, pp. 72-76; R., pp. 99-103).

Based on Appellant's history and statements he made during the interview, Dr. Gehle testified she found some things that related to risk factors for re-offending. Appellant's relationship history was "a mess," with "lots of conflict," "cheating," and "chaos," he lacked

emotionally intimate relationships with adults, and there was an indication of sexual preoccupation, all of which are risk factors for re-offending. (8/30 TT, pp. 77-80; R., pp. 104-107).

Appellant told Dr. Gehle the 1993 offenses involving the eight year old female happened because "he was horny," he was not able to have sex with his girlfriend the day before, sex with the minor "was one way that he dealt with that sexual arousal" from the day before, and it was "just getting the horniness out." Dr. Gehle testified Appellant's statements showed he did not understand the harm he caused, and he characterized it as the victim initiated it and it was just "to satisfy an urge that he had." (8/30 TT, pp. 80-81; R., pp. 107-108).

According to Department of Corrections records Dr. Gehle reviewed, Appellant had several periods of sex offender treatment with various levels of participation prior to his 2010 release on the 1994 convictions. He then re-offended twice after his 2010 release. Dr. Gehle testified sex offender treatment is meant to prevent re-offending, and the fact Appellant had sex offender treatment and then re-offended indicated the treatment was not successful. (8/30 TT, pp. 81-83; R., pp. 108-110).

In addition to diagnosing Appellant with narcissistic personality disorder with antisocial traits diagnosis, Dr. Gehle diagnosed him with pedophilia. She testified pedophilia is a deviant sexual interest in prepubescent children that spans at least a six month period, and Appellant's multiple offenses against prepubescent children from 1993 to 2015 well exceeded the required six month period. (8/30 TT, pp. 88-91; R., pp. 115-118).

In addition to reviewing all the records and interviewing Appellant, Dr. Gehle utilized two actuarial risk assessment tools, the Static-99R and the Static-2002R, to help assess

Appellant's risk to re-offend sexually. Appellant's score on both instruments put him in the well above average risk to re-offend category. (8/30 TT, pp. 91-98; R., pp. 118-125).

Dr. Gehle also considered dynamic risk factors that increase a person's risk to re-offend sexually. She found that Appellant exhibited nine of twelve research supported factors, including: sexual preoccupation; a sexual preference for prepubescent children; offensive supported attitudes; a lack of emotionally intimate relationships with adults; lifestyle impulsiveness; poor problem solving; resistance to rules and supervision; grievance and hostility; and negative social influences. Dr. Gehle testified these risk factors were evidenced by Appellant's longstanding patterns of behavior, and past behavior is the best predictor of future behavior. (8/30 TT, pp. 98-106; R., pp. 125-133).

Based on all the information she reviewed and interviewing Appellant for over ten hours, Dr. Gehle opined to a reasonable degree of psychological certainty that Appellant has both a mental abnormality (pedophilia) and a personality disorder (narcissistic personality disorder with antisocial traits) that affect his volitional control. She further opined that Appellant's pedophilia and personality disorder make him likely to commit future acts of sexual violence. (8/30 TT, pp. 107-108; R., pp. 134-135).

During cross-examination, Appellant asked Dr. Gehle if she did an independent investigation "to corroborate the allegations" underlying Appellant's criminal convictions, and the State objected on the ground Appellant was attempting to relitigate the underlying allegations of his criminal convictions. Appellant argued that Dr. Gehle's testimony regarding the underlying allegations was hearsay, and without independent corroboration Dr. Gehle had no information about the truthfulness of the allegations, which went to the probative value of the statements. (8/30 TT, pp. 113-116; R., pp. 140-143).

Judge Goodstein noted the instant case was not a criminal proceeding and some hearsay concerns relevant to criminal proceedings do not arise in sexual predator civil commitment cases. She further noted one of the issues in sexual predator cases is the person's risk to reoffend, expert testimony is necessary to decide that issue, and the expert can testify to matters that were important to the expert's opinion. Judge Goodstein ruled the indictments constituted a factual basis for Appellant's guilty pleas, even if he pled guilty pursuant to Alford, and he could not collaterally attack those convictions in the SVPA proceeding. (8/30 TT, pp. 116-133; R., pp. 143-160).

Appellant testified his 1993 offenses occurred because he was a "drunken idiot" and "cared about no one but myself." He stated Dr. Gehle's record regarding those offenses was "accurate" in describing the person he was at the time, but his lifestyle had "drastically" changed since then. He further testified that a 1997 disciplinary infraction he received in prison for possessing contraband (wine) was supposed to result in severe punishment, but the hearing officer gave him a break and ordered counseling, and that incident "changed his habits" and was the beginning of "the new me." (8/30 TT, pp. 168-170; R., pp. 195-197).

Appellant admitted committing the 1993 offenses, stating "[i]t was a horrible act," and he was "just depressed all the time," but he "had to finally move past it." He testified that the offenses "could have traumatized [the victim] forever, it could affect the way she has relationships, has sexual relationships," "it could just ruin her life." He also testified about the sex offender treatment he received before he was released from incarceration in 2010. (8/30 TT, pp. 171-177; R., pp. 198-204).

Appellant testified the offenses against two girls that he and his girlfriend were arrested for in 2014 "really screwed my life up," and he and his girlfriend "were not guilty." He stated he

pled guilty to assault and battery as to both victims because he had been in jail for seventeen months and he would be allowed to get out immediately if he pled guilty. He testified he entered an Alford plea to assault and battery, which meant "you're not pleading guilty but you feel like if you go to trial you could be found guilty." He then denied committing those offenses. (8/30 TT, pp. 179-182; R., pp. 206-209).

As to his 2019 conviction, Appellant testified he insisted on going to trial on the charges, but his attorney convinced him to plead guilty because the jury would sympathize with the victims. He agreed to enter an Alford plea to one of the charges in exchange for a sentence of ten years incarceration, suspended to seven years with intensive probation and an ankle monitor. He denied committing the offenses. (8/30 TT, p. 182; R., pp. 209).

The jury found Appellant is a sexually violent predator beyond a reasonable doubt. Based on the jury's verdict, Judge Goodstein committed Appellant to DMH custody for long term control, care, and treatment. (8/30 TT, pp. 237-238, 243, Amended Order of Commitment filed September 27, 2022; R. pp. 264-265, 270; 300). This appeal followed.

STANDARD OF REVIEW

The admission or exclusion of evidence is a matter within the trial court's sound discretion, and an appellate court may only disturb a ruling admitting or excluding evidence upon a showing of a manifest abuse of discretion accompanied by probable prejudice. Glenn v. 3M Co., 440 S.C. 34, 890 S.E.2d 569, 581 (Ct. App. 2023) (internal citations omitted); *see also* Gamble v. Int'l Paper Realty Corp., 323 S.C. 367, 474 S.E.2d 438, 441 (1996) (same); In re Manigo, 389 S.C. 96, 697 S.E.2d 629, 633 (Ct. App. 2010) *aff'd* 398 S.C. 149, 728 S.E.2d 32 (2012) (same).

ARGUMENT

Judge Goodstein did not abuse her discretion by admitting evidence regarding sex offense charges that were ultimately the subject of a guilty plea to lesser included offenses or dismissed as part of a plea agreement, because the testimony regarding the facts of the offenses was limited and did not include unduly graphic details, and the expert testified the offenses were part of the basis for her ultimate opinions regarding Appellant's diagnosis and risk to reoffend sexually.

Appellant contends Judge Goodstein erred by allowing Dr. Gehle to testify about the factual basis of Appellant's sex offense charges and convictions because he entered Alford pleas, never admitted committing the sex acts, and one of the charges was dismissed by the prosecutor. These contentions are meritless.

Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence". Rule 401, SCRE. Even relevant evidence may be excluded if its probative value is substantially outweighed by a danger that it will confuse the issues or mislead the jury. Rule 403, SCRE.

A. Alford Pleas

Appellant's ultimate claim is that his Alford pleas and continuing denial of the alleged conduct underlying his convictions and the dismissed charge (pursuant to his agreement to plea to the other outstanding charge) render the information Dr. Gehle considered unreliable and inadmissible. As he did before Judge Goodstein, Appellant is attempting to collaterally attack his guilty pleas.

"The primary thrust of the Alford decision is that a defendant may voluntarily and knowingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit he participated in the acts constituting the crime." State v. Herndon, 403 S.C. 84, 742

S.E.2d 375, 379 (2013) (*citing* United States v. Morrow, 914 F.2d 608, 611 [4th Cir.1990]). "The Alford plea is, in essence, a guilty plea and carries with it the same penalties and punishments," and it collaterally estops the defendant from litigating a civil claim based on the same facts as the criminal conviction. *Id.* at 380 (*citing* Zurcher v. Bilton, 379 S.C. 132, 666 S.E.2d 224 [2008]).

In South Carolina, an Alford plea is merely a guilty plea with the gloss of judicial grace allowing defendants to enter a plea in their best interests, and a defendant entering an Alford plea is still treated as guilty for the purposes of punishment, and is not owed anything merely because the State and the court agreed to deviate from the standard guilty plea. *Id.* at 381; *see also* State v. Fraley, 437 S.C. 135, 876 S.E.2d 703, 704-705 (Ct. App. 2022) (Alford plea carries same effect as a regular guilty plea). Judge Goodstein noted that before the court accepted his pleas, Appellant had to admit there was sufficient evidence to convict him of the offenses alleged in the indictments if the case went to trial, even if he did not want to "straight up admit it." (8/29 TT, p. 103; R., p. 25). Appellant's continued attempts to collaterally attack his Alford pleas are improper and unavailing, and Judge Goodstein properly ruled Dr Gehle could testify about the underlying facts of the convictions.

B. Admissibility of Evidence

Appellant acknowledges the case law holding that evidence of both convictions and unconvicted offenses is admissible in SVPA cases if they are relevant to the determination of whether the person is a sexually violent predator.[4] *See* In re Corley, 353 S.C. 202, 577 S.E.2d 451, 453 (2003) (past criminal history is directly relevant to SVPA determination and evidence

[4]Appellant's broad assertion (with no citation to the record) that the State argued hearsay is "always admissible" simply if an expert relied on it in reaching her conclusions takes the State's argument completely out of context. Rather, the discussion before Judge Goodstein related specifically to experts in sexual predator cases, the State expressly acknowledged that some of the details "have to come out" and the State did not intend to offer those details. (8/29 TT, pp. 83-86; R., pp. 5-8).

regarding details of previous offenses is proper when directly relevant to the ultimate issue of the person's propensity to commit future acts of sexual violence); Manigo, 697 S.E.2d at 633-634 (expert may testify to matters of hearsay for the purpose of showing what information the expert relied on in giving an opinion of value); In re Ettel, 377 S.C. 558, 660 S.E.2d 285, 287-288 (Ct. App. 2008) (experts in SVPA cases are given access to all relevant criminal offense records and reports and may testify about those records and reports that are relevant to the expert's opinions) (*citing* Corley); White v. State, 357 S.C. 1, 649 S.E.2d 172, 176-177 (Ct. App. 2007) (term "offenses" in SVPA includes both convictions and offenses not resulting in convictions). Appellant then argues those cases are distinguishable and limited by subsequent case law, particularly Watson v. Ford Motor Co., 389 S.C. 434, 699 S.E.2d 169 (2010), and In the Matter of Bilton, 432 S.C. 157, 851 S.E.2d 442 (Ct. App. 2020).[5] Appellant's argument ignores some very significant aspects of the SVPA case law as well as the more recent cases.

First, Appellant's extensive attempt to "easily" distinguish this case from Ettel overlooks an extremely important fact of the case that undermines his argument. In addition to testifying about the facts of Ettel's sexual conviction and the unreported sex offenses he related to her, the expert testified about verbal information she received from law enforcement officers regarding Ettel's murder conviction in another state that indicated there may have been a sexual component to that offense as well, all of which the expert considered in reaching her ultimate opinions. *Id.* at 563. The court of appeals affirmed the admission of this testimony based on essentially the same analysis Judge Goodstein applied in this case, finding the SVPA gives experts access to all relevant criminal offense records, and the evidence at issue was relevant because the expert relied on it in evaluating Ettel. *Id.* at 562- 563.

[5]The only case Appellant attempts to distinguish from this case is Ettel.

The court further found the possibility of prejudice did not substantially outweigh the evidence's probative value, in part, because it was not the only source of the expert's diagnosis, which included Ettel's past criminal sexual conduct conviction, his statements during the expert's extensive clinical forensic interviews with him, administrative records and Ettel's record while in a sex offender treatment program. *Id.*at 563. Significantly, Dr. Gehle cited the same sources as the basis for her diagnoses in this case.

Appellant's reliance on Watson and Bilton is misplaced.[6] The issue in both cases was the admission of expert testimony regarding scientific tests. In Watson, the supreme court reversed a products liability jury verdict, holding the circuit court erred in admitting testimony from an expert witness regarding a design flaw in the Ford Explorer, and his theory of how the single vehicle accident at issue could have been prevented. The court found the witness' testimony

[6]Appellant also cites State v. Jenkins, 436 S.C. 362, 872 S.E.2d 620 (2022), as authority for his assertion subsequent case law has changed what expert testimony is admissible in SVPA cases. The testimony at issue in Jenkins, a capital murder case, was a defense expert witness' reference to a statement a co-defendant made to the expert indicating he told the defendant to commit a different murder than the one on trial, which the trial court excluded. After an extensive discussion regarding expert testimony and hearsay, the supreme court acknowledged the excluded statement could have served a dual purpose: the improper purpose of determining whether the co-defendant in fact told the defendant to kill the victim at issue; or the proper purpose of explaining the basis for the expert's opinion the defendant was under the influence of the co-defendant at the time of the murder at issue. Stating the question of whether the trial court erred in excluding the statement was "a close question," the court affirmed the trial court's exclusion of the statement as inadmissible hearsay, finding the record was insufficient to establish an abuse of discretion. *Id.* at 629-632. Initially, Jenkins is a criminal case, and the instant case is civil. See State v. Gaster, 349 S.C. 545, 564 S.E.2d 87, 90 (2002) (SVPA creates civil, non-punitive process for civil commitment of persons found to be sexually violent predators) (*citing* In re Matthews, 345 S.C. 638, 550 S.E.2d 311 [2001] [Act does not violate Double Jeopardy clause of federal or state constitutions because it does not constitute punishment]. Further, the purpose of Dr. Gehle's testimony had nothing to do with determining whether Appellant in fact committed the underlying offenses, which was already established as fact by his guilty pleas, but went solely to explain the basis for Dr. Gehle's opinions regarding his mental status and risk to reoffend in the future.

lacked any scientific basis and was not reliable. 699 S.E.2d at 177-179. There is no discussion in Watson regarding hearsay as a basis for excluding the expert's testimony.

As in Watson, the issue in Bilton was the admission of expert testimony regarding a scientific test a third party conducted at the expert's request. The court of appeals reversed the circuit court's admission of the evidence, finding the expert neither administered nor observed the test, and she had not reviewed the raw data from the test but relied on the report from the lab that administered it. The court held that absence a "baseline demonstration" of the test's reliability, a testifying expert cannot be a "conduit of hearsay" for someone else's scientific work. 851 S.E.2d at 445-446.

The testimony at issue here in this case did not involve the reliability of scientific tests performed by Dr. Gehle or anyone else. Thus, neither Watson nor Bilton obviate the prevailing law regarding admissibility of expert testimony about information the expert considered and relied on for purposes of reaching his/her conclusions in a SVPA case.

Appellant also contends the substance of Dr. Gehle's testimony regarding his sexual offenses was inadmissible because she failed to conduct any "independent investigation" and there was "no evidence" the allegations were true. As a threshold matter, Appellant's guilty pleas to the charges were "evidence" that substantiated the allegations.[7] Further, requiring an expert to re-victimize the person's victims by conducting an "independent" investigation of each offense in order to reach any conclusions regarding the person's mental status and risk to re-offend sexually is completely contrary to the SVPA's stated intent to protect the public from future victimization by sexual predators.

[7]Of interest, Appellant entered an Alford Plea on the 1993 offenses, which he now claims rendered all the evidence regarding his offenses inadmissible as unsubstantiated allegations. The reality is that Appellant has never accepted responsibility for the offenses he committed against minor children, which makes him more likely to commit similar offenses in the future.

Finally, Appellant's contention that Dr. Gehle testified in graphic detail about Appellant's sex offenses is simply inaccurate. Her testimony regarding each offense was limited, and significantly, it was based not only on the official records, but on statements Appellant made to Dr. Gehle about the offenses. (8/30 TT, pp. 47-66; R., pp. 74-93).[8] Appellant testified about the offenses, admitted committing the 1993 offenses, but denied committing all the other offenses. The jury was free to accept his version if it determined he was credible. See Upson v. State, Op. No. 2018-001674, 2024 WL 358032, at *5 (S.C. Ct. App. Filed January 31, 2024) (credibility of witnesses is a question for the jury, and the jury decides the weight to be afforded the testimony) (*citing* Melton v. Williams, 281 S.C. 182, 314 S.E.2d 612, 614–15 (Ct. App. 1984).

Judge Goodstein properly exercised her discretion by considering both the probative value and the prejudicial effect of Dr. Gehle's testimony regarding the basis of Appellant's sex offenses, found the probative value was high and the prejudice to Appellant did not substantially outweigh the probative value. Her ruling is supported by the record and applicable case law, and should be affirmed.

[8]Most of the cited testimony was identifying the official court documents from Appellant's sex offense convictions, and public information regarding a charge that was dismissed as part of his 2019 plea agreement. Those documents were entered into evidence as Plaintiff's Exhibits 1-6. (R. pp 272-299).

CONCLUSION

Based on the foregoing reasons, the State respectfully submits the Court should affirm the circuit court ruling and Appellant's civil commitment as a sexually violent predator pursuant to the SVPA.

Respectfully submitted,

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Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled, "Revised Order concerning Personal Identifying Information and other Sensitive Information in Appellate Court Filings.

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