

RECEIVED

Jul 12 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable William H. Seals, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF JOSEPH CURTIS, JR.

APPELLANT

APPELLATE CASE NO. 2023-000285

RECORD ON APPEAL

DAVID ALEXANDER
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

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

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEBRUARY 7-9, 2023	1
STATE’S MOTION TO EXCLUDE REFERENCE TO COMMITMENT FACILITY	6
RESPONSE BY MS. JOHNSON	7
STATE’S MOTION TO EXCLUDE REFERENCE TO TREATMENT	7
RESPONSE BY MS. JOHNSON	8
STATE’S MOTION TO EXCLUDE REFERENCE TO INCARCERATION TIME	8
RESPONSE BY MS. JOHNSON	8
DEFENSE’S MOTION TO REFER TO DEFENDANT AS “MR. CURTIS”	9
RESPONSE BY MS. SHAW	9
COURT’S RULING TO ADDRESS DEFENDANT AS “MR. CURTIS” OR RESPONDENT	9
DEFENSE’S MOTION TO EXCLUDE REFERENCE TO UNDERREPORTING OF SEX OFFENSES	10
RESPONSE BY MS. SHAW	10
REBUTTAL BY MS. JOHNSON	11
COURT’S RULING ALLOWING REFERENCE TO UNDERREPORTING OF SEX OFFENSES	12
DEFENSE’S MOTION TO EXCLUDE MENTION OF CHILD SUPPORT AND RELATIONSHIP WITH DEFENDANT’S MINOR CHILDREN	13
RESPONSE BY MS. SHAW	13
COLLOQUY REGARDING UNCHARGED CONDUCT	15
OPENING STATEMENT BY MS. SHAW	26
OPENING STATEMENT BY MS. JOHNSON	30

ARGUMENT REGARDING DEFENSE’S MOTION TO EXCLUDE UNCHARGED CONDUCT	34

COURT’S RULING ALLOWING STATE TO USE UNCHARGED CONDUCT	37

TESTIMONY

EMILY GOTTFRIED

Direct Examination by Ms. Shaw	39
Cross-Examination by Ms. Johnson	107

STATE’S OBJECTION TO RELEVANCE OF AVAILABILITY OF OUTPATIENT TREATMENT	200

TESTIMONY

EMILY GOTTFRIED

Continued Cross-Examination by Ms. Johnson.....	206
Redirect Examination by Ms. Shaw.....	210
Recross-Examination by Ms. Johnson.....	219

STATE RESTS	221

DEFENSE OBJECTION FOR A DIRECT VERDICT	222

RESPONSE BY MS. SHAW	222

COURT DENIES DEFENSE MOTION FOR A DIRECTED VERDICT	222

TESTIMONY

MARIE GEHLE

<i>Voir Dire</i> Direct Examination by Ms. Johnson	224
<i>Voir Dire</i> Cross-Examination by Ms. Shaw	237
Direct Examination by Ms. Johnson.....	241
Cross-Examination by Ms. Shaw.....	293
Redirect Examination by Ms. Johnson	332

DEFENSE RESTS	335

DEFENSE RENEWS MOTION FOR A DIRECTED VERDICT	336

COURT DENIES DEFENSE MOTION FOR A DIRECTED VERDICT	336

CLOSING ARGUMENT BY MS. SHAW	337

III

CLOSING ARGUMENT BY MS. JOHNSON	345
REBUTTAL CLOSING ARGUMENT BY MS. SHAW	362
JURY CHARGE	369
VERDICT	377
INDICTMENTS	380
STATE’S EXHIBIT #1 (SENTENCE SHEETS).....	388
RESPONDENT’S MOTIONS IN LIMINE	391
ORDER OF COMMITMENT	393
CERTIFICATE OF COUNSEL	394

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF HORRY) TRANSCRIPT OF RECORD

3 -----x
4 IN THE MATTER OF THE CARE)
5 AND TREATMENT OF:) Case No. 2021-CP-26-04774
6 JOSEPH CURTIS, JR.)
7 -----x

February 7-9, 2023

8 TRIAL TRANSCRIPT

9 B E F O R E:

The Honorable William Seals, Presiding Judge; and a jury.

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

11 Suzanne J. Shaw, Esq.
12 Chris Runyan, Esq.
Attorneys for the State

13 Kindle Kay Johnson, Esq.
14 Attorney for the Respondent
15
16
17
18
19
20
21
22
23
24

25 Court Reporter: Bobbi Fisher, RPR
SC Official Court Reporter III

I N D E XWITNESS/DESCRIPTIONPAGE

MOTION IN LIMINE

6

JURY VOIR DIRE

15

JURY SELECTION

65

COUNCIL HEARING

69

DR. EMILY GOTTFRIED

Direct Examination By Ms. Shaw

70

Cross-Examination By Ms. Johnson

111

Redirect Examination By Ms. Shaw

140

CLOSING ARGUMENT ON BEHALF OF THE STATE

142

CLOSING ARGUMENT ON BEHALF OF THE RESPONDENT

145

JUDGE'S RULING

145

OPENING STATEMENT ON BEHALF OF THE STATE

152

OPENING STATEMENT ON BEHALF OF THE RESPONDENT

157

DR. EMILY GOTTFRIED

Direct Examination By Ms. Shaw

166

Cross-Examination By Ms. Johnson

234

Redirect Examination by Ms. Shaw

337

Recross-Examination By Ms. Johnson

346

MOTION FOR DIRECTED VERDICT

348

1	DR. MARIE GEHLE	
2	Direct Examination By Ms. Johnson	351
3	Voir Dire Examination By Ms. Shaw	364
4	Continuing Direct Examination By Ms. Johnson	368
5	Cross-Examination By Ms. Shaw	420
6	Redirect Examination By Ms. Johnson	459
7	CLOSING ARGUMENT ON BEHALF OF THE STATE	464
8	CLOSING ARGUMENT ON BEHALF OF THE RESPONDENT	472
9	FINAL CLOSING ARGUMENT ON BEHALF OF THE STATE	489
10	JURY CHARGE	495
11	VERDICT	504
12	CERTIFICATE OF REPORTER	507
13	JURY STRIKE SHEETS	508
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
1	Sentencing Sheets	69	180

Court's Exhibits

No.	Description	ID.	REC'D
1	Plethysmography	5	5
2	PPG	5	5
3	Joseph Plaud Article	5	5
4	PPG Administration Instructions	5	5
5	"Limestone" document	5	5
6	"Our Lab" document	5	5
7	ATSA Practice Guideline	5	5

P R O C E E D I N G S

(Whereupon, the following proceedings started at 10:26 a.m.):

(Court's Exhibit No. 1, Plethysmography, was premarked for identification and received into the record.)

(Court's Exhibit No. 2, PPG, was premarked for identification and received into the record.)

(Court's Exhibit No. 3, Joseph Plaud Article, was premarked for identification and received into the record.)

(Court's Exhibit No. 4, PPG Administration Instructions, was premarked for identification and received into the record.)

(Court's Exhibit No. 5, "Limestone" document, was premarked for identification and received into the record.)

(Court's Exhibit No. 6, "Our Lab" document, was premarked for identification and received into the record.)

(Court's Exhibit No. 7, ATSA Practice Guideline, was premarked for identification and received into the record.)

THE COURT: And who wants to go first? The State?

MS. SHAW: Your Honor, the State's case. May it please the Court? Suzanne Shaw on behalf of the State of South Carolina in the matter of Joseph Curtis. Docket No. 2021-Common Pleas-26-04774. We are here today for the trial of the civil commitment of Mr. Curtis. We don't have him out yet. Do we want to have him present?

And while they're getting him, the State has filed

1 several motions in limine, as has the respondent. Would Your
2 Honor like me to go through the State's motions first and then
3 respond to Ms. Johnson's motions, or how would you like to
4 handle it?

5 THE COURT: Any way is suitable. Probably do yours first
6 and then we'll do hers.

7 MS. SHAW: No problem. Thank you, Your Honor.

8 MOTION IN LIMINE

9 MS. SHAW: So, the Petitioner's first motion in limine
10 would be to move to prohibit any reference to the location or
11 the facility where Mr. Curtis would be housed if he were to be
12 committed to the program as either on death row or in prison
13 or for an indeterminant of time or civilly committed for life,
14 things of that nature.

15 As Your Honor well knows from trying so many of these
16 cases, this is a civil scheme. This is not punitive. And
17 that could mean this would confuse the jury and mislead them
18 into thinking that the State is actually having an intent to
19 punish Mr. Curtis rather than get him treatment as well as
20 long-term control.

21 So, that would be the State's first motion.

22 THE COURT: Let's let her respond to that.

23 Ms. Johnson, do you have any objections to that?

24 MS. JOHNSON: Your Honor, I beg the Court's indulgence.

25 THE COURT: Sure.

1 MS. SHAW: Just for the record, Your Honor, the State has
2 no objection to the facility being described as a secure
3 facility, but as part of a prisoner on prison grounds, we
4 would have a problem with that.

5 THE COURT: Secure or mental health facility?

6 MS. SHAW: That's fine. Yes, Your Honor.

7 MS. JOHNSON: Your Honor, I don't have any intention of
8 going into what type of facility this is.

9 THE COURT: Thank you.

10 MS. JOHNSON: I may be offering testimony -- or eliciting
11 testimony, I should say, about who lives in this location
12 versus not -- population that is not allowed to be -- that
13 they're not allowed to mix with, so to speak, but I won't be
14 referring specifically to where it's located and that sort of
15 thing.

16 MS. SHAW: Thank you, Your Honor.

17 State's second motion in limine would be to prohibit any
18 reference to the details of any and all future treatment,
19 whether it be inpatient or outpatient, that Mr. Curtis would
20 receive. And we actually have a -- there's an identical
21 motion filed by Respondent as well to prohibit any discussion
22 of treatment, and since it is not relevant to the question of
23 whether Mr. Curtis meets the criteria as a sexually violent
24 predator, we would say it would be irrelevant and could
25 potentially also, again, mislead and confuse the jury.

1 THE COURT: Do you consent to that?

2 MS. JOHNSON: Your Honor, that is correct. My motion is
3 in regards to the likelihood of him receiving treatment if
4 he's not put in a Sexually Violent Predator program, but I
5 have no objection to their motion.

6 THE COURT: All right. Thank you.

7 MS. SHAW: Thank you, Your Honor.

8 And then the last State's motion in limine would be to
9 prohibit any references to the total amount of time that
10 Mr. Curtis has spent in an incarcerated situation following
11 his max-out date. He did max out quite a while ago, and we've
12 been trying to get this matter listed for trial, and we had
13 those several motions that the Court needed to resolve for us
14 regarding independent funding for a third evaluation.

15 So, we would just request that the jury not be informed
16 of the total amount of time he's been spending in prison
17 beyond his sentence because it could be unduly prejudicial and
18 make the State look as if we're trying to punish him, when, in
19 reality --

20 THE COURT: Do you consent to that one?

21 MS. JOHNSON: Yes, Your Honor. I'm not going to get into
22 anything post -- like, as far as when this petition was filed
23 and how long he's been waiting. I won't be getting into that.

24 THE COURT: All right.

25 Any other ones?

1 MS. SHAW: Thank you, Your Honor. And I would be happy
2 to respond to Respondent's motions in limine, if the Court
3 would like.

4 THE COURT: All right. Let's hear from...

5 MS. JOHNSON: And, Your Honor, some of these motions in
6 limine that I filed, I believe, are more appropriately
7 addressed after the *Council* hearing, specifically -- I have
8 got page 1 -- beg the Court's indulgence, sir, while I find my
9 second page.

10 Now, No. 1 is that I would just like my client to be
11 referred to as "Mr. Curtis" and not as "Respondent" or
12 "Defendant" or anything like that.

13 MS. SHAW: Your Honor, he is the respondent, so I would
14 just -- you know, need a little latitude. I mean, typically
15 in these matters, I do refer to the respondent by their name,
16 but just in case I should slip up, I just don't want that to
17 become an issue. I mean, he's a respondent. He is not a
18 defendant.

19 THE COURT: I think "Respondent" or "Mr. Curtis" would be
20 fine.

21 MS. SHAW: Thank you. Yes.

22 (Respondent now present in the courtroom at 10:32 a.m.)

23 MS. JOHNSON: Your Honor, as far as No. 2 is concerned,
24 I'm just renewing my motion. We dealt with this issue of an
25 independent evaluator at a prior pretrial hearing, and I am

1 renewing that motion as far as that is concerned, Your Honor.

2 THE COURT: Okay. We've already covered that.

3 MS. JOHNSON: Okay.

4 Your Honor, as far as No. 3 and No. 4 are concerned, I
5 think those are best addressed after the *Council* hearing.

6 THE COURT: Okay.

7 MS. JOHNSON: And I believe we've handled No. 5. Or,
8 sorry, No. 6.

9 MS. SHAW: And, Your Honor, with No. 5, that's just
10 regarding discussion of the petitions for annual release. We
11 don't typically discuss that in these types of trials, and I
12 have no intention of discussing it at all.

13 MS. JOHNSON: Your Honor, No. 7, we are asking that any
14 reference to underreporting of sex offenses be excluded. We
15 believe it's unfairly prejudicial, and we are asking that any
16 testimony regarding that be excluded.

17 MS. SHAW: Your Honor, the relative rate of reporting of
18 sex offenses is relevant in terms of the Static assessment and
19 the actuarial assessments. Both Dr. Gehle and Dr. Gottfried
20 have previously testified in my cases that only about 30
21 percent of sex offenses are reported. So, Statics are the
22 tool they use to be able to compare the offender himself to a
23 group of offenders as a whole and estimate his risk based on
24 that. It does not take into account unreported offenses. It
25 does not take into account unconvicted conduct or any other

1 normal populations specific to sex offenders.

2 And so, that 30 percent -- because only 30 percent of
3 offenses are reported, there's a considerable number that may
4 not even be detected that do re-offend.

5 So, in context of the Static, that underreporting can
6 skew the results to mean that there is less risk when, in
7 fact, the risk is considerably higher. That's the only time
8 that we really discuss that, and that would be how I would
9 present the testimony, is that it's in the context of
10 comparing this offender to the group as a whole.

11 MS. JOHNSON: Your Honor, I think that's going to be very
12 confusing to the jury, and I think it's unfairly prejudicial
13 to my client. I think the implication and the messages that
14 there's an even higher chance that my client should be skewing
15 higher on these tests, specifically the 99R and 2002R -- and
16 it's our argument, Your Honor, that if -- if what the State is
17 offering as evidence is reliable, then, it is what it is.
18 There's no need for us to say, "Oh, it's reliable," but then
19 also it might even be worse.

20 So, we're just saying that, Your Honor, if you're going
21 to offer it as a reliable accounting of where he's skewing on
22 that test that then to say, "Well, that's also not sufficient;
23 we think that your client might be worse off," I just don't
24 think that's fair to my client, and I don't think it's
25 relevant. Whatever he's made on that 99R and that 2002R, I

1 think, is sufficient for what they're offering for testimony.

2 MS. SHAW: Your Honor, the relevance is very important
3 because these Static scores are very, very high to begin with.
4 He's in well above average risk category on the 99R, and he's
5 in the above average risk category on the 2002R. And we're
6 not using that 30 percent number in order to suggest to the
7 jury that his numbers actually should be higher. We don't
8 know that, and that's not the suggestion. The reason for
9 using that is simply to underscore that this is an actuarial
10 tool only. It's assessing the comparison of this offender to
11 the group as a whole.

12 And it's just like car insurance. I mean, if you have X,
13 Y, and Z risk factor, you're going to pay more, and you're
14 going to have a higher score for your insurance, and it's the
15 same thing. We'd respectfully request that we be allowed to
16 use that information in that context.

17 THE COURT: I'm going to deny that motion. I think,
18 under this context, it is appropriate.

19 MS. SHAW: Thank you, Your Honor.

20 MS. JOHNSON: And, Your Honor, I also think No. 8 and
21 No. 9 are best handled after the *Council* as well when we are
22 able to question Dr. Gottfried as to what she does intend --
23 what she relied on and also what she does intend to discuss in
24 front of the jury. So, we would ask that that be held at a
25 late time for the *Council*.

1 But as far as No. 10 is concerned, we are asking that
2 testimony, as far as my client's child support or his
3 relationship with his minor children, that that be excluded.
4 We think it's unfairly prejudicial as well, Your Honor, and we
5 also think it's irrelevant to these proceedings.

6 THE COURT: Yes, ma'am?

7 MS. SHAW: Your Honor, with respect to No. 10, absolutely
8 that's not a problem. We don't ever really discuss that, and
9 it's not relevant in the context of this particular case
10 because Mr. Curtis did not offend against his children.

11 THE COURT: All right.

12 MS. SHAW: No. 12, I believe, has already been resolved.

13 No. 11 I tied in with Nos. 8 and 9. And we can certainly
14 argue about it later, but I have already addressed the issue
15 of unconvicted conduct in my pretrial memorandum. Our seminal
16 cases *Corley*, *White*, and *Ettel*, all stand for the proposition
17 that unconvicted conduct, if used by an expert in a reasonable
18 course of their investigation -- and if that evidence tends to
19 establish a pattern of conduct over time, whether it's
20 convicted or not, that evidence is relevant, it is not unduly
21 prejudicial, and it does come in. So we can argue about that
22 later, that's fine, but I have already addressed it in my
23 pretrial memo.

24 THE COURT: Do we have any other motions?

25 MS. JOHNSON: Your Honor, just as an aside, I believe

1 that there may be some testimony -- and perhaps this is
2 something to be dealt with at the *Council* hearing when I can
3 hear Dr. Gottfried and what she's going to say and how she's
4 going to say it, but I know there may be some testimony as it
5 relates to allegations from individuals who my client was
6 either never arrested for or my client was never convicted
7 for, and I do know, at some point, we are going to ask that
8 the Court only -- that the Court exclude any testimony
9 referring to individuals as victims who do not meet the
10 statutory definition of victims for the Sexually Violent
11 Predator law.

12 MS. SHAW: Your Honor, I'd have to go and look at what
13 the definition of "victim" is under the law.

14 THE COURT: We'll just cross the bridge when we get
15 there.

16 MS. SHAW: Yeah, that's the first time I have heard that
17 argument.

18 As far as referring to individuals who have accused
19 Mr. Curtis of sexually inappropriate behavior, I have no
20 problem using "accusers." That's fine. But anyone who meets
21 the statutory definition of a victim, obviously, should be
22 referred to as one. The unconvicted conduct, I have no
23 problem with "accusers" as the word.

24 THE COURT: So, what do we do for the next 35 minutes?

25 MS. JOHNSON: Your Honor, I'm not sure if you -- I was

1 JUROR NO. 47: Here in Horry County. Sometimes works in
2 here.

3 THE COURT: Taking that into account, if you were
4 selected to serve on the jury in this case, could you be fair
5 and impartial to the State and the respondent?

6 JUROR NO. 47: Yes, I believe so.

7 THE COURT: All right. Thank you.

8 All right. Any other questions?

9 MS. JOHNSON: Beg the Court's indulgence, Your Honor.
10 Your Honor, I think I withdrew No. 23.

11 THE CLERK: Judge, the jurors that were coming up have
12 been excused for the week.

13 THE COURT: They have been?

14 THE CLERK: Yeah, so in case this trial doesn't go
15 through, we'll have to wait to be put on the new roster.

16 MS. JOHNSON: You're going to be so mad at me, Judge, but
17 I am still asking about 20 and 21.

18 THE COURT: 20 and 21?

19 MS. JOHNSON: Yes, sir.

20 MS. SHAW: I mean, we're not here to prove whether he
21 actually did these offenses. We're here to prove pattern of
22 alleged and convicted behavior over time.

23 THE COURT: "Is there anyone on the jury who would give
24 more weight or be apt to believe allegations of sexual abuse
25 or sexual assault?" That shouldn't be an issue, should it? I

1 mean, he's already been convicted of those things.

2 MS. JOHNSON: Except, Your Honor, there are some things
3 that the State is trying to admit that are allegations that he
4 has not been convicted of, and there's -- I believe there's
5 even one he's not been arrested for, but I did check. I can't
6 remember. But some of them are not convictions.

7 THE COURT: The question is not worded really good,
8 "...give more weight or be more apt to believe allegations of
9 sexual abuse or sexual assault." Allegations from whom? I
10 mean, just random allegations or...

11 I'm not really sure what it's asking.

12 MS. JOHNSON: Well, I guess I was thinking in terms of --
13 I mean, I guess they would be allegations from the alleged,
14 but I was just, in general, asking if they would give or be
15 more apt to believe allegations of sexual abuse or sexual
16 assault, just if they're more apt to believe allegations.

17 THE COURT: Allegations for or against or from victims or
18 from law enforcement? That's such a broad statement. I'm not
19 sure if it's...

20 MS. JOHNSON: Well, the problem here, Your Honor, is we
21 have allegations from, like I said, people who just -- we have
22 got allegations from children, we have got allegations from --
23 I mean, we just have allegations.

24 THE COURT: Are they coming into court?

25 MS. JOHNSON: No, but the State is -- my understanding is

1 the State is trying to introduce these allegations.

2 MS. SHAW: The allegations are going to come in as part
3 of Dr. Gottfried's testimony about the pattern of behavior,
4 not from the truth of the matter asserted. The weight that
5 the jury gives the allegation, I mean, is exactly what they
6 should give, and it's not a question of whether they think
7 it's true. It's a question of whether they believe there is a
8 pattern.

9 MS. JOHNSON: But I think I should be able to --

10 THE COURT: How could we word it where it's different?
11 For example, would give more weight, be more apt to believe
12 allegations of such sexual abuse and sexual assault from
13 someone that's -- I mean, how can we qualify it a little bit,
14 pull it in?

15 MS. JOHNSON: Maybe we can say even if it doesn't lead to
16 a conviction or something? I don't know, Your Honor. Because
17 that's what we're talking about. There's some he's admitted
18 to, but...

19 THE COURT: How about if we add "more apt to believe the
20 allegations of sexual abuse or sexual assault, even if the
21 allegations did not lead to a conviction"?

22 MS. JOHNSON: Yes, sir. That would be okay.

23 THE COURT: How about that?

24 MS. SHAW: I mean, I still don't think it's particularly
25 relevant.

1 THE COURT: I think it's relevant or you wouldn't be
2 putting it in.

3 MS. SHAW: I just think we're going to lose this entire
4 jury and then we're going to have to do a mistrial and then
5 we're going to have to start all over again. That's my
6 concern.

7 THE COURT: Well, it wouldn't be a mistrial because we
8 haven't even got a jury yet. We'd just have go back and do it
9 again.

10 MS. SHAW: Yeah. I mean, that's the kind of question
11 that is going to get a lot of people to stand up, and I just
12 think we're going to lose more jurors. And we've already gone
13 over the sexual questions and the allegation-type questions.

14 THE COURT: What if it says, "Is there anyone in the jury
15 who would give more weight or be more apt to believe
16 allegations of sexual abuse or sexual assault even if the
17 allegations did not lead to a conviction and they are not here
18 to testify in court?"

19 MS. SHAW: Well, Judge, I mean, the victims themselves do
20 not need to come and testify. I mean, that's not how we do
21 things. We're not going to re-traumatize those people just to
22 get somebody to --

23 THE COURT: I know.

24 MS. SHAW: And these allegations are, like I said before,
25 is part of the pattern. It's not a question of whether they

1 are true or not.

2 THE COURT: That's a nuance in a way.

3 MS. SHAW: It's a nuance, but it's an important one
4 because --

5 THE COURT: It's a very important one.

6 MS. SHAW: You know, because what we don't want the
7 jurors putting them in because they don't like him, obviously,
8 and because they a prejudice against sex offenders, but it's
9 not a question of -- I mean, they're going to have to accept
10 the evidence as they hear it, and they can believe it or they
11 won't.

12 But whether they're more likely to believe it if it
13 didn't result in a conviction, I just don't know. I think
14 that's going to be confusing. And, again, I think we're going
15 to lose several more jurors and that's that.

16 THE COURT: But I can see how it's important to her
17 because, if they believe those allegations automatically,
18 that's a chip against him every time. And then they add up
19 with all the testimony that's been presented to lead to him
20 not being safe.

21 MS. SHAW: But there's considerably more testimony than
22 just those unconvicted allegations. So, it's like they're
23 only one little piece of the puzzle.

24 THE COURT: That's right. But it's a piece you want
25 because it adds up.

1 MS. SHAW: It does. And we don't know what the result of
2 the PPG is going to be at this point, so I just don't want to
3 basically hamstring the jury.

4 THE COURT: Well, how can y'all agree to word it where I
5 could ask it and elicit a good response?

6 MS. SHAW: I just can't agree to it.

7 MS. JOHNSON: Your Honor, my issue is that this question
8 is important because it's going to tell me whether they're
9 going to take things that the State --

10 THE COURT: Everything that she says is true.

11 MS. JOHNSON: Yeah. And making it --

12 THE COURT: I agree.

13 MS. JOHNSON: -- used for the truth the matter asserted
14 or just take it as the truth of the matter asserted. I think
15 it's crucial for me to know.

16 MS. SHAW: We can always tailor the testimony to have the
17 experts highlight that this is unconvicted conduct, and then
18 the jury can decide whatever weight they want to give to it.
19 I mean, we always do that.

20 THE COURT: But she wants to know if they're going to
21 automatically accept it as true.

22 MS. JOHNSON: And we've already fashioned it as
23 unconvicted. I mean, we've already taken that into
24 consideration when we refashioned it.

25 THE COURT: "Even if the allegations did not lead to a

1 conviction and they are not here to testify in court."

2 MS. SHAW: I mean, I guess "and they are not here to
3 testify" would be the problem for me because then the jurors
4 are going to start wondering -- like, when everybody hears
5 that and then, whoever falls out, falls out. If we can seat a
6 panel, they're going to be thinking perhaps, "Why isn't that
7 witness here to testify?" And that could be a problem for my
8 case.

9 THE COURT: We can just cut it off, "even if the
10 allegations did not lead to a conviction."

11 MS. SHAW: That's the most I could consent to.

12 THE COURT: Good with that?

13 MS. JOHNSON: Yes, sir.

14 [Open court resumes:]

15 THE COURT: Is there any member of the jury panel who
16 would give more weight or be more apt to believe allegations
17 of sexual abuse or sexual assault even if the allegations did
18 not lead to a conviction? If so, please stand.

19 (No response given.)

20 THE COURT: All right. Anything else?

21 MS. JOHNSON: That's it.

22 THE COURT: All right. I'll find the jury qualified.
23 Are you going to print out another sheet?

24 THE CLERK: No, we don't.

25 (The Court and clerk have a discussion off the record.)

1 MS. JOHNSON: Before we do that, Your Honor, I'm just
2 wanting to make sure -- did they understand the question?

3 MR. RUNYAN: It just -- yeah, I thought we'd get
4 somebody, but I don't know if he read it too fast or maybe
5 just to be safe, we'd read it again.

6 THE COURT: I read it loud and clear.
7 Don't you think?

8 COURT REPORTER: Yes, sir.

9 THE COURT: I wasn't trying to elicit any kind of bad or
10 good response. I just read it.

11 THE CLERK: I just want to make sure everyone knows the
12 right ones are marked. So 1, 2, 3, 5, 9, 11, 12, 13, 15, 17,
13 19, 23, 27, 29, 30, 32, and 39. So we'll do, I guess,
14 technically 4 through 36 and 20.

15 MS. JOHNSON: You said 31 is part of it?

16 THE CLERK: Yes.

17 MS. JOHNSON: But you said 32?

18 THE CLERK: 32 is excused. So you'll do strikes, Nos. 4
19 through 36, and then 37, 38, and 40 is the alternate. 37
20 isn't struck.

21 MS. SHAW: That's fine.

22 THE CLERK: I just wanted to make sure had that.

23 MS. JOHNSON: So, we do have strikes, though; is that
24 right?

25 THE CLERK: Yes. So you'll do four --

1 THE COURT: We can talk about this after.

2 MS. SHAW: Yeah. Well, she just had a question whether
3 she could tell the jury that or not.

4 THE COURT: The next witness.

5 [Open court resumes:]

6 THE COURT: And Mr. Derflinger, I'm going to make you the
7 foreman of the jury. If you would come take this front row,
8 first seat right here -- just switch with that lady -- I'd
9 appreciate it.

10 I thought with all that gray hair you'd be patient and
11 wise. [Laughter].

12 All right. We're getting ready to start this trial, but
13 I want to go over a few things with you before we do. The
14 first thing I want to explain to you is what your role is and
15 what my role is -- what your role is and what my role is and
16 how they differ.

17 You are the judge of the facts. You determine what the
18 exacts of this case are, not me, not my clerk, nobody out
19 there in the audience. Just you 12. Well, you ask
20 yourselves, "How do we determine what the facts of the case
21 are?" It's very simple. You look at the evidence of the
22 case.

23 Evidence is made up of two things. It's made up of the
24 witnesses who come over here and they take that witness stand
25 and they're sworn in and they testify. And it's also any

1 records that are admitted into the case as evidence. That
2 could be pictures, that could be medical reports, anything
3 like that. You look at those two things, and you'll put them
4 together, and you'll decide what the facts of this case are.

5 In turn, I am the judge of the law. My job is to give
6 these parties a fair trial, and at the end of this case, I'm
7 going to instruct you on the law applicable to this case in
8 great detail. I'm going to read it to you. And then, when I
9 tell you to begin your deliberations and only when I tell you
10 to begin your deliberations, will you take the law as I give
11 it to you, the facts as you find them, put the two together,
12 and make a decision therefrom. It's a lot of common sense in
13 that process.

14 Also, after I dismiss you for the day -- we're going to
15 do opening statements today for the State and from the
16 respondent, and then I'm going to let you go, and we're going
17 to come back at 9:30 and start this trial fresh and see if
18 maybe we can't get through with it tomorrow.

19 But when I let you go this afternoon or when you're back
20 there in the jury room at any point in time, don't discuss the
21 case. Like I told you earlier, don't research it, don't
22 Google it. You can talk about the Super Bowl. You can talk
23 the weather, talk about yourselves, talk about anything you
24 want to but not this particular case, because it's very
25 important that you hear from everything the State has to show

1 you and tell you. It's important that you hear from
2 everything the respondent has to tell you. It's important
3 that you have to hear from me in the end regarding the charge.
4 Then you'll have all the ingredients you need to start making
5 a decision, and that's when you'll start deliberating, and
6 I'll specifically tell you to begin.

7 At any point in time tomorrow when we get going, if you
8 need something, if you need a bathroom break, you need
9 something to drink, you need some food or whatever, and we're
10 moving along real good, just wag your hand, catch my
11 attention, and I'll make sure you're taken care of and I'll
12 make sure you have a break. Okay?

13 Right now, I want you to sit back, relax.

14 And I recognize the State for your opening statement.

15 MS. SHAW: Thank you, Your Honor.

16 THE COURT: Oops, we're going to have the clerk swear in
17 the jury first.

18 THE CLERK: Can you get you to please stand and raise
19 your right hand to be sworn.

20 (The jury was duly sworn.)

21 THE CLERK: You may have a seat.

22 THE COURT: Thank you.

23 MS. SHAW: Thank you, Judge.

24 THE COURT: Yes, ma'am.

25 OPENING STATEMENT ON BEHALF OF THE STATE

1 MS. SHAW: Good afternoon, Your Honor. I know it's been
2 a long day. It's not going to be a whole heck of a lot longer
3 today.

4 So I previously introduced myself to you. I'm Suzanne
5 Shaw. I am an Assistant Attorney General for the State of
6 South Carolina in the Sexually Violent Predator Unit up in
7 Columbia, and we are here for this week to try the matter of
8 the Care and Treatment of Mr. Joseph Curtis, who is seated in
9 the courtroom with his counsel.

10 The first thing -- you probably haven't heard of this
11 statute. It's not particularly well-known, but it is
12 extraordinarily important. It was designed -- it was
13 implemented in 1998, and it has been designed to identify and
14 handle a very small and extraordinarily dangerous group of
15 sexual offenders who not only have a qualifying conviction but
16 who also have a mental abnormality and/or personality disorder
17 that makes it likely that they're going to re-offend in a
18 sexual way. That's why we're here.

19 This is for long-term control, care, and treatment. The
20 State is seeking the civil commitment of Mr. Curtis for an
21 indefinite period so that he can be offered the sex offender
22 treatment that he needs.

23 Now, before I go into my actual presentation, I want to
24 apologize to you. These cases are not easy to hear. You're
25 going to be hearing some very ugly facts, you're going to be

1 hearing some very sad stories, and you may not like Mr. Curtis
2 by the time this trial is over, but you cannot allow your
3 judgment to be affected by whatever your feelings are
4 concerning the offenses he's committed. We can't be motivated
5 by prejudice, sympathy, or anything else. You have to fairly
6 and impartially judge all of the facts and determine whether
7 you believe, at the end of the day, that Mr. Curtis meets
8 criteria as a sexually violent predator.

9 So like I just said to you a moment ago, there are three
10 elements I have to prove. Number one is that he has a
11 qualifying conviction. These are certain very serious sexual
12 offenses, and in Mr. Curtis's case, he has been convicted of
13 criminal sexual conduct in the third degree as well as incest
14 and kidnapping. Criminal sexual conduct in the third degree
15 is a sexually violent offense, and that's kind of a threshold
16 matter for how we even get to the beginning of one of these
17 cases.

18 He has maxed out. He has served his time. And, again, like
19 I said to you before, we are not here to punish him. That is
20 not the purpose of this statute. The statute purpose is the
21 protect the public and to get these offenders the care they
22 need. So, that first part is pretty much a done deal.

23 The second question is, he has to have a mental
24 abnormality or a personality disorder that makes him likely to
25 re-offend. So there's those two elements inherent in that

1 prong. And you're going to hear from two experts in this
2 case. Dr. Gehle, of the Department of Mental Health, who did
3 not diagnose Mr. Curtis with any sort of mental abnormality or
4 personality disorder despite his appreciable actuarial risk,
5 and so she did not recommend a commitment.

6 The second expert -- actually, it's the first expert you
7 will hear from -- is Dr. Emily Gottfried of the Medical
8 University of South Carolina. She conducted a follow-up
9 evaluation called an independent evaluation. She conducted a
10 considerable amount of additional testing in addition to the
11 same actuarial assessment and testing that Dr. Gehle had --
12 that Dr. Gehle completed.

13 So, the question is, who did the more thorough job?
14 Who had the best information? Who had the most information?
15 Who was able to take all that information and synthesize it
16 into a coherent conclusion?

17 And in Dr. Gottfried's case, she did that, and she diagnosed
18 Mr. Curtis with other specified personality disorder with
19 mixed features as well as exhibitionistic disorder, and that
20 was based on his testing results, his clinical history, his
21 criminal history, and the actuarial risk assessment.

22 So, in the State's position, we do believe that
23 Mr. Curtis has a mental abnormality or personality disorder --
24 actually both -- and that he is likely to re-offend.

25 And so, then it comes to the question of burden of proof.

1 If any of y'all have ever been involved in a civil case, you
2 know that usually the burden of proof is more likely than not.
3 Preponderance of the evidence or roughly 51 percent. That's
4 how we usually describe it.

5 Since we are dealing with Mr. Curtis's constitutional
6 right to liberty -- he's completed his criminal sentence and
7 he is no longer required to be incarcerated -- we have a much
8 higher burden of proof. Even though this is not a criminal
9 case, we do have a criminal standard. So, I must prove these
10 two things to you: that he has the personality disorder and
11 mental abnormality and likely to re-offend beyond a reasonable
12 doubt. And the reason is to protect his rights. He is an
13 American citizen. He is entitled to due process of the law,
14 and the State of South Carolina ensures that he gets it.

15 So, that is the burden of proof that you're working with in
16 this civil case. I know it's a little unusual, but you'll get
17 it.

18 So, how do we establish that, the mental abnormality?
19 Well, what the experts do is they speak to the offender. They
20 sit down, they do a long interview with him; several, several
21 hours. They do some additional testing and then they do a
22 risk assessment, which I mentioned to you a minute ago. And
23 that includes both an actuarial assessment using specific
24 tools, which both of the experts do agree he has the same
25 scores on both of those tools.

1 Then it's also an assessment of what's called dynamic risk
2 factors, and you're going to hear about that from the experts.
3 These are certain factors that are relevant to every
4 individual offender and which are amenable to treatment in a
5 controlled -- well, in any setting but in a controlled setting
6 specifically.

7 So, these are things that can change over time which would
8 lessen this individual's risk, and you're going to hear about
9 those from both doctors.

10 And, at the end of the day, you need to decide whether
11 you believe that he does have these mental abnormalities and
12 whether you believe he is going to re-offend. And I hope you
13 will take note of these documents. You will have them in the
14 jury room while you're deliberating, and the State hopes that
15 you will find them in our favor and issue a verdict of yes,
16 Mr. Curtis is a sexually violent predator, and he should be
17 committed for long-term control, care, and treatment. Thank
18 you.

19 THE COURT: All right. Thank you.

20 MS. JOHNSON: May it please the Court, Your Honor?

21 THE COURT: Yes, ma'am.

22 OPENING STATEMENT ON BEHALF OF THE RESPONDENT

23 MS. JOHNSON: Good afternoon. I'm Kindle Johnson, and
24 we're at the end of the day today, so that's great; we're
25 going to be able to go home soon, and I promise I will not

1 talk too long.

2 But I'm Joseph Curtis's attorney. And that's Joseph over
3 there. You're going to learn about Joseph during this trial.
4 He's 55 years old. You're going to learn about how he grew
5 up. You're going to learn about relationships he's had. And
6 one thing you're going to learn is that Joseph Curtis has been
7 in trouble. And that's difficult because the truth is Joseph
8 Curtis has committed some sexually violent offenses. And
9 that's why you're here today.

10 So, you're here today because there's a part of the law
11 that says some people are so dangerous, that they've had a
12 sexually violent offense, that they should be
13 institutionalized for treatment because they have a
14 personality disorder. There's something in them that makes
15 them compelled to harm others in sexually violent ways. And
16 that's what the State today is trying to prove, that Joseph
17 Curtis is a sexually violent offender.

18 So, here's what's interesting. Just because you have a
19 sexually violent offense in your history does not make you a
20 sexually violent offender. Have you done something wrong?
21 Yes. Has Joseph done something wrong? Absolutely. I'm not
22 going to lie to you. But he's not a sexually violent
23 offender, and that is what we intend to prove to you -- well,
24 not prove to you, but that is what we intend to show you.

25 Now, the State does have to prove their case beyond a

1 reasonable doubt. Every element, beyond a reasonable doubt.
2 And that's really important because "beyond a reasonable
3 doubt" means you're firmly convinced that Mr. Curtis is or is
4 not a sexually violent offender.

5 So, firmly convinced means, "Mmm, I think he probably
6 is"; that's not enough. "He might be"; that's not enough. In
7 reality, what it's like is that, when Mr. Curtis came in, you
8 said to yourself, "That guy is not guilty, and I'm going to
9 make them prove to me beyond a reasonable doubt that he is."
10 That's basically what it's like.

11 So, you are going to have put aside things like
12 distaste for what he did because those things are not good,
13 what he did. And you have to answer the question yourself:
14 Is he a sexually violent offender?

15 So, the really interesting thing about this process is
16 that, once somebody is done serving their time or pretty close
17 to it, then the State decides, "Are we going to ask for him to
18 be institutionalized under the Sexually Violent Offender
19 Program?" And so the law says, well, if you're going to ask
20 and we're going to have some hearing and, ultimately, there's
21 going to be a doctor at the Department of Mental Health and
22 that person -- a psychological doctor -- and that person is
23 going to do an evaluation of him, and that person is going to
24 tell us whether she thinks he's a sexually violent offender or
25 not. She's going to offer an opinion. So that's happened.

1 And in this case, we're going to show you that
2 Dr. Marie Gehle said, "Nope, no, he's not." So, if the State
3 had stopped there, we wouldn't be here today. Joseph Curtis
4 would be probably at home with his family. But the State
5 said, "No, that's not enough; I want a second opinion." And
6 so that's when they got this other opinion, and that's the
7 reason why we're here today.

8 So, I want you to consider all of those things when we're
9 talking about beyond a reasonable doubt. But I do want you to
10 consider also this. Look at how long it's been since
11 Mr. Curtis has been in any trouble, sexual or otherwise. Look
12 how long it's been. I want you to look at the things that --
13 the test that they did run on him. I want you to look at the
14 experts and see was it too much? Was it overkill? Are they
15 reaching to make him a sexually violent offender? Or should
16 this man be home with his family?

17 So, I'm not going to talk a lot today, as I said. We'll
18 talk again at the end of this case, but at the end, I am going
19 to ask you -- and I even ask you now -- to come back with a
20 verdict that Mr. Curtis is not a sexually violent offender.
21 Thank you.

22 THE COURT: Thank you.

23 Members of the jury, you're excused for the day. If
24 you'd be back at 9:30. We'll get you something to eat and
25 then get to work and see if we can get it done. Have a good

1 evening.

2 (The jury exited the courtroom at 3:48 p.m.)

3 THE COURT: All right. See you in the morning.

4 MS. SHAW: Thank you, Your Honor.

5 MS. JOHNSON: Thank you, Your Honor.

6 Your Honor, what time are we convening in the morning?

7 THE COURT: 9:30.

8 (At 3:49 p.m., the trial was adjourned until Tuesday,
9 February 8, 2023, at 9:30 a.m.)

10 * * * *

11 (The trial recommences on Wednesday, February 8, 2023, at
12 9:46 a.m.)

13 THE COURT: Go ahead and bring in the jury.

14 MS. JOHNSON: Your Honor, before we do...

15 THE COURT: All right. Whatcha got?

16 MS. SHAW: Your Honor, we were just talking. We don't
17 yet have a ruling regarding the unpredicted conduct and other
18 things that I plan to have Dr. Gottfried talk about, such as
19 that Mr. Curtis did not have any sex offender treatment in
20 prison even though he had multiple other programs that he
21 participated in.

22 So, we do need the Court to let us know whether I can
23 have Dr. Gottfried talk about conduct that was charged but not
24 convicted, as the State does believe that *Corley*, *White*, and
25 *Ettel* support that proposition, and there's no case law that

1 would suggest that it should not come in, especially if it was
2 essential to the expert's factoring in of various different
3 facts and allegations to come to a diagnosis.

4 THE COURT: All right. And your position on the charges
5 that were not convictions?

6 MS. SHAW: That they should come in, as they did factor
7 into Dr. Gottfried's analysis and ultimate diagnosis of the
8 personality disorder.

9 THE COURT: And your position?

10 MS. JOHNSON: Your Honor, we do believe that those
11 unconvicted charges are hearsay and they violate my client's
12 due process rights. Obviously, it also implicates the
13 confrontation clause, so we are asking for that testimony to
14 be excluded.

15 As far as the sexually violent predator treatment, we
16 don't object. She's mentioning that he didn't have it. Is
17 that --

18 MS. SHAW: Yeah. In the interview, he said that he would
19 not get sex offender treatment in the community.

20 MS. JOHNSON: I think in the report it said he wouldn't
21 want it or something. But, I mean --

22 MS. SHAW: Unless it was mandatory, he wouldn't do it.
23 And he didn't have any in prison. That's the only thing I
24 wanted to discuss about treatment.

25 The consent yesterday was basically we weren't going to

1 talk about the nature of inpatient versus outpatient or any
2 treatment he would receive if he were in the program because
3 that's not a question for the jury. That was my
4 understanding, so I do want to just clarify that.

5 MS. JOHNSON: So, we wouldn't object to anything as long
6 as it's -- and when I'm saying "anything," I'm speaking
7 specifically to the sexually violent predator treatment
8 issue -- that we wouldn't object as long as we've been
9 informed of it via her report.

10 I did read in her report what he mentioned, and so we
11 would just ask that it be limited to that testimony.

12 MS. SHAW: That's perfectly fine, Your Honor. And the
13 records from the SCDC which show which program services --

14 MS. JOHNSON: Yeah.

15 MS. SHAW: Okay. Then we're good on that issue.

16 We just need to know about the unconvicted conduct,
17 because he has been charged with sexual crimes several times,
18 which either were charged and indicted but did not lead to a
19 conviction. And then there was a couple of other ones, which
20 I'm not particularly planning on talking about at length,
21 other than it was reported, which did not even result in an
22 arrest.

23 There was an allegation from November 2002 regarding
24 two -- a 13- and a 14-year-old female, which does not appear
25 to have led to an arrest, but there were multiple other ones

1 which did.

2 THE COURT: And what's your position regarding her
3 position that it's hearsay?

4 MS. SHAW: Well, Your Honor, while it may be hearsay,
5 according to the rules, if the expert relies on it in
6 informing their opinion, it need not be admissible and hearsay
7 can come in.

8 THE COURT: Hold on a second.

9 MS. SHAW: I believe it's Rule 703.

10 MS. JOHNSON: And, Your Honor, I think that rule requires
11 some reasonableness in what she relied on, especially as it
12 relates to charges where there were -- well, I'm saying
13 "charges," but investigations where there was not even an
14 arrest. We just don't think that that would be reasonable.

15 THE COURT: She can rely on it. She just can't repeat
16 the hearsay.

17 MS. SHAW: I mean, all I would plan to discuss about the
18 November 2002 charge was that it was reported that a 13- and
19 14-year-old girl had previous damage to their hymens and that
20 Mr. Curtis was a suspect but nothing came of that. That's all
21 we're going to discuss.

22 THE COURT: Let me read this.

23 (Pause in the proceedings while the Court reviews
24 documents.)

25 THE COURT: All right. I'm going to allow the

1 nonconvictions to come in as part of her analysis. There's
2 case law that backs that up.

3 MS. SHAW: Thank you, Your Honor. *Corley, White, and*
4 *Ettel* are the primary three cases that support that.

5 MS. JOHNSON: And, Your Honor, when you say
6 "nonconvictions," do you also mean even uncharged offenses,
7 offenses where they didn't even lead to an arrest?

8 THE COURT: Are there uncharged offenses?

9 MS. SHAW: There are two. There was the January 2004
10 assault on a male co-worker in a kitchen that was reported to
11 the police, but it was not charged. I'm just going to elicit
12 that sort of record said, not that she believed or relied upon
13 it.

14 And then there was the November 2002 report about the 13-
15 and 14-year-old females with the hymenal damage.

16 THE COURT: And that's a part of her analysis; is that
17 correct?

18 MS. SHAW: I mean, these are two data points in the
19 overall assessment of the personality disorder. I mean, they
20 were relevant, and I believe they should come in, but they
21 were not given great weight.

22 MS. JOHNSON: So, were they given weight at all, Your
23 Honor, or were they given not greater weight? Because if
24 they're not given weight at all, then we have a relevance
25 issue.

1 THE COURT: It factors into her report and she gave them
2 some weight, then I think it comes in.

3 MS. SHAW: She did, Your Honor. Thank you.

4 THE COURT: I'm sure it did or she wouldn't have it in
5 her report.

6 Let's bring in the jury.

7 MS. SHAW: Can I talk to her a minute?

8 (Pause in the proceedings.)

9 (The jury entered the courtroom at 9:54 a.m.)

10 THE COURT: Good morning. The State will call your first
11 witness.

12 MS. SHAW: Thank you, Your Honor. The State calls
13 Dr. Emily Gottfried.

14 DR. EMILY GOTTFRIED

15 after having been duly sworn, was examined and testified
16 to as follows:

17 THE CLERK: When you get on the stand, just state your
18 name for the Court, please.

19 THE WITNESS: Dr. Emily Gottfried. G-o-t-t-f-r-i-e-d.

20 DIRECT EXAMINATION

21 BY MS. SHAW:

22 Q And, Dr. Gottfried, can you hear me all right?

23 A Yes.

24 MS. SHAW: Ladies and gentlemen, can you hear me standing
25 here? Okay. I'll try and keep my voice up.

1 BY MS. SHAW:

2 Q All right. So, Dr. Gottfried, by whom are you employed
3 and in what capacity?

4 A I work at the Medical University of South Carolina in
5 Charleston. I work as an associate professor in the
6 Department of Psychiatry and Behavioral Sciences, and I serve
7 as the director of our sexual behaviors clinic and lab there.

8 Q And in order to be employed in this capacity, are you
9 required to have certain education, background, and training?

10 A Yes.

11 Q And can you please discuss your undergraduate and
12 graduate training?

13 A Sure. So I have a bachelor's degree in psychology from
14 San Diego State University. I then did a master's degree in
15 psychology at Columbia University. And then I did a Ph.D.
16 program where I got another master's kind of along the way.
17 So then I have another master's in clinical psychology and a
18 Ph.D. or a doctorate in clinical psychology from Florida State
19 University.

20 Q And after you obtained your degrees, did you pursue any
21 further specialized training?

22 A I did. So throughout your graduate education, you have
23 to do practicums to get practical clinical experience. So
24 while I was a grad student in New York City when I was at
25 Columbia, I worked at the Federal Bureau of Prisons assisting

1 with forensic evaluations.

2 And then, in Florida, I worked in community mental
3 health. I worked at a state forensic hospital, psychiatric
4 hospital. I did forensic evaluations at another state
5 psychiatric hospital. That was in Georgia, but on the border
6 of Florida and Georgia.

7 And then prior to graduating with your Ph.D., you have to
8 do a one-year, so 200 -- 2,000, excuse me -- a 2,000-hour
9 full-time internship.

10 So, I did my clinical internship at the Department of
11 State Hospitals for the State of California, Patton State
12 Hospital, where I worked there for a year. And I did forensic
13 evaluations, and I did sexual behavior risk assessments and
14 then sexual behavior treatment.

15 And then after I obtained my Ph.D., I did a one-year
16 full-time postdoctoral fellowship, so a specialization in
17 forensic psychology, and I did that in Augusta, Georgia.

18 Q Okay. Thank you.

19 Are you required to have a license to practice psychology
20 in the state of South Carolina as part of your employment?

21 A Yes.

22 Q And do you have one?

23 A Yes.

24 Q When did you obtain it?

25 A I obtained my psychology license in South Carolina in the

1 early summer of 2015.

2 Q Are you licensed in any other state?

3 A I'm also licensed in the state of Georgia.

4 Q And have you been working in the SPCL conducting sex
5 offender research, evaluations, and treatment continuously
6 since obtaining your license?

7 A I have.

8 Q And have you -- do you have any publications or articles,
9 books, or other peer-reviewed literature that you have
10 published?

11 A I do.

12 Q And can you discuss that, please.

13 A I have, I think, 31 peer-reviewed scholarly publications.
14 So, like, manuscripts that you publish in scientific journals.
15 I have six book chapters that are a part of edited books in
16 psychology and psychiatry. I think I have about 65 conference
17 presentations, and then -- I don't know what number I'm up to
18 -- I regularly give workshops and continuing education and
19 lectures for other hospitals and other universities that
20 aren't, like, conference presentations but they're more
21 workshop types, like, this is sexual behavior.

22 Q Guest lectures and things of that nature?

23 A Yes.

24 Q Okay. And are you a member of any professional
25 organizations?

1 **A** I am.

2 **Q** And which organizations are those?

3 **A** Let's see, I'm a member of American Psychological
4 Association, so APA. And then the APA has 45, 50 different
5 divisions. So I'm a member of Division 12, which is the
6 Society for Clinical Psychology. I'm a member of Division 41,
7 which is American Psychology in Law Society.

8 I'm a member of the Association for the Prevention and
9 Treatment of Sexual Abuse, or APTSA. So that's the national
10 organization that really is over this type of work.

11 I'm a member of the American Academy of Forensic
12 Sciences, Society of Personality Assessments. Those are the
13 main ones.

14 **Q** And those are all domestic organizations; correct?

15 **A** Yes. There are international members. APTSA has
16 international members that sit on the board. So it's based
17 out of the United States, but I don't -- it's not like the
18 American APTSA.

19 **Q** Gotcha. So what international groups are you a member
20 of?

21 **A** I'm a member of an International Standardization Group
22 for assessments. And then I interact with people
23 internationally in my role, serving on committees and national
24 organizations. And then I have a research partnership with
25 another sexual behaviors lab in Canada.

1 Q And in the organizations that you're a member of, do you
2 hold any leadership positions?

3 A I do.

4 Q And can you discuss those, please.

5 A I'm on the board of directors for APTSA. That's the
6 Association for the Prevention and Treatment of Sexual Abuse.
7 They just added that prevention. So I'm on the board of
8 directors because I'm the chair of their research committee.

9 And then I am the president-elect of the assessment
10 section for the Society of Clinical Psychology. And I just
11 stepped off the executive board for American Psych and Law.

12 Q Now, in the course of your duties at MUSC, do you teach
13 and have you overseen fellows and medical students and other
14 young psychologists in the course of their own studies?

15 A Yeah. So, I teach first- and second-year medical
16 students. I give a guest lecture to physician assistant
17 students. I supervise psychiatry residents both on providing
18 therapy and also doing forensic evaluations and treatment.
19 Almost every day, I supervise postdoctoral forensic psychology
20 and psychiatry fellows. So those are doctors who are
21 specializing in forensics. I work with undergraduates. It's
22 a large part of my job.

23 Q And so what is your primary job function in the context
24 of a sexually violent predator case?

25 A So when I do a sexually violent predator case, it is

1 always an independent evaluation or a second opinion. So
2 either the Attorney General's Office and then sometimes the
3 Respondent's attorney will contact me and ask for an
4 independent evaluation or a second opinion after the
5 Department of Mental Health has already done their initial
6 because they do all of them.

7 Q And that's statutorily authorized, to the best of your
8 knowledge; correct?

9 A Yes. I believe either side can request a second opinion
10 or an independent evaluation.

11 Q Okay. Thank you.

12 So how many second opinions have you rendered in SVP
13 cases?

14 A Let's see. I have had 54 total cases referred to me from
15 either side. Some of those are pending, though. So I haven't
16 rendered opinions on them yet.

17 Q Okay. And so how many times have you been qualified
18 and/or testified in SVP matters?

19 A Let's see. I don't know that I have that broken down.
20 So I have testified about 40 times totally as an expert. I'm
21 going to estimate maybe 12, but that's just a ballpark. 12,
22 15 in an SVP.

23 Q And have you ever testified in any states other than
24 South Carolina?

25 A I have also been qualified as an expert in the state of

1 Georgia.

2 **Q** And how long have you been performing sex offender
3 evaluations?

4 **A** Since I was in graduate school. So since 2010, 2011,
5 general sexual behavior, sexual offending evaluations, not
6 specific to sexually violent behavior.

7 **Q** Okay. So you don't only handle sexually violent predator
8 cases?

9 **A** Correct.

10 **Q** What other types of cases do you handle?

11 **A** So in the sexual behaviors clinic and lab, we see a wide
12 range of referrals. So I have a contract. I, as the director
13 of -- it's MUSC. MUSC has a contract with the United States
14 Federal Probation. So that is for individuals who are being
15 released from federal prison. They were convicted of sexual
16 offenses, and now they are supervised on probation.

17 So the ones that are referred to me in the Charleston
18 District, I do an assessment with them where I look at their
19 risk factors and then it's really treatment focused. So I put
20 together a treatment plan of what they're going to need to be
21 most successful on probation and not creating another victim,
22 and then I oversee those treatment services. I provide a
23 small percentage of them on an individual basis, but I oversee
24 the group therapy treatment providers.

25 Let's see. I also sometimes do evaluations for the South

1 Carolina Licensing, the LLR, so Labor Licensing Regulations
2 Board. So there are licensed professionals, and there might
3 be an allegation of a sexual boundary evaluation, so that --
4 or, sorry, a sexual boundary violation. So that might be a
5 massage therapist, a physician, somebody who is licensed
6 through the State to practice in their field. I do those.

7 Sometimes I have attorneys contact me to do an
8 evaluation with their client after they have been arrested, so
9 see if we can set them for up treatment prior to going to
10 trial, you know, what's going on with this person.

11 And then there's one other that we do a lot. DSS. So
12 also we get referrals from DSS. It might be related to family
13 court, so that could be juveniles or it could be a family
14 matter. So going through divorce, there's an allegation of
15 child abuse. I do those evaluations for family court as well.

16 **Q** And do you have any specific areas of research that you
17 particularly focus on?

18 **A** Yes. A large percentage of my research is on sexual
19 behaviors, specifically physiological measures of arousal for
20 men and women. Paraphilic disorders. So those are disorders
21 where somebody has an atypical sexual interest in stimuli that
22 isn't a human-consenting adult.

23 Assessment in general. So accurately assessing
24 personality and other psychological factors. And then less
25 so, but I used to do a lot of research on feigning, so, like,

1 faking mental illness.

2 MS. SHAW: Your Honor, with that basis, I would offer Dr.
3 Gottfried as an expert in both clinical and forensic
4 psychology and specifically as an expert in sex offender
5 evaluations and risk assessments.

6 THE COURT: Any objections?

7 MS. JOHNSON: Without objection, Your Honor.

8 THE COURT: Thank you.

9 MS. SHAW: Thank you.

10 BY MS. SHAW:

11 Q So, Dr. Gottfried, obviously, you were retained in this
12 case. Who were you retained by?

13 A So the South Carolina Attorney General's Office will send
14 a request to our office requesting an independent evaluation.

15 Q Okay. And are you familiar with Joseph Curtis, Jr.?

16 A I am.

17 Q Who is he?

18 A He is the person that I examined in this case for my
19 evaluation.

20 Q And is he present in this courtroom today?

21 A He is.

22 Q Can you please identify him?

23 A Yes. He's sitting next to his attorney at the defense
24 table or at that table.

25 Q And what was the date of your report?

1 **A** I believe it was August -- August 21st, 2022.

2 **Q** Okay. Now, describe what you are -- what you do when you
3 are requested to render a second opinion in a case of this
4 nature.

5 **A** So, first we receive the request from the AG's office,
6 and they usually send documents. So I'll go through those to
7 make sure that I think I have everything that I need. That
8 includes things like police reports, records from the prison,
9 witness statements, those kinds of things. So I will go
10 through all of that.

11 Then I'll schedule the examinee to be transported to our
12 offices for three separate evaluation dates where they're
13 administered a battery of psychological and physiological
14 testing. And then I do a clinical interview with them. And
15 then I put all my findings together in a report.

16 In addition to them taking tests, I also score what's
17 called clinician rated measures. So that isn't a test where
18 they're answering questions. They're measures that I complete
19 based on their history and my interview that I did with them.

20 So then I put that all together, put all of that data
21 into a report, and then I issue it to the Attorney General's
22 Office.

23 **Q** Now, before we go into what you actually reviewed in this
24 case and your evaluation in this case, can you discuss what a
25 precommitment evaluation actually is? What does it look for?

1 **A** So you're essentially answering the question from the
2 statute. So does the person have a mental abnormality or
3 personality disorder that makes them likely to re-offend? We
4 wouldn't get a case where somebody didn't already have a
5 conviction for a sexually violent offense, so we don't have to
6 bear that out. Everybody who is sent or being considered
7 under the Sexually Violent Predator Act has that conviction.

8 And so we're looking at the presence of a mental illness
9 or personality disorder, the impact that that illness has on
10 their offending behavior, and the likelihood that they're
11 going to sexually re-offend.

12 **Q** And are there two parts to the assessment itself? Is
13 there a risk assessment portion and a clinical interview
14 portion and review?

15 **A** I would say more than two parts. So, I mean, we give a
16 battery of testing that includes risk assessments. So we
17 don't, like, cherry-pick. We're not just looking for a
18 specific diagnosis. We're exploring the range of mental
19 illnesses. And then, if they have a mental illness, then it's
20 determining what impact that had on their offending behavior.

21 So I administer psychological measures that's looking at
22 the spectrum of mental illnesses, not just the paraphilic
23 disorders that I mentioned. And so part of it is a risk
24 assessment and part of it is a clinical interview, but it's
25 also going through all the data and talking about the offenses

1 and looking at all potential symptoms.

2 Q Now, in this case, you issued a report and Dr. Gehle of
3 the DMH also issued a report; is that correct?

4 A Yes.

5 Q Did you have the benefit of being able to read that
6 report before you met with Mr. Curtis?

7 A Yes. That usually comes along with all the documents.

8 Q Okay. Thank you.

9 So, in this case, aside from Dr. Gehle's report and
10 police records, what information were you provided with by any
11 sources?

12 A So I had documents from the Sumter County Court of
13 General Sessions as well as Horry County Court of General
14 Sessions, documents from Myrtle Beach Police Department
15 including audio recordings of interviews of the victim and her
16 mother and Mr. Curtis by detectives.

17 I had a recording of a 911 call. I had records from
18 South Carolina Department of Corrections, so for his prison
19 incarcerations. I had J. Reuben Long Detention Center's -- so
20 the jail here in Horry County -- the jail records. I had
21 information about his criminal history, and I had the DMH
22 evaluation.

23 Q Now, in this case, Mr. Curtis does have a conviction for
24 a sexually violent offense; is that correct?

25 A Yes.

1 MS. SHAW: Your Honor, may I approach the witness?

2 THE COURT: Yes.

3 BY MS. SHAW:

4 Q And, Dr. Gottfried, I'm going to show you what's been
5 marked as State's 1. Could you please identify that document
6 and tell me what it is.

7 A Yeah. So just the first page?

8 Q The whole document.

9 A Okay. So this is a sentence sheet from Horry County
10 Court of General Sessions where he pled guilty to criminal
11 sexual conduct in the third degree and was sentenced to ten
12 years in the Department of Corrections with credit for the
13 time served that he spent in the detention center, which was
14 667 days.

15 The next one is a sentence sheet where he pled guilty
16 to incest and was sentenced to two years to be served
17 consecutive to his other convictions, so after the other one.
18 Oh, and the dates of these sentencing sheets are July 24th,
19 2014.

20 And then there is a sentence sheet with the same date
21 indicating that he pled guilty to kidnapping and was sentenced
22 to ten years to be served concurrently at the same time as the
23 ten years that he got for the criminal sexual conduct.

24 And then the indictment for criminal sexual conduct in
25 the third degree, the arrest warrant and affidavit for

1 criminal sexual conduct in the third degree, the indictment
2 for incest, the indictment for kidnapping, the arrest warrant
3 and affidavit for kidnapping, an indictment for criminal
4 sexual conduct in the first degree, and then a form from the
5 solicitor's office in the 15th Judicial Circuit dismissing the
6 criminal sexual conduct charge in the first degree.

7 Q And did you have the benefit of those documents during
8 your evaluation?

9 A I did.

10 Q And what is your understanding of the dismissal of the
11 criminal sexual conduct first degree charge?

12 A I believe that he was initially -- I think he was
13 initially charged with criminal sexual in the first degree,
14 and then he took a plea to criminal sexual conduct in the
15 third degree. So they dismissed the first degree, and then
16 indicted -- direct indicted the third degree, which is what he
17 pled guilty to.

18 Q And are those records all certified?

19 A Yes.

20 MS. SHAW: Your Honor, at this time, I would move State's
21 1 into evidence.

22 THE COURT: Any objection?

23 MS. JOHNSON: Without objection.

24 THE COURT: State's 1 in evidence without objection.

25 (State's Exhibit No. 1 was received into evidence.)

1 BY MS. SHAW:

2 Q So, in addition to those criminal those records and
3 various other criminal records, what other records did you
4 have?

5 A I had the tests and measures that I did as part of my
6 evaluation.

7 Q So you had all that raw data?

8 A I had all the raw data from -- yeah.

9 Q And did you conduct any collateral interviews as part of
10 your investigation or reach out to any other agencies who
11 might have been able to provide you with information?

12 A I reached out via email to an attorney who works for the
13 South Carolina Department of Probation, Parole, and Pardon
14 Services. That's my standard practice, to find out if there
15 will be any kind of supervision or monitoring following their
16 release.

17 Q And what did you learn from PPP?

18 A I learned that he would not -- if he was released after a
19 certain date, which has already passed -- I believe it was
20 September of 2022 -- that he wouldn't have probation or parole
21 or supervision, just the standard registry requirements.

22 Q So what dates did you meet with Mr. Curtis in this
23 evaluation?

24 A So he was scheduled for his first day, but they didn't
25 actually transport him. So he missed his first day, so he was

1 rescheduled. He came in and did some testing on June 13th of
2 2022. He was supposed to do some more testing on June 17th,
3 but he had had a fall and he was in pain so that day was
4 rescheduled.

5 He came back and finished that testing on June 27th of
6 2022, and then he completed his clinical interview on
7 July 15th of 2022.

8 Q And how long did you spend with him during that time
9 period? Well, during all of those appointments?

10 A So the testing day on the first day is typically -- it's
11 usually five or six hours. They come in at 9:00, they do a
12 battery of tests, they have a lunch break, and then they're
13 usually there until, I would say, 1:30 to 3:00, depending on
14 their reading speed and things like that. So most of the day,
15 but I'm just kind of switching him on the tests. So I'm not
16 interacting with them or doing the clinical interview on that
17 day.

18 The second day, he was probably there for about three
19 or four hours to complete testing, and then I met with him for
20 about five hours and 10 minutes for the clinical interview on
21 the third day.

22 Q And can you describe his demeanor and behavior on each
23 occasion?

24 A Yeah. I mean, he appeared to be alert, oriented. So he
25 knew what was going on. He demonstrated an understanding of

1 the reason that he was there, the purpose of the evaluation.
2 He seemed a little bit superficially cooperative. So he
3 appeared to be cooperative, but there was some indication --
4 it was, like, kind of superficial.

5 So he often -- he responded to questions, but he gave
6 sometimes really long-winded responses that had a lot of words
7 but didn't necessarily directly answer the question fully.
8 But he responded to questions. He was polite. Yeah.

9 Q And you were able to explain to him the purpose of the
10 testing and the interview, and he consented to do it?

11 A Yeah. So, on the first day when somebody comes in, we
12 have a pretty long consent form. I think it's about six pages
13 where it goes through, like, different possible tests that
14 they can be administered; the nonconfidential nature of the
15 evaluation because we're sending it to the Attorney General's
16 Office; their right to decline to participate at any time.
17 Even though they have already consented, they can revoke that
18 consent.

19 So they read portions of it, and then I read the last two
20 pages aloud with them. They kind of initial through each
21 thing and then they sign it.

22 And then every subsequent day that they come in for the
23 evaluation, we have them go back through the consent form, if
24 they want to read the whole thing or just look at it because
25 we have them sign a re-reading of it, so another form saying

1 that they, again, consent to every item in the consent form,
2 they've had all their questions answered to their
3 satisfaction, and that they again consent to participate.

4 Q And Mr. Curtis did sign those forms in each case?

5 A He did. We wouldn't do the evaluation if he didn't sign
6 it.

7 Q So can you please give us a brief history of Mr. Curtis's
8 relevant personal history?

9 A Sure. So he was raised by his biological mother. He
10 said that his great-grandmother also raised him. I think he
11 had some contact with his father a little bit during his youth
12 and that his father passed away -- I believe when Mr. Curtis
13 was 12 or 13 years old. Somewhere around that time. Early
14 adolescence or earlier childhood.

15 The family moved to Newark, New Jersey, during his youth.
16 When he was in the 8th grade, he had an accident at school
17 playing kickball and he had to have surgery, and I believe he
18 said that he had been in a wheelchair.

19 He discontinued his formal education in the 8th grade.
20 He reported to me that he tried to go back, but the school
21 didn't want him to -- something about, you know, liability if
22 he needed a wheelchair. So, he had a tutor. And he totally
23 discontinued his education in the 11th grade.

24 He's had 15 to 20 different jobs. He said he moved
25 around a lot and that was the reason. He had no mental health

1 treatment or any diagnoses of mental illnesses when he was in
2 the community. He didn't report being the victim of any kind
3 of physical or sexual abuse.

4 He was married once. He reported having four or five
5 additional committed relationships besides his marriage, and
6 he has three children.

7 Q Now, are any of those factors particularly relevant to
8 Mr. Curtis's criminal and sexual offense history?

9 A Not necessarily. I mean, I get a full background on them
10 because it helps first build rapport with them. So, we get
11 them kind of talking about themselves. And you also get
12 information that might be useful in formulating their risk and
13 scoring measures, as well as their personality functioning and
14 potential symptoms of a mental illness.

15 Q Did Mr. Curtis report any juvenile behavior problems?

16 A He really didn't. He said that he was in a wheelchair
17 for some of his teenage years; that he didn't really get
18 disciplined because he didn't really do anything disobedient
19 during his youth.

20 Q Now, he has some medical conditions; is that correct?

21 A He self-reported some medical conditions.

22 Q What medical conditions does he suffer from?

23 A He reported having high blood pressure, Type 2 diabetes,
24 allergies, problems with several discs in his back, and he
25 reported having a pinched nerve in his back. I don't recall

1 if that was from the fall that he had, but I know that after
2 that fall he was in a lot of pain. And I'm not sure if that's
3 what the pinched nerve was from or if he had one prior to
4 that.

5 Q Now, does Mr. Curtis have a substance abuse history?

6 A Yes.

7 Q Can you describe that, please.

8 A He reported a history of using alcohol, marijuana,
9 cocaine. He said that he used PCP or angel dust a couple
10 times when he was 17 years old. He used LSD or acid a couple
11 times between the ages of 17 and 19.

12 Q Does he have any criminal history related to substances?

13 A He has several possession of -- I believe just marijuana
14 charges. But I think just simple possession and possession of
15 marijuana.

16 Q Now, did -- now, substance abuse can factor into criminal
17 behavior; correct?

18 A Sometimes, yes.

19 Q Is substance abuse a cause of sexual offending behavior?

20 A No. So really there are no substances that we know of
21 that's going to make somebody, you know, commit or do
22 something that they would never do or never thought about
23 doing. The impact that substances can have is they can lower
24 your inhibitions. So you might be a little bit less in
25 control of your actions when you're high or drunk, but they

1 don't cause somebody to molest somebody or do something like
2 that.

3 Q Now, let's go through Mr. Curtis's criminal history, and
4 I'd like to go in chronological order. So, what is the first
5 criminal history for him that you --

6 MS. JOHNSON: Your Honor, I would just like to renew my
7 objection.

8 THE COURT: Overruled.

9 Go ahead.

10 MS. SHAW: Thank you, Your Honor.

11 BY MS. SHAW:

12 Q What is the first criminal charge that you're aware of
13 that Mr. Curtis has?

14 A From all the records I reviewed, in 1989, he was charged
15 with three counts of a drug offense in New Jersey.

16 Q And do you know if he was convicted of that?

17 A From the records it said that the disposition, so the
18 outcome, was unavailable. But during my evaluation, he said
19 that he was convicted. He didn't recall what, so we don't
20 know if it's all three charges or what the drug offense was.
21 He said it was for angel dust and that he received
22 approximately six months of probation as a result.

23 Q And how about March of 1990?

24 A In March of 1990, he was charged with assault and battery
25 with intent to kill and possession of a firearm or knife

1 during the commission of or attempt to commit a violent crime.

2 In 1991, he pleaded guilty to assault and battery with
3 intent to kill. He was sentenced to 15 years in prison. And
4 from records and from Mr. Curtis's report during the
5 evaluation, he reported that he was working and somebody came
6 into the restaurant -- I believe he was a chef there or cook
7 there -- and he -- Mr. Curtis had a gun, and he wanted to
8 scare the guy away and shoot the gun in the air, but he ended
9 up shooting the man in the back and the man had to be
10 airlifted or flown by helicopter to MUSC.

11 Q And do the police records confirm or refute Mr. Curtis's
12 version of events?

13 MS. JOHNSON: Your Honor, I object to the mention of the
14 police records and whether they confirm. We also believe it's
15 hearsay.

16 MS. SHAW: Your Honor, I'd just like to know if what he
17 told her is consistent with what she read in the records,
18 because it does go to the overall personality disorder.

19 THE COURT: Overruled.

20 Go ahead.

21 MS. SHAW: Thank you.

22 A In my report, the records indicated that the offense was,
23 quote, "without just cause or provocation," and shot a man in
24 the back and left shoulder with a Beretta .25 caliber
25 semiautomatic pistol, causing the victim to be transported to

1 a regional medical center emergency room and then flown by
2 helicopter to MUSC.

3 So a little bit different than him telling me that he was
4 shot in the back.

5 BY MS. SHAW:

6 Q So when did Mr. Curtis enter SCDC as a result of that
7 conviction?

8 A Let's see. He was convicted in 1991. January of 1991.

9 Q And when was he released?

10 A I believe he was released in June of 1998.

11 Q And while he was in SCDC for that first conviction, did
12 he have any disciplinary offenses while he was there?

13 A He did.

14 Q Can you tell me what those were?

15 A He was convicted -- in SCDC for two major infractions for
16 sexual misconduct, and from the records, that is reported to
17 be for masturbating to female officers.

18 Q And is there any other information about what he was
19 doing relating to those female officers?

20 A Yes. Let me see. Let's see. It was noted he was
21 observed by an officer lying in bed on the top of the sheet
22 with his penis in his hand and appeared to have masturbated.

23 And then I think on the second occasion, I believe it was
24 a nurse went to give him Tylenol and it was reported that he
25 kept one hand on his penis and held his other hand out for the

1 Tylenol.

2 Q So fast-forward to his release, do you know when he --

3 I'm sorry, you just said. He was released in June of 1998?

4 A Yes.

5 Q Okay. In August of 1998, did he have another charge?

6 A He was charged with an ABC law violation -- so I believe
7 that's related to alcohol -- possession of marijuana, and a
8 seatbelt violation. He pleaded guilty to that, and he was
9 ordered to pay fines.

10 Q How old was he at this point?

11 A Let's see. He was 20 in 1989, and that was --

12 Q Approximately 30 years old?

13 A I would believe that if you told me, yes.

14 Q Okay. All right. When was his next charge?

15 A Later that month, in August of -- no, I'm sorry. Let me
16 go back. That was 1998.

17 His next charge was in 2000. So, in August of 2000, he
18 was charged with simple possession of marijuana. The records
19 noted that he was found guilty at a bench trial in October of
20 2000, and he was ordered to pay a fine.

21 Q And when he was picked up for that marijuana charge, did
22 he have a detainer on him from any other counties that you're
23 aware of?

24 A I'm not sure. I know that there was another allegation
25 from 1998, but I don't know if he had a detainer.

1 Q Okay. Well, he had a second charge also in August of
2 2000; is that correct?

3 A Yes.

4 Q And what was that second charge for and what county was
5 it in?

6 A You know, I don't write the county in my report. So I
7 don't know the county, I don't think, offhand. But in 1998 --
8 no, I'm sorry.

9 In August of 2000, so the next day after he was charged
10 with the simple possession of marijuana, he was charged with
11 criminal sexual conduct with a minor in the second degree, as
12 well as lewd act on a minor for offenses that occurred in June
13 of 1998.

14 Q Okay. And he was ultimately not convicted of that
15 charge; correct?

16 A Correct. The records -- this is Sumter County. I'm
17 sorry. That was Sumter County. The records indicated that
18 the reported victim wasn't cooperative with the prosecution,
19 so those charges were nolle prossed or not processed or
20 dismissed.

21 Q And according to the records, what were the allegations?

22 A From the records it was alleged that, from June to
23 July of 1998, he reportedly engaged in sexual battery of a
24 14-year-old girl and placed his fingers inside her vagina on
25 numerous occasions.

1 Q And he was 30 at that time, as we have discussed?

2 A Yes.

3 Q So after the August 2000 criminal sexual conduct with a
4 minor charge, what was his next charge?

5 A He wasn't charged, but I had a police report out of
6 Orangeburg from 2002 where he was listed as a suspect in a
7 case of criminal sexual conduct with a minor. It was reported
8 that there were two minor victims --

9 MS. JOHNSON: Your Honor, I'm going to object to the use
10 of the word "victim" again. I believe that was part of our
11 pretrial motion.

12 MS. SHAW: That's fine, Your Honor. I mean, they're
13 allegations.

14 A Yeah, it was alleged and he was listed as a suspect. It
15 was reported that there were two minors who had ripped hymens,
16 so kind of the skin over the vagina. And he wasn't arrested.
17 I have no indication that he was charged with that.

18 BY MS. SHAW:

19 Q Okay. But he was listed as a suspect because he was
20 dating the mother of the children?

21 MS. JOHNSON: Your Honor, I would object to the leading
22 nature of that question.

23 THE COURT: Sustained.

24 MS. SHAW: I'll withdraw it, Your Honor.

25

1 BY MS. SHAW:

2 Q Why was he a suspect?

3 A The police report indicated that he was in a relationship
4 with the mother.

5 Q And who was the reporter?

6 A The mother, I believe.

7 Q Okay.

8 A Or the -- sorry. That was the one with the father. I
9 get them mixed up in my head. I think it was the father. I'm
10 not going to testify as to who the reporter was.

11 Q Okay. So that's November of 2002. Fast-forward to
12 January of 2004, what happened then?

13 A Let's see. The next one I have is July of 2004. He was
14 investigated for simple assault and battery.

15 Q And he was not arrested or charged in connection with
16 that?

17 A He was only investigated. He was not charged. And that
18 was reportedly related to an altercation at work with, I
19 believe, a co-worker.

20 Q Now, what was the next charge?

21 A In November of 2005, he was investigated for domestic
22 violence. His girlfriend called the police, but he wasn't
23 formally charged with that.

24 Q Now, from November 2005 to February 2006, he incurred
25 additional sexual charges; correct?

1 **A** Yes. In February of 2006, he was charged with two counts
2 of indecent exposure and two counts of contributing to the
3 delinquency of a minor. And that was the -- his girlfriend's
4 two daughters. It was a 9-year-old daughter and a 16-year-old
5 daughter who reported that he exposed his penis and
6 masturbated to them on several occasions. The 16-year-old
7 daughter said that it happened 15 to 20 times over the course
8 of a year.

9 **Q** And what was the outcome of those charges? And he was
10 formally indicted; correct?

11 **A** He was.

12 **Q** And what was the outcome of those charges?

13 **A** He was convicted of two counts of contributing to the
14 delinquency of a minor, and he was sentenced to two years in
15 prison. That was suspended to 73 days, which is likely the
16 time that he had served in jail. And he got three years of
17 probation.

18 **Q** Okay. Fast-forward to September of 2012, his most recent
19 conviction. Can you tell me what happened in that situation?

20 **A** Prior to that, in September of 2006, his girlfriend went
21 to the police station and alleged harassment of him, but he
22 wasn't charged with that.

23 **Q** Okay. And those allegations by the girlfriend, that was
24 the mother of the two victims?

25 **A** Yes.

1 Q Thank you.

2 Now, tell me about the September of 2012 charge.

3 A On September 25th of 2012, he was charged with criminal
4 sexual conduct, kidnapping, and incest. That was for an
5 offense related to his 20-year-old niece. It was reported
6 that he went into her house and raped her and then left the
7 house.

8 He pled guilty to those charges. He was sentenced to
9 the ten years from the sentencing sheet that I read at the
10 beginning.

11 Q So he had an aggregate of a 12-year sentence from those
12 charges?

13 A Yes.

14 Q Okay. And he was convicted and pled guilty to criminal
15 sexual conduct in what degree?

16 A In the third degree.

17 Q As well as what other charges?

18 A Incest and kidnapping.

19 Q And were you able to listen to audio recordings and
20 statements related to that case?

21 A I did. So I listened to the 911 call that the victim's
22 mother placed, and the victim's mother is Mr. Curtis's sister.
23 So I listened to the 911 call. And then I listened to a lot
24 of audio recording of interview with detectives.

25 So it appears that the detectives first went to the

1 victim's house and spoke with her there. Then they also had
2 an interview with Mr. Curtis that was recorded, and they had
3 another interview with the victim and her mother at the police
4 station.

5 **Q** Was there anything in particular about the statements of
6 the victim regarding Mr. Curtis's long-term conduct toward her
7 that were significant?

8 **A** Well, she told detectives that he had exposed himself and
9 masturbated in the past; that he hadn't done something
10 physical to her, but that he made her uncomfortable and kind
11 of brushed up against her a lot.

12 Her mother, in the recordings, said that she could tell
13 that her daughter was really uncomfortable or afraid of the
14 mother's brother --

15 **MS. JOHNSON:** Your Honor, I'm going to object to the
16 nature of that. Your Honor, may I just have a rolling
17 objection, so I don't continue to --

18 (The following conference was held at the bench with
19 attorneys present and outside the presence of the jury and
20 others:)

21 **THE COURT:** All right. What was your question again?

22 **MS. SHAW:** The question was, was there anything
23 significant about the victim's statements. And they're very
24 significant because he was exposing himself to her and
25 touching her when she was a kid, and the mother ran him off.

1 MS. JOHNSON: But then it went into the mother talking
2 about what she said about --

3 THE COURT: What she said.

4 MS. JOHNSON: -- the victim.

5 MS. SHAW: Yeah. All I want about the mother is that the
6 mother confirmed the child's statements, and she had --

7 THE COURT: Yeah. But she started to say what Mom said.

8 MS. JOHNSON: Right.

9 MS. SHAW: That's fine.

10 THE COURT: So the objection is hearsay.

11 MS. JOHNSON: Yes, sir.

12 THE COURT: That's sustained.

13 MS. JOHNSON: Your Honor, I don't know what to do because
14 I don't want to continue to interrupt because I don't want to
15 interrupt the business of the Court and the jury, so I don't
16 know if I should just ask for just a continuing objection.

17 THE COURT: A what?

18 MS. JOHNSON: A continuing objection as to some of this
19 hearsay and also the other charges.

20 THE COURT: When you hear hearsay, object. Just go ahead
21 and stand up and object.

22 MS. JOHNSON: Okay. Thank you.

23 THE COURT: But the charges, we have already discussed
24 that. I've ruled on that.

25 [Open court resumes:]

1 BY MS. SHAW:

2 Q So the victim herself reported that Mr. Curtis had made
3 her uncomfortable, touched her, and inappropriately exposed
4 himself to her years ago; correct?

5 A Yes.

6 Q Okay. And the mother was interviewed as well?

7 A She was sitting in with the daughter. It was audio, so
8 it starts with them asking the mother questions. I don't know
9 if the victim was in there at the same time because it wasn't
10 a video. It was just the audio. So I don't know if they were
11 interviewed separately or together, but the mother was there
12 on that interview.

13 Q And during the interview, did the mother confirm the
14 victim's statement?

15 A She had said that her daughter had reported that he made
16 her very uncomfortable --

17 MS. JOHNSON: Your Honor --

18 THE COURT: Sustained.

19 MS. JOHNSON: Thank you.

20 THE COURT: Hearsay.

21 BY MS. SHAW:

22 Q Did the victim report any specific incidents that she
23 reported to other people?

24 A She reported that she took a picture of Mr. Curtis on
25 their front porch, and he was masturbating on --

1 MS. JOHNSON: Your Honor, and I object to this hearsay as
2 well.

3 MS. SHAW: It's what the victim reported. It's in the
4 records.

5 BENCH CONFERENCE

6 (The following conference was held at the bench with
7 attorneys present and outside the presence of the jury and
8 others:)

9 MS. SHAW: And this goes directly to the exhibitionism.
10 I mean, he was doing this at her home. It's highly relevant.
11 I mean, yes, it's very prejudicial.

12 THE COURT: Yeah, we've still got hearsay rules.

13 MS. JOHNSON: Yes, sir. And it goes far beyond the
14 actual charge.

15 THE COURT: I mean, you can ask the same question and
16 elicit an appropriate response without hearsay.

17 MS. SHAW: Outside from what was reported, I mean, I'm
18 not sure how else to get it out.

19 MS. JOHNSON: But, Your Honor, we also have another
20 argument. We're talking about something that's outside of the
21 charge. So when they were doing the investigation for the
22 charge and when she gave her statement, then she talked about
23 things that were going on before, way before. So it's not
24 even specific to that charge.

25 THE COURT: It's part of her analysis.

1 MS. SHAW: Yeah, it's relevant --

2 THE COURT: So I think it's relevant, yeah.

3 MS. SHAW: It's relevant to the exhibitionism.

4 MS. JOHNSON: Well, Your Honor, she hasn't quite said it
5 was part of her analysis. She's just going through this
6 record bit by bit.

7 MS. SHAW: Your Honor, I'm going to move on from that
8 because it's not that important. I mean, she's already said
9 that that's what the victim reported.

10 THE COURT: Okay. Your objection is sustained.

11 MS. JOHNSON: Thank you.

12 [Open court resumes:]

13 BY MS. SHAW:

14 Q So when did Mr. Curtis most recently enter SCDC?

15 A So he was arrested for those charges in September of
16 2012, and he entered SCDC the end of July of 2014.

17 Q Okay. And he's been continuously incarcerated since
18 then?

19 A To my understanding.

20 Q And do you have any SCDC records regarding services he
21 may have received while he's been in prison in his most recent
22 incarceration?

23 A Yes.

24 Q And what did they indicate?

25 A Let's see. So the most recent -- I believe he just

1 attended one class of drug and alcohol orientation in 2014.
2 He had a lot of services from '91 to '95 during his prior --
3 the assault and battery conviction. And I believe he told me
4 that he took some classes, but I'm not sure if he was talking
5 about this most recent one or back in the '90s.

6 But the records that I have indicate he had a lot of
7 substance use and alcohol use treatment in the '90s, but I
8 believe just the 2014, the orientation to, like, one day of
9 drug and alcohol orientation.

10 Q Okay. And do you know if SCDC offers sex offender
11 treatment?

12 A They do.

13 Q And do the records you received indicate that Mr. Curtis
14 has ever participated in it?

15 A No.

16 Q Now, while he was in SCDC -- or actually while he was in
17 the jail pending his conviction for the most recent sex
18 offense, did he incur any additional charges related to
19 exposing himself or other disciplinary issues?

20 A Yes. He was charged and he had a number of incident
21 reports within the detention center as well.

22 Q Okay. What was he charged with?

23 A In July of 2013, he was charged with exposure of private
24 parts in a lewd and lascivious manner.

25 Q And what do the records from J. Reuben Long indicate

1 regarding his behavior surrounding that charge?

2 **A** There were several occasions in March of 2013 and then I
3 believe in July -- he was charged in July -- of him exposing
4 himself and masturbating to female officers. Specifically the
5 one in July that he was charged with, he was -- I believe, a
6 dorm worker, he was cleaning up, and he exposed his penis to a
7 female officer.

8 **Q** Did he have any other disciplinary issues relating to
9 those female officers?

10 **A** I don't know if they were female officers. He also had
11 reported infractions for, like, failing to lockdown, gambling,
12 coming in extra uniform, trading food, a verbal altercation
13 with the other inmates.

14 **Q** So general rule-violating behavior?

15 **A** Yes.

16 **Q** Okay. Now, based on the available documentary
17 information and your clinical interviews -- well, actually,
18 during your clinical interview with Mr. Curtis, what did he
19 indicate to you about these charges and his criminal history
20 overall?

21 **A** He appeared to minimize his criminal history a little
22 bit, and that's not totally unexpected, to not be all the way
23 forthcoming about your arrest history. Regarding the sexual
24 offenses, he said that he didn't do any of them.

25 So for the exposing charges, the one with his

1 girlfriend's, I believe 9- and 16-year-old daughters, he said
2 that there was one occasion where he didn't know that the
3 9-year-old -- I think one of the daughters was in her bedroom.
4 He thought that she was at school. And he heard somebody
5 ringing the doorbell, so he went in her room because her room
6 had a window overlooking the front of the house, and he was
7 wearing a robe with nothing under it and it wasn't tied. And
8 so he said he never masturbated to them and do that on
9 purpose.

10 And then regarding his 20-year-old niece, he said that
11 they had a consensual sexual relationship; that he didn't rape
12 her; that he had told her he was going to give her money, like
13 some of the money today and then the rest of it on Friday.
14 But when he went into his wallet, he only had \$10 instead of
15 either, I believe, 20 or 30 that he said that he would give
16 her. And that that was perhaps why she said that he had raped
17 her, but that they had a consensual sexual relationship.

18 Q And did he report that to Dr. Gehle as well?

19 A Yes.

20 Q And is this the first time that this story has ever been
21 reported?

22 A I mean, I don't know if it's the first time, but he told
23 the detectives that he had no idea why his niece would say
24 that; that he hadn't been at her house; that he didn't do it.

25 Q And that's in his records and his own statements from the

1 previous interviews?

2 **A** That's from the recorded statement with the detectives of
3 his interview that I listened to.

4 **Q** So based on the available documentary information and Mr.
5 Curtis's -- oh, and did he indicate anything regarding his
6 exposure charges while in SCDC and while in J. Reuben Long?
7 What did he say about those?

8 **A** He mostly said they didn't happen. One of the SCDC
9 charges, he said that female officers will let inmates
10 masturbate in front of them and he didn't know why she had
11 turned him in for it or why he got in trouble for it.

12 But the other ones he said, like, it was made up, that he
13 didn't do it. The one that he was charged with in July, he
14 said that he didn't have his penis out of his uniform, but
15 that he was holding a hose, so maybe that was mistaken.

16 **Q** But he was institutionally convicted of all of those
17 charges; correct?

18 **A** In SCDC, he was. At J. Reuben Long, they're just
19 incident reports, so I don't know if you consider that a
20 conviction. And then the exposure of private parts in a lewd
21 and lascivious manner that he was actually charged with, that
22 was dismissed in 2014.

23 **Q** Okay. So based upon the available documentary
24 information, your clinical interviews, your meetings with
25 Mr. Curtis, and that part of the evaluation, did you diagnose

1 Mr. Curtis with any sort of mental abnormality or personality
2 disorder?

3 A Yes.

4 Q And what did you diagnose him with?

5 A So I diagnosed him with an unspecified -- not
6 unspecified -- other specified personality disorder with both
7 antisocial and narcissistic traits, and then I also diagnosed
8 him with exhibitionistic disorder.

9 Q And are those disorders in the DSM-5?

10 A They are.

11 Q What is the DSM-5?

12 A So the DSM-5 is the Diagnostic and Statistical Manual.
13 It's published by the American Psychiatric Association. We're
14 on the fifth version of it, the text revision. So the latest
15 version was published in 2022, but it's been around a really
16 long time.

17 So it lists all psychiatric disorders that are recognized
18 by the American Psychiatric Association. And it has chapters
19 of different types of disorders. So anxiety disorder,
20 substance use disorders, and then the specific disorders
21 within those categories with the diagnostic criteria. So the
22 symptoms that somebody has to exhibit in order to meet the
23 diagnostic criteria for those disorders.

24 Q And do you happen to have your DSM with you?

25 A It's in the car.

1 MS. SHAW: Your Honor, may I have a moment to get mine?

2 THE COURT: Yes.

3 MS. SHAW: Thank you. May I approach?

4 THE COURT: Yes.

5 BY MS. SHAW:

6 Q So can you please go to "other specified personality
7 disorder" and tell the jury what diagnostic criteria are for
8 that particular disorder.

9 A Okay. So "other specified personality disorder" is on
10 page 778 of the DSM, and it reads, "This category applies to
11 presentations in which symptoms characteristic of a
12 personality disorder that cause clinically significant
13 distress or impairment in social, occupational, or other
14 important areas of functioning predominant but do not meet the
15 full criteria for any of the disorders in the personality
16 disorders diagnostic class.

17 "The other specified personality disorder category is
18 used in situations in which the clinician chooses to
19 communicate the specific reason that the presentation does not
20 meet the criteria for any specific personality disorder." And
21 this is done by recording other specified personality disorder
22 followed by the specific reason.

23 Q Okay. And, in your opinion, he has features of both
24 antisocial personality disorder and narcissistic; correct?

25 A Correct.

1 Q And can you go to antisocial personality disorder and
2 describe the criteria for that?

3 A Do you want me to read it or just describe it?

4 MS. JOHNSON: Your Honor, I object. If she can testify
5 as to herself, but it seems to me there hasn't even been a
6 question that suggests that she can't testify to it as to her
7 own knowledge.

8 MS. SHAW: I'm sorry, Your Honor, as to --

9 BENCH CONFERENCE

10 (The following conference was held at the bench with
11 attorneys present and outside the presence of the jury and
12 others:)

13 MS. SHAW: Maybe I'm just a little dense. I'm not sure I
14 understand the objection. I mean, I'm not going to have her
15 read it. I'm just going to have her go --

16 THE COURT: That's what she was getting ready to do.

17 MS. SHAW: Well, that's why I was about to say, just go
18 through the diagnostic criteria. Don't read it. I'm not
19 going to have to her read it into the record.

20 MS. JOHNSON: Okay. Because she read the last one from
21 the book.

22 MS. SHAW: But that is the specific criteria for that
23 disorder, but she's saying he's got the features of these
24 other two, and I'm not going to have her go through each
25 individual criteria.

1 MS. JOHNSON: Okay. But my other point, Your Honor, was
2 that --

3 THE COURT: It is sustained.

4 MS. JOHNSON: Thank you, Your Honor.

5 [Open court resumes:]

6 BY MS. SHAW:

7 Q Now, Doctor, can you give a general overview of
8 personality disorder, what the criteria would be?

9 A Yes. So antisocial personality disorder is a personality
10 disorder that's marked by a pervasive pattern of the disregard
11 for the rights and the wishes of other people. So it's
12 characterized by people who don't necessarily follow the rules
13 of society. So that could be getting a lot of arrests, so
14 they don't conform with the laws of society.

15 Other symptoms include a lack of empathy,
16 irresponsibility, impulsiveness, aggressiveness, irritability.
17 Those are the main ones.

18 Q And are there any specific criteria which are
19 prerequisites to get a diagnosis for antisocial personality
20 disorder?

21 A Yes. I believe it's the only personality disorder that
22 has this kind of prerequisite. So for all personality
23 disorders, they typically first appear in late adolescents.
24 But for antisocial personality disorder, in order to diagnose
25 it, the person has to have evidence of conduct disorder that

1 was evident prior to the age of 15.

2 And so conduct disorder is really significant to youth
3 behaviorial problems. That could be setting fires during your
4 youth, cruelty to animals, being arrested as a juvenile,
5 vandalism, really aggressive behaviors.

6 Q And in Mr. Curtis's case, there was not evidence of that;
7 is that correct?

8 A So Mr. Curtis reported that he was never arrested until
9 he was about 17 or 18 years old, so that wouldn't fit with the
10 below 15. And he said that he didn't get in trouble during
11 his youth, and I have nothing to suggest the contrary. So no
12 records supporting or refuting that he had those behaviors.

13 Q So, other than a lack of a conduct disorder as a
14 juvenile, does he meet criteria for antisocial personality
15 disorder?

16 A He does. So if that were not a prerequisite that he had
17 conduct disorder or evidence of, he would meet full diagnostic
18 criteria for antisocial disorder. He has a lot of arrests.
19 He's repeatedly performed acts that are grounds for arrest.
20 He has a criminal history spanning from at least 1989 to 2012,
21 2013.

22 He demonstrated deceitfulness, which is a symptom;
23 impulsivity; aggressiveness; reckless disregard for safety,
24 which is another symptom; and irresponsibility. So if not for
25 that perquisite, he would meet for antisocial personality

1 disorder.

2 Q And you also identified that he has features of
3 narcissistic personality disorder; correct?

4 A Yes.

5 Q Can you describe an overall presentation with that
6 particular disorder?

7 A Yes. So a narcissistic personality disorder is another
8 personality disorder. And it's this really pervasive pattern
9 of grandiosity. So grand thoughts about yourself, like a need
10 for adoration, lack of empathy. You have a really what's
11 called grandiose sense of self. So like an overly inflated
12 perception of yourself, your own importance.

13 Individuals with narcissistic personality disorder might
14 have fantasies about unlimited success, like the perfect love.
15 They believe that they're special, that they deserve really
16 special treatment. They exploit other people. They're
17 entitled.

18 Q And did you see those criteria in Mr. Curtis?

19 A Based on my assessment, it was my opinion that he had
20 four symptoms of narcissistic personality disorder. Per the
21 DSM, in order to meet full diagnostic criteria, you have to
22 have five of the possible symptoms.

23 I thought that he had a marked sense of entitlement; that
24 he exploited other people; that he lacked empathy; and that he
25 was arrogant. So I thought that that was kind of subclinical

1 or didn't quite meet the threshold for narcissistic
2 personality disorder, and that's why I diagnosed him with the
3 other specified with the antisocial and narcissistic features.

4 Q Okay. Thank you.

5 Did you also diagnose Mr. Curtis with exhibitionism
6 disorder?

7 A I did, yes.

8 Q And that's a DSM diagnosis?

9 A Correct.

10 Q Can you please describe exhibitionistic disorder as the
11 DSM requires you to?

12 A Sure. So that's a paraphilic disorder that I talked
13 about at the beginning of my testimony. An exhibitionistic
14 disorder is sexual arousal -- intense or preferential sexual
15 arousal to exposing your genitals to an unsuspecting person.

16 Q And what evidence do you have of that based on your
17 interview, your work interview, and your interactions with
18 Mr. Curtis?

19 A So from the sexual offenses that he was charged with, all
20 of them had reports of exhibitionism. So exposing his penis
21 and masturbating to his victims, including his 20-year-old
22 niece -- she reported that that happened prior -- starting in
23 1996 when he was formally incarcerated for the sexual conduct in
24 SCDC and then across the jail records. So it seemed that, you
25 know, between a 9-year-old girl and adult women, he was

1 exposing himself in the community and while incarcerated, and
2 I thought that that went to the level of being exhibitionistic
3 disorder.

4 So sometimes you'll see somebody who is in prison who is
5 masturbating to female staff, but they don't engage in those
6 behaviors in the community. That is sometimes more difficult
7 to tell. Sometimes they meet exhibitionistic disorder, but
8 this was really a pattern that I thought was established in
9 the records suggesting that he was engaging in those behaviors
10 because he was sexually aroused by them.

11 Q Okay. Now, so as part of your evaluation, you also
12 performed a psychological battery of testing?

13 A I did.

14 Q So let's start by discussing that.

15 MS. SHAW: And, Your Honor, this might be a good time for
16 a morning break.

17 THE COURT: Do you need a break or are you good? If you
18 need a break, just wave your hand.

19 BY MS. SHAW:

20 Q So, Dr. Gottfried, what actual battery of tests did you
21 administer to Mr. Curtis?

22 A So I do a standard battery for these kinds of
23 evaluations. So I do two measures of personality and
24 psychopathology, so general symptoms of mental illness. I do
25 the Personality Assessment Inventory, and I do the MMPI-3,

1 which is the Minnesota Multiphasic Personality Inventory,
2 Third Edition.

3 I do a briefer measure looking at the probability that
4 the person has had a substance use problem or disorder.
5 That's the SASSI. And then I do the MIDSA, which I always
6 forget what it stands for, and that is a questionnaire that
7 looks at a variety of sexual behaviors and their arrest
8 history.

9 So I also do this really long clinical interview, and I
10 think it's really important to do what's called like a
11 multimethod assessment. So even though I'm going to ask them
12 all these questions about their sexual behavior, I still like
13 to have them answer those questions on a questionnaire.

14 The research shows that some people are more forthcoming
15 when you sit down and ask them, and sometimes they are more
16 forthcoming when you have them alone in a room on a computer.
17 And that's not necessarily specific to sexual behavior.
18 That's been shown in, like, suicide research, like headaches,
19 things like that.

20 So there might be a variety of how the person is going to
21 respond, and so I like to do it in a multimethod way. And I
22 will tell you the name of the MIDSA is the Multidimensional
23 Inventory of Development, Sex, and Aggression.

24 Q So let's go through each of these testing assessments,
25 and can you tell the jury about your findings?

1 **A** Yes. So he took the MMPI first. So that's a measure of
2 personality and psychopathology. All of the assessment
3 measures that I give have what's called validity scales, and
4 those are assessing how valid the administration is.

5 So it's looking to see if -- it seems like they're paying
6 attention. So are they answering similar questions in the
7 same way? So if one question is asking about depression and
8 they say true to that, are they also saying true to a similar
9 question asking about depression. So that's consistency.

10 It's also looking to see if the person over-endorsed, so
11 said, like, everything was wrong with them. That could be
12 exaggeration or faking. And then also looked at
13 underreporting. So did it seem like the person was defensive
14 or trying to paint themselves in an overly positive light?

15 I will say, in these kinds of evaluations, it's not
16 uncommon for somebody to have cognitive impression management
17 where they're trying to put their best foot forward. They are
18 more reluctant to say bad things about themselves. They want
19 to highlight the good things. So that is what we saw on his
20 testing. Not uncommon. So perhaps some defensiveness across
21 the measures, but more likely explained by him wanting to
22 paint himself in a good light.

23 So, on the MMPI, he reported some or he said true to
24 some items about bodily concerns, so concerns about his weight
25 or shape or how his body looked to him; some compulsive

1 behaviors, like that could be repeated checking or compulsive
2 thoughts. He scored really low on a scale looking at conflict
3 within the family. So he was essentially reporting that he
4 has had generally a conflict-free, like, past and current
5 family environment. And those were the only findings on that
6 scale, so he didn't endorse, like, depression or anxiety or
7 unusual thoughts or helplessness or hopelessness. Everything
8 else was totally within the normal range.

9 Q So what were the findings on the SASSI?

10 A So the SASSI-4, it's a self-report looking at substance
11 use disorders. There were some defensiveness noted, and his
12 responses suggested a low probability that he has or has had a
13 substance use disorder, and that's aligned with what he
14 related during the clinical interview. So although he
15 endorsed using substances, he essentially said that they
16 caused him really no problems or symptoms.

17 Q How about the PAI?

18 A So, on the Personality Assessment Inventory, there was
19 not evidence of a positive impression management, but there
20 were some unusual responses that could be due to a variety of
21 things. It could be reading problems, which it didn't seem
22 like he had a reading problem on other things. I don't think
23 that's what it was.

24 It could be confusion, random responding, interpreting
25 the test questions in an unusual way. So that test was not

1 invalid. It was still valid, but that was something that I
2 noted that the results should be interpreted with caution.

3 On the PAI, he was reporting, like, routine physical
4 health complaints. So that could be like pain. I know he was
5 in back pain. It could be headaches. And he really didn't
6 report any other symptoms or problems on that test.

7 That also looks at having a more general functioning, how
8 you interact with other people. He, I believe, reported
9 feeling like he had adequate social support, being generally
10 forgiving and open in relationships with other people.

11 Maybe -- there was something interesting, so kind of high on
12 dominance. So other people might see him as being kind of
13 forceful. But also indication that he was reporting some
14 problems with assertiveness. So those are kind of opposite
15 and assessed in two different ways but really nothing major.

16 Q Nothing remarkable. Okay.

17 Now, there was something remarkable about the MIDSA
18 results; is that correct?

19 A I mean, he had results on the MIDSA.

20 Q So what were your results?

21 A So, on the MIDSA, he scored really high compared to other
22 people in prison for sexual offenses. He scored high, like,
23 on percentile ranks on those validity scales. So there's the
24 positive image scale, who -- which is looking at -- like
25 someone who scores high on the positive image scale might be

1 inclined to exaggerate their positive traits.

2 He scored really high on the negative emotion denial
3 scale. That's looking at someone's tendency to admit that
4 they have undesirable negative reactions to things.

5 And then his score on the sexual lie scale was also
6 really high, and high scores on that scale indicate that the
7 person is denying engaging in sexual behaviors and having
8 sexual thoughts, and that could indicate defensiveness about
9 sexual behaviors.

10 Q And what were the percentiles on each of those scales
11 that he ranked in?

12 A So the percentiles are comparing him to other men in
13 prison for sexual offenses. So on the positive image scale,
14 he scored in the 97th percentile. On the negative emotion
15 denial scale, he scored in the 98th percentile. And on the
16 sexual lie scale, that was in the 99th percentile.

17 Q So what would all of these scores indicate to you as an
18 evaluator?

19 A They indicate some defensiveness about sexual behavior;
20 that he really wanted either me to see him in a positive light
21 or see himself in a positive light, and denying that he has
22 negative reactions to things. He wants me or himself to see
23 him as a positive person --

24 MS. JOHNSON: Your Honor, I object to the speculative
25 nature of that answer.

1 MS. SHAW: Your Honor, it's part of her interpretations.
2 These are extremely high scores on a valid and objective test,
3 and she's qualified to interpret what they mean.

4 THE COURT: Overruled.

5 A And that he wanted either me or himself to think that he
6 doesn't have any sexual thoughts or fantasies.

7 BY MS. SHAW:

8 Q And is that realistic?

9 A No. I mean, everybody has sexual thoughts or fantasies.

10 Q Now you also mentioned the PCLR and the SVR-20; correct?

11 A Yes.

12 Q And can you tell the jury what those are and what they
13 do?

14 A So these are part of the ones where I mention that are
15 clinician administered. So these aren't ones where he
16 answered questions. These are measures that I completed based
17 on my review of his case data and my interview with him.

18 So the PCLR is the Psychopathy Checklist Revised, and
19 that is looking at traits and characteristics associated with
20 psychopathy or for somebody to be a psychopath. So
21 psychopathy is not in the DSM, but we conceptualize it as
22 being similar to a personality disorder. That is somebody who
23 might lie a lot, be impulsive, have a lot of really serious
24 relationships with other people but have, like, many of them.
25 Like con other people for their own self.

1 So I scored him on that. And based on his score, he
2 didn't meet the clinical cutoff for psychopathy, so I don't
3 think that he's a psychopath.

4 **Q** Does he have any traits of psychopaths?

5 **A** Everybody has those traits. He has some traits of
6 psychopathy.

7 **Q** Can you describe what those are according to that
8 measure?

9 **A** Yes. I believe that he is impulsive. I think that he
10 has a lack of empathy and a lack of remorse. I think that
11 there's some evidence of not being totally forthcoming or
12 pathological lying. Promiscuous sexual behavior. Maybe some
13 aggressiveness. I don't put -- in my report, I don't put,
14 like, each item. I just put, like, percentiles. But, to my
15 memory, those are ones that I scored him on.

16 **Q** And what about the SVR-20, what is that?

17 **A** So, that's a Sexual Violence Risk Assessment 20, and so I
18 score that. That is looking at factors -- risk factors from
19 the scientific literature associated with risks for sexual
20 re-offending.

21 And so it's looking at -- I don't know if we'll talk
22 about it, but there's a difference between kind of static risk
23 factors that can be treated and dynamic risk factors which
24 could be a target of treatment. This is looking at more of
25 those dynamic risk factors.

1 Q So let's go into that and let's discuss what static risk
2 factors are and what dynamic risk factors are.

3 A Sure. So static risk factors are things that, no matter
4 how much treatment I give you, we can't change them. So
5 things like age. So you're always going to get older, but I
6 can't give you treatment to make you younger.

7 The presence of a male victim, we know that that's a
8 static risk factor, for whatever reason. It's identified in
9 the literature that, if you have had a male victim for a
10 sexual offense, that can increase your risk.

11 And so I can give you treatment where you never have a
12 male victim again, but I can't change that male victim in your
13 history. So that's what makes them static. It's unchanging
14 risk factors.

15 Dynamic risk factors are things that you can treat. It
16 might be difficult to treat, but they can be treated. So
17 things like substance use. We know that somebody who has
18 offended, if they're using substances, that can increase their
19 risk. We talked about how substances don't make you commit
20 offense, but if you have committed one and you're using
21 substances, that can increase your risk.

22 And so we know that substance use disorders are really hard
23 to treat. Be really motivated, people relapse, but it's
24 treatable. Things like paraphilic sexual interests, so being
25 aroused to prepubescent children or exposing yourself, those

1 can be treated. It might difficult to treat them, but those
2 are examples of dynamic risk factors.

3 Q Okay. So before we go into Mr. -- and did you find that
4 Mr. Curtis has dynamic risk factors that are active and
5 applicable to him?

6 A Yes.

7 Q So, before we go into those, let's discuss the statistic
8 factors. Now, there are two actuarial measurements that you
9 use. What are they?

10 A So I use both the STATIC-99R and the STATIC-2002R.

11 Q Did you score those for Mr. Curtis?

12 A I did.

13 Q And what were his scores?

14 A On the STATIC-99, he had a score of 6, and on the 2002,
15 he had a score of 5.

16 Q And what do those scores correlate to in terms of
17 relevant risk? And, actually, can you use an example of how
18 these particular measures work?

19 A Yes. So, these are what are called actuarial risk
20 assessments. And the example that I like to use is, like,
21 when you get life insurance. So, when you apply for life
22 insurance, the insurance company wants a lot of your personal
23 information, and they are going to look to see if you have
24 risk factors that are associated with an early death.

25 So they're going to look at things like, if you're a

1 man -- we know that women, on average, live about five years
2 longer than men. So that's something they're going to
3 consider. They're going to look into your jobs. Like, do you
4 have a lot of speeding tickets? Do you climb mountains? Do
5 you have high blood pressure? You know, so they can't say,
6 "Okay, we know you're going to die early," but they can say,
7 "Okay, you have this many factors that we know have been shown
8 to be associated with an early death," so they're going to
9 charge you more for the premium. And that's how they
10 calculate it, to my understanding.

11 So this is an actuarial risk assessment measure. So it
12 doesn't tell us anything about Mr. Curtis, like if and when
13 he's going to re-offend. It just compares him to other people
14 who are in large studies and re-offended to look and see if he
15 has similar characteristics to those people.

16 Q So basically the STATICS compare the individual and his
17 risk factors to the group of sex offenders as a whole and
18 estimates the risk of the individual as compared to the group?

19 A Right. So, yeah. And specifically comparing him to
20 people that had detected re-offenses, who were arrested for
21 another sexual offense.

22 Q So let's go into his scores. What do a 6 and a 5 on
23 these two tests mean?

24 A So the first thing they do is they kind of give you a
25 verbal or a categorical description of what the different

1 scores mean. So a score of 6 on the STATIC-99 places him in a
2 risk level that is called well-above average risk. And the
3 STATIC-2002, the score of 5 places him in the above-average
4 risk category. Then you can look at those numbers in a number
5 of different ways.

6 So if you look at individuals who had that same
7 score -- so, for the STATIC-99, individuals who had the score
8 of 6 on the STATIC, the five-year sexual recidivism rate was
9 17.6, so 17.6 percent. For the STATIC-2002 with a score of 5,
10 the recidivism rate for five years was 13.8, so 13.8 percent.

11 And then you can look at those years -- or those numbers at
12 the 10- and 20-year mark for the STATIC-99 and the 20-year
13 estimate for the 2002.

14 And so for the two-thousand -- let's do the 20-year.
15 So, after 20 years, the expected recidivism rate is
16 approximately 31.2 percent for a STATIC-99 score of 6, and
17 approximately 25.1 percent for a STATIC-2002 score of 5.

18 You can also look at percentiles, so comparing them to those
19 samples. The -- a score of 6 on a STATIC-99R represents the
20 94.2 percentile, and the STATIC-2002R, a score of 5 represents
21 the 78th percentile.

22 You can also look at where they kind of range compared
23 to somebody in the middle of the risk range distribution. So
24 somebody with a score of 6 on the STATIC-99, they have a
25 sexual recidivism rate that is 3.77 times -- so three times,

1 almost four times -- the rate of individuals in the middle of
2 the risk distribution. And people who have a score of 5 on
3 the STATIC-2002 have a recidivism rate that is 1.9 times the
4 rate of offenders in the middle of the risk range.

5 And, again, this isn't saying anything specifically about
6 Mr. Curtis. This is just about people in the developmental
7 and normative samples for that measure, what their rates were.

8 Q So does the STATIC take into account uncharged and
9 unconvicted offenses?

10 A It takes into the -- the 99 takes into account
11 unconvicted. So you look at charges. So that charge can be
12 dropped, dismissed, and you still count it. Typically,
13 unconvicted charges are not factored into the 2002.

14 Q And is there a general consensus about roughly the
15 percentage of sex offenses that are actually reported?

16 A There's kind of a wide range of this. I like to be
17 conservative when I report these numbers, but we know that,
18 across the board, out of all offenses, sexual offenses are the
19 least likely to be reported to authorities. And so it might
20 be less than this, but depending on the studies that you look
21 at, it looks like only about 30 percent of sexual offenses are
22 ever reported to authorities.

23 Q So knowing that and knowing that the detected offenses
24 and actual charges are what really matter for the STATICS, is
25 it possible that the STATICS actually underestimate an

1 individual's risk?

2 **A** It's possible because it's only looking at people who
3 were caught or had their offenses reported.

4 **Q** Are the STATIC-99 and 2002R considered generally reliable
5 tests in your field?

6 **A** Yes. They are widely used. I'd say a very high
7 percentage of people who do these kinds of evaluations use the
8 STATIC-99.

9 **Q** And Dr. Gehle, in fact, used both of those measures as
10 well; correct?

11 **A** She did.

12 **Q** And were her scores similar to yours?

13 **A** They were similar. I believe that she was one point
14 different than I had on the 2002.

15 **Q** Okay. And is that unusual?

16 **A** Not unusual. I like to see that they're consistent
17 between examiners, but not unusual.

18 **Q** Like a one-point difference is not going to be
19 invalidating?

20 **A** Correct.

21 **Q** So these tests are also routinely used in psychosexual
22 evaluations and specifically SVP evaluations?

23 **A** Yes.

24 **Q** Now let's go into the SVR-20. Can you discuss a little
25 bit about that test, what it looks for, what it assesses for,

1 and how you score it?

2 **A** Yeah. So it's basically a set of structured professional
3 judgment guidelines. So there's different ways to think about
4 risk factors. We use the STATIC regularly for the STATIC
5 factors, but those are only looking at STATIC factors.

6 Then some evaluators, which I totally support, will look
7 at research articles where they list, like, these are the ones
8 that are associated with risk. These are the risk factors.
9 And I think that's a good way to do it.

10 I also think for me having like a checklist or guidelines
11 that remind me, these are the risk factors, let me sit and
12 think about each one. Personally, for me, if I only look at
13 an article, I might just be focusing on the ones that I think
14 are present. What I like about SVR-20 is that you're
15 considering each of those risk factors: Are they present?
16 Are they absent? Are they relevant to this person? And so
17 that's why I use SVR-20.

18 , There are other dynamic risk factor measures. Sometimes
19 we will just look at the literature, which I do as well to
20 make sure I'm not missing anything with SVR-20.

21 **Q** So, basically, the SVR-20 keeps you focused on the
22 appropriate criteria to look at for an individual, in
23 assessing individual risks?

24 **A** Correct.

25 **Q** Okay. What were your findings relating to Mr. Curtis?

1 **A** So the SVR-20 splits their risk factors into three kind
2 of categories. There's psychosocial adjustment risk factors,
3 sexual offending risk factors, and future plan risk factors,
4 and then you can make other considerations as well.

5 So, for the psychosocial adjustment risk factors,
6 Mr. Curtis has had a problem with sexual deviation, so arousal
7 and exhibitionism or exposing himself; antisocial personality
8 disorder traits; relationship problems; nonsexual offending.
9 And then I rated the last three as being partial or possible.

10 So the ones I just listed, I thought, yes, he definitely
11 has a history of those risk factors. And then I thought that
12 it was possible or partial history of risk factors or problems
13 with substance use problems, homicidal ideation, and
14 employment problems. So those were the psychosocial.

15 And then for the sexual offending risk factors, I
16 scored that he had a history of problems with chronic sexual
17 offending, diverse sexual offending, escalation and sexual
18 offending, and extreme minimization/denial of sexual
19 offending.

20 And then, for the future planned risk factors, I rated
21 that he has a negative attitude towards intervention or
22 treatment and possible/partial problems with lacking realistic
23 future plans.

24 **Q** And how do those findings factor into Mr. Curtis's
25 overall risk in your assessment?

1 **A** I got from the SVR-20 that he had a substantial number of
2 risk factors that made his summary risk rating to be rated in
3 the high range, because a high level of intervention is
4 required to prevent further sexual offenses.

5 **Q** Now, in addition to the SVR-20, you did consider the
6 empirically supported dynamic risk factors; correct?

7 **A** I did.

8 **Q** And can you tell the jury what those are that you found,
9 how many there are, and how many relate to Mr. Curtis?

10 **A** Let's see. So I also thought about other risk factors
11 that are in a really large study that combined data from lots
12 of other studies. So it's a meta-analysis, so they take the
13 results from a lot of individual studies that had a couple
14 hundred people, put them together and analyzed it so there's
15 actually, like, thousands of thousands of people in that
16 sample. That was published in 2010.

17 So, from there, I also noted that he demonstrated sexual
18 preoccupations, so he's preoccupied with sex. Any deviant
19 sexual interest, which is the exhibitionism, the SVR-20; a
20 lack of emotionally intimate relationships with adults. So
21 that was kind of factored into the problems with his adult
22 relationships.

23 Conflicts in intimate relationships, lifestyle
24 impulsivity and recklessness, employment instability,
25 grievance and hostility, and potentially hostility towards

1 women and callousness, so being callousness, not having a lot
2 of empathy or feelings for other people or empathy for them.

3 Q Okay. So, based on that, did you -- based on your
4 interpretation of the dynamic risk factors as well as your
5 interpretation of the SVR-20, were your conclusions with both
6 of those -- with both of those informational pieces, were they
7 consistent?

8 A I'm sorry. The -- say that again.

9 Q Were your conclusions -- after assessing both just the
10 dynamic risk factors and using the SVR-20, were those
11 conclusions consistent with each other?

12 A Yes.

13 Q And they rated his overall risk as high?

14 A Yes. So the SVR-20, you are thinking about their risk
15 level. When you're thinking about that article, the
16 meta-analysis, you're not necessarily, like, saying are they
17 high? Are they low? You're looking at the presence or
18 absence of the risk factors.

19 Q But based on all those risk factors, the need for
20 intervention for Mr. Curtis is high?

21 A That's my opinion, yes.

22 Q Okay. Thank you.

23 Now, did you talk to Mr. Curtis about his future plans?

24 A I did.

25 Q And what did he indicate to you?

1 **A** He wants to live in a halfway house in Sumter. He hopes
2 that they'll help him get a job. He's unable to work. He
3 hopes that he can get some assistance working.

4 **Q** Did he identify the name of the halfway house?

5 **A** He may have, but I don't think I put it in my report.

6 **Q** Did he have any future plans to attend outpatient
7 treatment of any sort?

8 **A** He initially said that that was part of his plan. And in
9 asking him why he thought he needed that treatment, especially
10 because he wasn't admitting to any of his sexual offenses, he
11 said that he thought it was mandatory.

12 So when I asked him, you know, let's -- I don't know,
13 let's say it's not mandatory because I don't think he -- he
14 doesn't have any probation requirements -- he won't be on
15 probation -- he said that, if it's not mandatory, he doesn't
16 want to do it.

17 **Q** And did he specifically say that with regard to sex
18 offender treatment?

19 **A** Yes. I was asking him specifically about sexual behavior
20 treatment.

21 **Q** Does he have any plan not to re-offend?

22 **A** I mean, he told me that he wants to stay out of prison,
23 that he doesn't want to offend, but based on my assessment of
24 him -- you know, I take them through -- I want them to tell me
25 what they think was going on during the time of the offending,

1 what would place him at risk for committing another offense,
2 you know, what kind of person would be at risk for them, what
3 kind of moods or situations would put them at risk of engaging
4 in these behaviors again, and Mr. Curtis didn't have an answer
5 to any of those things.

6 So one thing that I want to say is, when you think about
7 risk factors, it's really important to also think about what
8 isn't a risk factor. So denial isn't necessarily -- or it's
9 not an established risk factor for re-offending. There are a
10 lot of people -- there are a lot of reasons why people deny
11 sex offenses and other offenses. So that's not necessarily a
12 risk factor.

13 But the problem in this case is that his denial kind of
14 precluded him or prevented him from really explaining a
15 strategy to me to keep people safe, to keep himself from
16 engaging in these behaviors again.

17 So because he was unable or unwilling to talk about the
18 reasons for his offending behaviors, he couldn't come up with
19 any situations where he would be at risk again. And without
20 being able to come up with those situations, he couldn't tell
21 me what he would do to mitigate those or prevent that from
22 happening in the future.

23 Q And so did you make any conclusions -- following your
24 diagnosis as well as the actuarial and risk assessment, did
25 you make any conclusions about whether Mr. Curtis presents a

1 current risk of re-offense?

2 **A** Yeah. So, it's my opinion, based on all of the data that
3 I collected and that I reviewed, that Mr. Curtis's sexual
4 offenses were predisposed by his personality pathology or his
5 personality disorders. So he felt entitled to do what he --
6 whatever he wanted against these victims. He didn't have
7 empathy for them.

8 His antisocial personality characteristics made his needs
9 the most important. So he had sexual needs, and he didn't
10 care about the safety, the well-being, the desires of his
11 victims and acted on that, which was the direct manifestation
12 of his personality disorder.

13 So it's my opinion that he has a mental abnormality or
14 personality disorder. He has this other specified personality
15 disorder with antisocial and narcissistic traits that caused
16 his sexual offenses; that the scores on the risk assessment
17 measures I administered indicate that he's in the high-risk
18 range. So it's my opinion that he's likely to re-offend
19 sexually.

20 **Q** And is it your opinion that Mr. Curtis's personality
21 disorder, in combination with the exhibitionistic disorder,
22 affects his volitional control to the point where he is
23 predisposed to commit sexually violent offenses?

24 **A** Yes. So, I mean, I think the exhibitionistic disorder is
25 related, but that he wouldn't be here if he just had

1 exhibitionism. So, what I think the predisposing factor is,
2 is the personality disorders.

3 Q And do you believe he has serious difficulty controlling
4 himself?

5 A Yes.

6 Q Do you believe that the propensity to commit future
7 sexual violent offenses is of such degree as to pose a menace
8 to his health, safety, and welfare of the population?

9 A Yes. He was in the above average, well above average
10 range on the actuarial risk assessment measures.

11 Q And do you believe that he meets criteria as a sexually
12 violent predator and needs to be committed for long-term
13 control, care, and treatment?

14 A Yeah. I mean, the statute is do they have a mental
15 abnormality or personality disorder that makes him likely to
16 re-offend. He has the narcissistic and antisocial traits of
17 the personality disorder that were related, predisposed him to
18 offend, and the likelihood comes from the actuarial risk
19 assessment measures that show that he is a high risk.

20 Q And are use of the record review, the clinical interview,
21 the battery of testing, scored evaluations, and the dynamic
22 risk factors, are those all standard practice and reasonably
23 relied upon in your field?

24 A Yes.

25 Q And in this type of evaluation, is it also standard

1 practice to review other evaluator's evaluations?

2 A Yes.

3 Q And did you draw all of your conclusions to a reasonable
4 degree of psychological certainty?

5 A Yes.

6 Q Thank you, Dr. Gottfried. I have nothing further.
7 Please answer any questions that Ms. Johnson has.

8 THE COURT: Let's take a 15-minute break, and we'll come
9 back and continue with cross-examination.

10 (The jury exited the courtroom at 11:27 a.m.)

11 (A brief recess was taken from 11:27 a.m. to 11:50 a.m.)

12 THE COURT: Let's go ahead and bring in the jury.

13 (The jury entered the courtroom at 11:50 a.m.)

14 THE COURT: When the Respondent is ready.

15 MS. JOHNSON: May it please the Court, Your Honor?

16 Beg the Court's indulgence, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. JOHNSON:

19 Q Okay. Dr. Gottfried, so tell me again where you work.

20 A I work at the Medical University of South Carolina.

21 Q And tell me what sorts of things you do there at MUSC.

22 Can I call it MUSC?

23 A Yes.

24 Q Is that right?

25 And tell me what sort of things you do there at MUSC.

1 **A** So I work in the Department of Psychiatry and Behavioral
2 Sciences. Specifically, I work in the Community and Public
3 Safety Psychiatry Division, which is our forensic psychiatry
4 program. Within the -- it's the CPSPD. That's the division.

5 So within the CPSPD, I do a range of forensic evaluations
6 to include competency to stand trial, criminal responsibility.
7 And then a large percentage of what I do is serve as the
8 director of our sexual behaviors clinic and lab where I
9 conduct sexual behavior evaluations and assessments and
10 oversee and provide treatment. And then I also teach and do
11 some research.

12 **Q** And so part of what you do is precommitment evaluations
13 for potential sexually violent predators; right?

14 **A** Yes. When I get a request for an independent evaluation,
15 it's precommitment. That's what I do.

16 **Q** And in Mr. Curtis's case, you got a request from the
17 General Attorney's Office; correct?

18 **A** Correct.

19 **Q** And when you get that request, they quite often have
20 already -- or every time -- have already had the person
21 evaluated at the Department of Mental Health; right?

22 **A** Yes. It's my understanding -- I think it's per statute.
23 So the Department of Mental Health is the agency that conducts
24 all of those evaluations.

25 **Q** Right. And so you're giving a second opinion?

1 **A** Correct.

2 **Q** And when you give that second opinion, you look at the
3 first opinion; right?

4 **A** Yes.

5 **Q** And so, in this case, the first opinion came from
6 Dr. Marie Gehle in Mr. Curtis's case; correct?

7 **A** Yes.

8 **Q** And you did look at that and review them?

9 **A** I reviewed the report.

10 **Q** Okay. And did you rely on that to also make part of or
11 to construct your own report?

12 **A** Yes. I use it as a data point, and I compare what the
13 examinee said to me about offenses versus what they said to
14 other evaluators. So it's definitely a data point.

15 **Q** And so, in this particular case, the reason why you came
16 to evaluate Mr. Curtis was the Attorney General's Office
17 basically hired MUSC to evaluate Mr. Curtis; right?

18 **A** Yes. We have a -- I guess it's not a contract. We have
19 an agreement with them where they'll send us independent
20 evaluations when they choose to, I guess.

21 **Q** And that agreement includes payment; right?

22 **A** Yes.

23 **Q** Okay. And so the Attorney General's Office issues
24 you-all payment to do these evaluations?

25 **A** They pay MUSC.

1 **Q** They pay MUSC.

2 And what do they pay MUSC?

3 **A** So we have -- I guess that's the contract. We have a
4 contract worked out with the Attorney General's office, so we
5 do them for a flat rate. So we do these evaluations for a
6 flat rate of \$5,600. \$5,600.

7 And what they get with that is they get the three days of
8 the evaluation. They get the time it takes to administer and
9 interpret the assessment inventories, including the price that
10 each of those assessments cost, the time it takes to write the
11 report. They're usually 50-, 70-page-long reports. And then
12 they also get one full day of testimony. So we have it worked
13 out where other agencies or other attorneys, we charge them
14 310 an hour for that.

15 **Q** And so back to my question. Almost \$6,000 every time
16 they send somebody to you; right?

17 **A** Currently -- yes, it's changed over the years, yes. So,
18 for Mr. Curtis, currently it's 5600.

19 **Q** Right. And of course when I'm speaking, I'm actually
20 talking about Mr. Curtis. I'm not talking about something
21 from 15 years ago obviously; right?

22 **A** Yes.

23 **Q** Okay. And so when it comes to this -- getting the
24 evaluation, they send over the records to you as well; right?

25 **A** Correct.

1 Q And so you review those records to come up with your
2 report also; right?

3 A I summarize the records in my report and I -- yeah, use
4 them as data points as well.

5 Q But you review them; right?

6 A Correct.

7 Q Okay. And so do you look at all of the documents they
8 send you?

9 A Yes.

10 Q Yes. And in this particular case with Mr. Curtis, how
11 many pages of documents did they send you? Do you remember?
12 And I understand you probably couldn't say 333. But could you
13 say more than 1,000 pages of documents?

14 A I couldn't. I mean, it's probably a little bigger. Like
15 a stack of papers, a little bigger than that. I have no idea.

16 Q And did every single document relate in your mind to
17 Mr. Curtis, or did you also get general documents?

18 A I'm not sure. I'm sorry. Will you ask it again?

19 Q Yeah. Did every single document that the Attorney
20 General sent over to you for this case, Mr. Curtis's case, did
21 every single document relate to Mr. Curtis? Or did you
22 sometimes, for example, get indictments for Horry County that
23 were just sort of general indictments that maybe didn't
24 involve Mr. Curtis?

25 A Anything that had his name on it, I put in the report. I

1 don't recall if I got anything that didn't have his name on
2 it. There has been a time before where I will get a criminal
3 history report and then when you look, it's not actually the
4 person you're examining. I don't recall that in this case,
5 but I would only put information attributed to him in my
6 report.

7 Q Information that you believe is attributed to him; right?

8 A If it had his name on it. I believe.

9 Q You believe.

10 A Yes.

11 Q And so, in Mr. Curtis's case, you would have received
12 information from the Attorney General's Office regarding
13 things that he was convicted for; right?

14 A They would send me, like, the police and the court
15 documents, correct.

16 Q And you reviewed those; right?

17 A Yes.

18 Q And then you reviewed documents for things that he was
19 arrested for but not necessarily convicted; right?

20 A Correct.

21 Q Those documents came from the AG's office; right?

22 A Yes.

23 Q And when I say AG, let me -- I mean the Attorney
24 General's Office; right?

25 A Yes.

1 Q And then you receive documents related to just
2 investigations that may have involved Mr. Curtis; right?

3 A Yes.

4 Q Investigations that did not lead to his arrest; right?

5 A Correct.

6 Q And investigations that did not lead to his conviction;
7 right?

8 A Correct.

9 Q And you considered those; right?

10 A I put them in my report. You don't score, like, any of
11 the STATIC measures that I talked about. You might use things
12 that he was not convicted of, but you only use charges. So I
13 didn't use anything that he was never arrested for. To score
14 measures, more of that I just summarized all of the
15 information that I received to put in the report.

16 Q So are you saying today that all of this information,
17 including arrests that were made where he was not convicted,
18 you didn't actually use them to score in your report?

19 MS. SHAW: Objection, Your Honor. That's a
20 characterization of the prior testimony of what she just said.

21 MS. JOHNSON: Your Honor, I'm just asking her to clarify
22 to me what she's saying.

23 THE COURT: Overruled.

24 Go ahead and answer.

25 A No, I don't know if I misspoke. So, to score the

1 STATIC-99, you use charges and convictions. So I used the
2 things that he was charged with but not convicted of.

3 BY MS. SHAW:

4 **Q** Okay. But you also used the things that involved an
5 investigation where he was not even arrested for; right?
6 Those came into account in your report?

7 **A** Yes. I summarized those records in my report, listed
8 them on my sources of information, and considered them as
9 well.

10 **Q** You considered them. And how did you consider them?

11 **A** I consider everything that's provided to me. So
12 everything is a data point. Things that he was investigated
13 for but never arrested for or charged with, they don't have a
14 lot of weight.

15 **Q** Do they have any weight?

16 **A** I'm not going to say they have zero weight, but they have
17 a lot less weight than something that someone is arrested for,
18 charged with.

19 **Q** In this particular case, you have a lot of details that
20 you went into in front of the jury -- right? -- about these
21 situations where he may have been arrested and not convicted;
22 right?

23 **A** Yes. Charges I definitely considered, arrests.

24 **Q** And even investigations where they did not lead into his
25 arrest, you went into quite a bit of detail right today during

1 your direct exam; right?

2 A For the Orangeburg one? I'm not sure which -- or the DV?

3 Q Let me go back. We talked about -- I'm sorry, not "we
4 talked about." You mentioned there was an alleged harassment
5 from a girlfriend in 2006. You talked about that; right?

6 A Yes.

7 Q Did you give weight to that in your report?

8 A Yeah, some weight.

9 Q Some weight. What kind of weight? Like a lot? Word
10 "zero"? One? Two? Like on a scale of 100, what sort of
11 weight are we talking about?

12 A I don't know that I can quantify it with a number. The
13 weight or the consideration for those documents were related
14 to the sexual offense because those involved the victim's
15 mother.

16 Q Okay. And you're saying "victim." What do you mean?

17 A The --

18 Q Because I'd like you to be very clear. When you're
19 saying the word "victim" in this case, what do you mean?

20 A The 9- and 16-year-old daughters of his girlfriend, who
21 -- the indecent exposure charges that he pled guilty to.

22 Q Okay. So we're talking about a charge that he pled
23 guilty to?

24 A Yes.

25 Q That's what you're talking about.

1 And so the alleged harassment that you talked in front of
2 the jury, you're saying that the relevance of that is because
3 she was the mother of the girls?

4 **A** Well, that's why I considered it because it seemed that
5 it could be related. So that is why I would consider it. I
6 mean, I consider every document sent to me, and so that seemed
7 like it was related. And, in my report, I put that in my
8 interpersonal relationship history section.

9 **Q** Okay. So even though he was not arrested or charged or
10 convicted --

11 **A** Yes.

12 **Q** -- you used it to assess him and to give your opinion;
13 right?

14 **A** I noted it in my report as a source of information, and I
15 summarized the records I received.

16 **Q** I understand. But my question is: Did you use it to
17 assess him and to give your opinion? Are you saying it was
18 not related to your opinion? You did not take it into
19 consideration for your opinion?

20 **A** No. I would say I take everything into consideration.

21 **Q** So, are you saying you took that into consideration for
22 your opinion?

23 **A** Yes, that was one data point that I considered.

24 **Q** And then you mentioned -- let's see. There were several
25 things you mentioned. You mentioned you went into detail

1 about an argument that he had at work, I believe, that he was
2 never charged for. Do you remember that?

3 A I think he -- I think I testified that he was
4 investigated for a potential -- was it assault? Whatever was
5 listed on the police report. That he was never charged --
6 never arrested. And that, from the documents, it appeared to
7 be related to a verbal altercation with a co-worker, I
8 believe.

9 Q Okay. And did you use that to make your assessment -- or
10 to evaluate him, for lack of a better phrase? Did you use
11 that in your evaluation of him?

12 A I didn't ask him about it during the evaluation.

13 Q Did you use it to come up with your final opinion?

14 A I mean, I consider, again, every piece of paper that's
15 given to me.

16 Q And I understand that you read the documents. That's not
17 really what I'm asking.

18 What I'm really asking is: Did it come into play, did
19 you consider it and did it help you make a decision or come up
20 with your opinion?

21 A I mean, I'm going to lean more on the no side because --

22 Q No?

23 A Yeah. I'm going to lean more on the no side, that that
24 wasn't supporting data necessarily for the diagnosis or the
25 ultimate opinion regarding risk.

1 Q I got it. So you brought it up to the jury, but when it
2 came down to your opinion, you actually didn't use it to make
3 your opinion?

4 A Right. I didn't use it to score the measures because he
5 wasn't charged. Yeah, I mean, I wouldn't say that I didn't
6 use it because I reviewed those documents, I put it in my
7 report, it was a source of information, but it wasn't the sole
8 basis of my opinion.

9 Q And I understand it's not the sole basis. But I'm asking
10 you very specifically: Did you use it or did it come into
11 account when you made your final opinion? When you came up
12 with your final opinion, did you consider it? Did it help you
13 come up with your final opinion? Not just did you read it,
14 but did it help you come up?

15 A No, I hear your question. I don't know. It's kind of
16 hard to answer that because you can't unread something. So,
17 while I didn't use it to score measures, while it wasn't
18 something that I said was a symptom of a disorder, you can't
19 unread it. So I'm sure that I considered it.

20 Q Unintentionally?

21 A No, I wouldn't say unintentionally. I mean, it was part
22 of my report, but it wasn't, like, the basis of my decision.

23 Q Well, if you don't really -- if you can't really
24 quantify, you know, how much you brought it up or how much it
25 came into your opinion, you brought it up to the jury. So why

1 did you do that, then, if it really didn't factor that much
2 into you making your opinion?

3 A I just went through kind of the timeline of the contacts
4 with the authorities that Mr. Curtis had had.

5 Q And so for all of the situations where you mentioned that
6 he might have been part of an investigation that led to his
7 arrest -- sorry, part of an investigation that did not lead to
8 his arrest, those -- they didn't necessarily make or break
9 your final opinion in this case; right?

10 A I would say that, yes.

11 Q And would you say that it had little to no bearing on
12 your opinion?

13 A I would say it had little to no bearing on my opinion.

14 Q But you brought it up to the jury?

15 A Yes.

16 Q Why?

17 A To flesh out the timeline because I listed it in my
18 report.

19 Q I see. Okay. So then let's talk about the arrests that
20 did not lead to the convictions.

21 A Yes.

22 Q How much bearing did they have on your final opinion?

23 A Well, so when you score the psychopathy checklist and the
24 STATIC-99, you are looking at charges that did not necessarily
25 result in a conviction. So convictions are weighed heavier on

1 the STATIC-99, but you still score for the presence of charges
2 that did not lead to convictions. So certainly I considered
3 those.

4 Q Okay. And so you -- and let's be very clear. With every
5 single one of these cases, you never talked to any victim;
6 right?

7 A It would be an extremely rare situation that I would talk
8 to a victim in any case.

9 Q I understand. So the answer is no. You did not talk to
10 any victim in this case; right?

11 A I did not talk to any victims.

12 Q And you didn't even talk to anybody who made an
13 allegation against Mr. Curtis, did you?

14 MS. SHAW: Objection, Your Honor. Sidebar.

15 BENCH CONFERENCE

16 (The following conference was held at the bench with
17 attorneys present and outside the presence of the jury and
18 others:)

19 THE COURT: All right. Let's back up. What was your
20 question?

21 MS. JOHNSON: I asked if she talked to anybody who made
22 an allegation.

23 MS. SHAW: Your Honor, talking to victims in these types
24 of cases is never done. And this is a blatant attempt to go
25 behind the original charges and the original information and

1 try and relitigate that. It's either been resolved one way or
2 another by a conviction or a dismissal. So we can't -- I
3 mean, we have case law --

4 THE COURT: I think it's relevant as to what she used in
5 her opinion -- what she did and didn't use in her opinion.
6 You can redirect her afterwards.

7 MS. SHAW: That's fine. But going behind those original
8 charges and trying to say that they were false and -- because
9 that's his narrative, is that he didn't do it. And we have
10 case law that says --

11 THE COURT: All you asked her was did you talk to the
12 victims; is that right?

13 MS. JOHNSON: Right, yes. And, Your Honor, specifically
14 right now I'm talking about things that didn't even lead to
15 convictions yet, or actually I said all of them. I included
16 -- I said for all of these allegations, you didn't talk to any
17 victims. That was --

18 THE COURT: That's the way I see it. Why would that not
19 be relevant?

20 MS. SHAW: But ethically you wouldn't do that because you
21 don't want to retraumatize --

22 THE COURT: You can redirect.

23 MS. SHAW: I'll deal with that on redirect. But I'm
24 saying we cannot try and go behind these charges and
25 convictions to relitigate the underlying facts.

1 THE COURT: She's not. She's just asking did she, in her
2 opinion, talk to the victims.

3 MS. SHAW: Well, that's the insinuation. But that's
4 going to be the next step and that's the insinuation is
5 that --

6 THE COURT: I don't know what the next step is.

7 MS. JOHNSON: Well, Your Honor, if these are offered to
8 the jury anyway. Some of them are not even convictions. I'm
9 allowed to find out, when you did this, did you even talk to
10 anybody and to really go into the veracity and whether this
11 information is reliable. I think it's important to the jury.

12 THE COURT: I think it's very relevant.

13 [Open court resumes:]

14 BY MS. JOHNSON:

15 Q Okay. Back to my question. So for all of these criminal
16 charges, arrests, investigations, you did not talk to any
17 victim in this case -- in any of the cases; right?

18 A Correct.

19 Q And you did not even talk to anybody who made an
20 allegation that might have involved Mr. Curtis; correct?

21 A Correct.

22 Q Did you talk to any of the law enforcement people that
23 may have been involved in those; correct?

24 A All I did was review the police report if there was one,
25 but I didn't personally speak to anybody.

1 Q And I'm not trying to imply that that's something you
2 normally do. I'm just asking, in this case, whether you had
3 firsthand information about any of the things that you used
4 criminal-wise to come up with your opinion. You did not have
5 firsthand information?

6 A I have no firsthand information. Everything I relied on
7 was from the audiotapes, the police report, the indictments,
8 and the warrants.

9 Q Right. And so you weren't able to decipher whether this
10 person was telling the truth or not. You sort of took it and
11 you took it for what it was?

12 A Correct. What was written.

13 Q What was written?

14 A Yes.

15 Q And -- but did you consider it reliable when you put it
16 in your report?

17 A I -- I don't know if I considered its reliability. I, as
18 a practice, don't cherry-pick what I put in my report. So if
19 I receive a document, as long as it doesn't have someone
20 else's name on it and it's clearly been sent in error, I put
21 it in my report.

22 Q So reliability of these documents, not important to you?

23 A Well, I mean, if a police report is reliable or not
24 reliable, not something that I would have a basis of judgment
25 for.

1 Q But you use it to form your opinion; right?

2 A Well, I don't use it to score the risk measures. I
3 consider it.

4 Q You consider it.

5 And you're talking about you don't use it to score the
6 risk measures. There's lot of tests that you do; right?

7 A Yes.

8 Q Some eight, nine, ten tests possibly; right?

9 A Four, I think.

10 Q Okay. So you're saying you only gave him four tests in
11 this case?

12 A Yes.

13 Q Okay. For those tests, you come up with an -- after you
14 do those tests, you come up with an opinion; right?

15 A Yes.

16 Q And you use the documents that you receive; right?

17 A To?

18 Q To help you come up with the opinion; right?

19 A They are points of data, yes.

20 Q But you're saying, I don't even look at reliability -- I
21 don't even look at whether I think they're true or not. I
22 just sort of take them as they are and form an opinion.

23 A When I transcribe, like, a police report that he's not
24 been arrested for, I'm not necessarily thinking about the
25 reliability because I'm just listing it in my report on the --

1 I do a numbered list of all the contacts they have had with
2 law enforcement. But I don't use it to score the measures
3 because it wouldn't count even for the PCLR if he had been
4 arrested.

5 Q And so the bottom line is, because you don't have
6 firsthand knowledge, anything that you did consider as far as
7 these criminal charges, investigations, arrests are concerned,
8 might not even have been true?

9 A Sure. He wasn't arrested, so he -- he wasn't arrested,
10 period.

11 Q And sometimes he was arrested but he wasn't convicted;
12 right?

13 A Correct.

14 Q So it might not have been true?

15 A It's possible. But the reason that we do look into
16 detail at things that were charged and not necessarily
17 convicted is for scoring the measures.

18 Q Got it. So in this case -- and by the way, did you get
19 any criminal information on your own, or did it all come from
20 the Attorney General's Office that you considered?

21 A It all came from the Attorney General's Office. And then
22 I also noted in Dr. Gehle's report some arrests that I have on
23 the criminal history. So in my kind of timeline, I'd write as
24 of Dr. -- or Dr. Gehle noted that he was also arrested on this
25 date.

1 Q Did you get an NCIC in this case?

2 A I don't believe so. I think that I usually get a summary
3 of the NCIC, but I have to look at my sources.

4 Q And just for the jury's information, what is an NCIC?

5 A That's their criminal history report.

6 Q And when you say "their criminal history," it's not just
7 a criminal history report. Who gives the criminal history
8 report or who is it published by that you usually consider in
9 these cases?

10 A Is it the FBI? It's usually the criminal history or the
11 NCIC report or the --

12 Q But it's a law enforcement report; right?

13 A Yes. It's federal, perhaps. It's all of their arrests.

14 Q And it would be an official report; right?

15 A Correct.

16 Q But you did not have an official report of his criminal
17 history?

18 A Yes. There was a period of time where I was not getting
19 their NCIC reports and instead, the Attorney General's Office
20 was sending me a Word document of what was on the NCIC report.

21 Q In this particular case, is that what happened?

22 A It appears that way, yes.

23 Q So -- and one of the things that I wanted to ask you
24 about was, during your testimony -- during your testimony
25 under direct examination, you mentioned a criminal domestic

1 violence charge that he was investigated for. I believe you
2 said 2006 -- November of -- no, I'm looking at the wrong one.
3 Let's see.

4 November 2005, you said he was investigated for criminal
5 domestic violence?

6 A Yes.

7 Q And where in your record does it refer to that?

8 A In my record?

9 Q I'm sorry, in your report where does it refer to that?

10 A Page 15.

11 Q And can you tell me what you meant by that?

12 A I'm sorry. Mind if I --

13 Q Or what that was about.

14 A The investigation?

15 Q What you were putting in -- in your report, what did
16 you --

17 A Should I read it?

18 Q If you don't remember it. Do you not remember what you
19 put in there?

20 A No, not verbatim.

21 Q Okay.

22 A So I have, according to a Myrtle Beach Police Department
23 incident/investigation report on 11/1/2005, quote, "An
24 investigating officer responded to the incident location and
25 spoke to the victim, who stated that she and her

1 live-in-boyfriend-for-over-a-year had been arguing and she
2 wanted him to leave. The investigating officer advised her
3 that the offender was a resident of the home and that we would
4 not be able to make him leave. The victim stated that they
5 had been getting into arguments over little things. The
6 offender stated the argument was over the TV and it was done,
7 the arguing. The investigating officer advised both subjects
8 about the criminal domestic violence law and how it would
9 affect them, and the investigating officer observed no signs
10 of battery."

11 Q Okay. And so you mentioned he was investigated for
12 criminal domestic violence, but in reality, a police officer
13 reported to a home; right?

14 A Yes.

15 Q And he interviewed the people involved; right?

16 A He spoke with them.

17 Q Yes. And he told them about the criminal domestic
18 violence law; right?

19 A Yes.

20 Q Okay. But today, when you talked to the jury, you said
21 he was investigated for criminal domestic violence; right?

22 A I believe that's what they were reporting to -- like,
23 responding to, a report of domestic violence.

24 Q Okay. And so that's your reason for saying that he was
25 investigated; right?

1 **A** Yes.

2 **Q** But even if they were responding to -- I mean, you don't
3 specifically know; right?

4 **A** All I know is what was in the police report.

5 **Q** Okay. And your report doesn't say that. It says an
6 investigator -- investigating officer responded to the
7 incident location and spoke to the victim who they had been
8 arguing; right?

9 **A** Yes.

10 **Q** Okay. So even when you say, "I believe they responded
11 for that," the truth is, you don't know; right?

12 **A** I only know what was in the incident report.

13 **Q** Okay. Based on your report, even your report would
14 suggest that you had no knowledge of what the specific thing
15 was they were reporting were; right?

16 **A** Right.

17 **Q** The specific charge; right?

18 **A** Right. Just what was listed.

19 **Q** And what I'm kind of dickering with you about is you gave
20 it the label of criminal domestic violence; right?

21 **A** Yes.

22 **Q** Right.

23 And you said that he was being investigated for criminal
24 domestic violence; right?

25 **A** Right.

1 Q Right.

2 But that's not exactly accurate, is it?

3 A Yeah, so I wanted to make it clear by using the word
4 "investigate," that he wasn't arrested, he wasn't charged.
5 And I was using the language from the report. But he wasn't
6 arrested, so we don't have a formal charge of what he would
7 have been charged with had he been arrested.

8 Q But we don't even have something that says he was the one
9 being investigated; right?

10 Was there an investigation or was the police officer just
11 responding?

12 A Well, that's a good point. So, again, I used the word
13 "investigated" to try to highlight that he wasn't charged or
14 arrested, but he was talked to about this, I guess would be a
15 better word than "investigated."

16 Q Okay. And when you're talking about -- you said you also
17 used the label "criminal domestic violence," but your report
18 suggests that the officer said, "This is our criminal domestic
19 violence law"; right?

20 A Yes.

21 Q Okay. So we don't even know that the officer was like,
22 I'm going to -- I'm potentially going to charge this guy with
23 criminal domestic violence; right?

24 A We only know what they advised both subjects about.

25 Q So your testimony earlier really needed to be sharpened

1 or fine-tuned as it relates to that; right? It wasn't the
2 most accurate. Can you agree with that?

3 A I think that the word "investigated" could be misleading.

4 Q Do you think the phrase "criminal domestic violence"
5 could have been misleading?

6 A I mean, I was just citing what was in the report. That's
7 the best information -- the only information that I have.

8 Q So are you saying the report says he was being
9 investigated for criminal domestic violence? Because that's
10 not what your report says.

11 A The report says that the investigating officer advised
12 both subjects about CDV law.

13 Q Right.

14 And so that's very important, you understand, whether he
15 was going to be arrested for criminal domestic violence versus
16 whether an officer just discussed the law, criminal domestic
17 violence. That's a huge difference, isn't it?

18 A That is a big difference, but he wasn't arrested for
19 anything. So he wasn't charged with anything.

20 Q And based on your report, he wasn't even investigated for
21 criminal domestic violence; right?

22 A He was -- officer responded --

23 Q Responded. Right.

24 By the way, did you use that to help to come up with
25 your final opinion in this case?

1 **A** Again, it was a data point that I used in my report.

2 **Q** So when you say -- and you use data point. Tell me what
3 you mean by "data point."

4 **A** A piece of data -- one point of data in a big set of
5 data.

6 **Q** Okay. So I understand that this falls under the label of
7 data, but my question is: Did you use it to help you come up
8 with your opinion?

9 **A** So because he wasn't charged or arrested, I didn't use it
10 to score the measures. So no, I just talked about it in my
11 report.

12 **Q** Okay. And just to be very clear -- and I'm sorry; I know
13 I'm -- because the fine points are important; right?

14 **A** Sure.

15 **Q** The stakes are high here; right?

16 **A** Yes.

17 **Q** And so I'm not trying to harass you about anything, but
18 when you -- the question was: Did you use it to come up with
19 your opinion?

20 **A** Again, difficult to answer. I used it as a source of
21 information in my report, discussed it in my -- or quoted it
22 in my report. Did not use it to score the measures. Did not
23 use it as a diagnosis.

24 **Q** And so to get your opinion, you used the scoring from the
25 measures; right?

1 **A** I mean, I take all of the data into consideration.

2 **Q** Okay. So you did take it into consideration, because
3 that was part of the data?

4 **A** Sure. Yeah, it was one data point out of a lot of data
5 points.

6 **Q** I'm just getting you to -- I just want you to tell me
7 whether you used it. And I understand.

8 Did you knowingly use it?

9 MS. SHAW: Your Honor, objection. This has been asked
10 and answered multiple times.

11 MS. JOHNSON: Your Honor, it hasn't been answered.

12 MS. SHAW: It has. She said she considered it. It was a
13 data point in her report.

14 MS. JOHNSON: Your Honor, data point is --

15 THE COURT: She's just trying to clear it up.

16 Why don't you ask a couple more questions to clear it up.

17 MS. JOHNSON: Thank you, Your Honor.

18 BY MS. JOHNSON:

19 **Q** So very specifically -- and, again, I'm not trying to
20 harass you about it, but it's very important. Did you use,
21 for example, that criminal domestic violence -- the thing you
22 mentioned as criminal domestic violence investigation, did you
23 use that to come up with your final opinion, knowingly? Let's
24 start with that. Knowingly.

25 **A** Because I did not use it for the risk measures and

1 because I did not use it in formulating the diagnosis, I guess
2 those are the ultimate opinion. So I guess I would say no,
3 but I still considered it.

4 Q Okay. And, by the way, just out of curiosity, when
5 you -- because I think you raise a great point. When you come
6 up with your opinion, what do you use to come up with your
7 opinion?

8 And when I say "what do you use," I'm not talking about
9 all of the data and all that stuff, but what are the larger
10 categories? For example, your test measurements. You use
11 that to come up with your final opinion; right?

12 A Yes.

13 Q Okay. And what about the personality disorder, that sort
14 of thing? What do you use for that? Like the test
15 measurements for that too?

16 A How I come up with a diagnosis?

17 Q Yes, your final diagnosis.

18 A Yes. So I use assessment measures, I use the clinical
19 interview, I use the collateral documents, and I use my
20 expertise in diagnosing mental illness.

21 Q Okay. And by "assessment measurements," specifically
22 what do you mean?

23 A The tests that are administered.

24 Q And by "collateral documents" specifically, what do you
25 mean?

1 **A** All the records that I received. So police reports,
2 witness statements, the audio tapes, the prison records.

3 **Q** Got it. So --

4 MS. JOHNSON: Beg the Court's indulgence, Your Honor.
5 BY MS. JOHNSON:

6 **Q** Now, when you spoke with Joseph, you said -- did you
7 spend about five hours doing just the interview with him?

8 **A** I believe the interview was five hours and ten minutes.

9 **Q** Okay. And during that time, you learned information
10 about his background; correct?

11 **A** Yes. I do a comprehensive clinical interview where I
12 start with developmental history during their mom's pregnancy,
13 if they know that information, all the way up to today.

14 **Q** And so he's about 55; right?

15 **A** He was 55 at the time of my evaluation, and I believe
16 he's still 55.

17 **Q** Okay. And you know that he had a relationship with his
18 mother; right?

19 **A** Yes.

20 **Q** And you also know that he had some relationship with his
21 father who passed away when he was younger; right?

22 **A** I mean, I know all these things because that's what he
23 reported during my interview.

24 **Q** I understand. And I'm not asking you to say whether
25 they're true or not, but these are things that you learned

1 about him via conversation with him; right?

2 A Yes.

3 Q Okay. And did he say whether he had siblings?

4 A Yes.

5 Q And you learned about his health history; right?

6 A Yes.

7 Q Did you ask him whether he was on medication?

8 A Yes.

9 Q He is on significant medications; right?

10 A I -- I don't know what "significant" means. I mean, I
11 think he's on blood pressure medication, Metformin for
12 diabetes. That's all I recall.

13 Q And that's fair that you couldn't characterize those as
14 significant, but you do know he's on some medicines; right?

15 A He takes general medical medications.

16 Q And you learned he had difficulties -- physical
17 difficulties when he was younger; right?

18 A Yes. He described it -- I believe he called it an
19 incident, but something playing kickball.

20 Q But he was in a wheelchair; correct?

21 A He reported that he was in a wheelchair. I believe that
22 that was in the context of when I asked him, like, what risky
23 childhood behaviors he engaged in. I think when he said none,
24 I asked him, like, nothing that can be risky? I think that's
25 when he was, like, I was in a wheelchair, so I couldn't have

1 done very risky things. Something like that.

2 Q Okay. And when you met with him, was he in a wheelchair?

3 A To my memory, when he came in that first day of the June
4 evaluation, he wasn't. And then I believe that it was on that
5 day when they were transferring him back to the detention
6 center, there was some kind of a fall when he got back to the
7 detention center, like when he was getting out of the
8 transport or something related to that.

9 And so when he came for subsequent times, he was not in a
10 wheelchair, but he was in a lot of pain, and the transporting
11 officers asked to use our wheelchair.

12 Q So part of your opinion evaluates whether an individual
13 has a personality disorder; right?

14 A Yes.

15 Q And also whether they have a paraphilic disorder; right?

16 A Well, it's whether they have a mental abnormality or
17 personality disorder. So I'm not just looking at paraphilic
18 disorders or personality disorders. I'm looking at the full
19 range of mental illness.

20 Q Okay. But for the purposes of the sexually violent
21 predator law -- what you were evaluating him for, did you look
22 at personality disorder? Did you evaluate him for a
23 personality disorder?

24 A I evaluated him for every disorder.

25 Q And so, then, personality disorder; correct?

1 **A** Correct.

2 **Q** Paraphilic disorder?

3 **A** Correct.

4 **Q** And so what is the difference between those?

5 **A** Between a personality disorder and a paraphilic disorder?

6 **Q** Yes.

7 **A** A paraphilic disorder is an atypical sexual interest. So
8 it's characterized by a persistent, it could be preferential,
9 sexual arousal to something other than a consenting human
10 adult. So that could be really intense sexual arousal to
11 shoes, to prepubescent children, to exposing yourself to
12 others.

13 Personality disorders are the enduring pattern of
14 personality pathology. So that can affect how you feel about
15 yourself, how you interact with other people, your behavior.
16 And this is something that usually presents in late
17 adolescence, sometime in the teenage years, and persists.

18 **Q** And how many personality disorders are there?

19 **A** I don't know the number. Let's see. So there's Cluster
20 A, Cluster B, Cluster C. So there's schizoid, schizotypal,
21 paranoid still (ph) one, avoidance. Then there's antisocial,
22 histrionic, narcissistic, borderline. And then the C --

23 **Q** Anti-social; correct? Did you say anti-social?

24 **A** I believe I did.

25 **Q** Is there such a thing as a dependent personality

1 disorder?

2 **A** There is. I'm not sure if that's still -- I want to say
3 that that's out of the DSM now, but, at one point, possibly
4 still or schizotypal (ph) disorder.

5 **Q** And what about obsessive compulsive disorder? Is that
6 part of the DSM now?

7 **A** OCPD? Yes.

8 **Q** And so roughly it sounds like about ten or so?

9 **A** I'm going to say a little -- probably a couple more than
10 ten, but yes.

11 **Q** And what about paraphilic disorders, how many are there?

12 **A** Well, there are -- I can count how many are named. And
13 then we have "other specified," because literally any stimuli
14 in the environment can become the object of someone's
15 paraphilic arousal.

16 **Q** I got it. Tell me how many are named, though.

17 **A** So we have voyeuristic, exhibitionism. We have sexual
18 sadism. We have voyeurism. We have transvestic. I can't
19 think of the rest of that. There's -- I'm going to say eight
20 or nine plus specified, unspecified. I don't have the number
21 memorized.

22 **Q** That's fair. And you mentioned that there needs to be a
23 pervasive pattern in the personality disorders; is that
24 correct?

25 **A** Yes.

1 Q What is that pervasive pattern? What do you mean by
2 that?

3 A So it typically starts appearing sometime after puberty,
4 teenage years, and it persists. It's not limited to your
5 interaction with just a certain person or a certain situation.

6 Q Time-wise, what are we talking about? Is there a certain
7 amount of time that you're looking for, minimum or maximum?

8 A I'm not sure if that's -- I don't think that's delineated
9 of, like, a specific time. So it first appears in late
10 adolescence and it persists. So the only exception to that is
11 that sometimes, in antisocial personality disorder, we'll see
12 some of the behavioral antisocial characteristics. Sometimes
13 you'll see this decline after the age of 40, where it's kind
14 of speculated or hypothesized that some offenders just don't
15 have like the energy to be antisocial anymore.

16 But, for Mr. Curtis, he had arrests and antisocial
17 behavior and certainly not the behaviorial, but like the
18 interactions with other people -- interpersonal, antisocial --
19 after the age of 40. But we will see that. But that's the
20 only one I can think of where you do see that dip at a certain
21 age.

22 Q Okay. And I understand what you're saying. Excuse me.
23 I really wasn't asking specifically, like, what age. I mean,
24 does this -- for it to be a pervasive pattern, does that mean
25 it has to occur for more than a month? six months? a year? two

1 years? That's really what I'm getting at.

2 **A** Oh, yes. I mean, it can't just be, like, the results of
3 a drug or you have a bad relationship so you're really mean to
4 that person. It's pervasive. It's over time.

5 **Q** And how much time are you usually looking for? What's
6 the minimum amount of time for it to equate to a pattern?

7 **A** Is it six months? I'm not sure. The DSM might say, but
8 typically, when you think about pervasive, it's over a longer
9 period of time than six months.

10 **Q** For you, how long do you need for you to consider it
11 pervasive in particular, a pervasive pattern?

12 **A** I'm not sure I have ever thought about it like that. I
13 mean, this is something that I'm looking for indicators, like,
14 across multiple years.

15 **Q** So you mentioned that he has a -- on direct, you
16 mentioned that he has a substance abuse history; correct?

17 **A** He has a substance use history.

18 **Q** Substance use.

19 So you're not saying that he was, for lack of a better
20 phrase, some sort of strung-out drug addict; right?

21 **A** I don't have evidence that he was.

22 **Q** No. He was a person who -- the evidence that you have
23 suggests maybe it was some recreational use, maybe a little
24 bit higher perhaps but not to the point of abuse; right?

25 **A** I mean, I have no objective information, like, on his use

1 pattern. I have what he self-reported and that he
2 self-reported it really not causing problems for him.

3 Q Okay. So you're saying that any mention of drug use only
4 came from him self-reporting?

5 A I believe so. I know that the detective asked the
6 20-year-old victim if he --

7 Q Well, just a second, because I wasn't really asking that.
8 I'm just specifically asking you: Do you have -- did you
9 take into account criminal convictions or something like that?
10 None of those said to you drug abuse; right?

11 A He had possession charges, but people can possess drugs
12 and never use them, so...

13 Q For example, in 1989, you mentioned a drug offense that
14 you believe he may have been convicted for. But we don't even
15 know that what drug was; right?

16 A Most of that was on his self-report. The disposition was
17 unknown, and during my interview, he said that it was for PCP
18 and that he had probation for a couple of years.

19 Q Well, you said that, but in your report, you said that he
20 remembers being arrested at some time for that; right?

21 A Yes.

22 Q Okay. But did you just assume by when he said, "I
23 remember being arrested for PCP," did you assume that was the
24 drug offense?

25 A I believe that he said that that was the first time he

1 had ever been arrested, and the documents that I had showed
2 that the drug offense was the first time that I had a document
3 of him being arrested.

4 Q Okay. And so you put two and two together, essentially?

5 A Like we -- I mean, sometimes I go through their criminal
6 history report with them and say, "What was that for? What
7 about this?" So it was either that or he said it was his
8 first offense.

9 Q Okay. And let's see. You mentioned, in the Department
10 of Corrections, that he had major infractions for sexual
11 misconduct because he was masturbating in front of female
12 officers?

13 A Yes.

14 Q And when was that from?

15 A 1996, I believe.

16 Q What about the ABC law violation? What is that?

17 A I believe that's related to alcohol, but I don't know.

18 Q And in that particular time, also possession of marijuana
19 and a seatbelt violation. You mentioned those; right?

20 A Yes.

21 Q Okay. And when was that?

22 A That's from Dr. Gehle's report. She noted that it was in
23 August of 1998.

24 Q Okay. And you mentioned, in 2002, that he was a suspect
25 in a criminal sexual conduct case with minors. You said it

1 might have been from an Orangeburg case?

2 **A** Yes, that was from a police report. I believe he's
3 listed as the suspect on that report.

4 **Q** That was something he was not convicted for; right?

5 **A** He was not charged.

6 **Q** He was not charged for either?

7 **A** Correct.

8 **Q** Do you know whether he was arrested for it?

9 **A** I guess that's what I mean by -- I don't believe that he
10 was arrested for anything related to that, so he wasn't
11 charged.

12 **Q** So, in that particular case, did you use that to help
13 form your final opinion or diagnosis?

14 **A** It was a really big report. I'm going to say I didn't
15 really use it. I just noted that I had that document.

16 **Q** So, you discussed, in July 2004 -- and I might have
17 brought this up; forgive me if I did -- but there was an
18 investigation for simple assault and battery, arrested, not
19 charged.

20 Did you use that to come up with your final opinion or
21 diagnosis?

22 **A** I don't know that he was arrested. Was he?

23 **Q** Right. Investigated.

24 **A** Oh, I'm sorry. I thought you said arrested and not
25 charged.

1 Q I might have. I meant investigated. My apologies.

2 A Investigated, correct. Yeah. Myrtle Beach Police did an
3 incident report on that.

4 Q Did you use that to come up with your final opinion or
5 diagnosis?

6 A I mean, I considered it. I considered it in my diagnosis
7 and scoring some of the measures related to fights and things
8 like that.

9 Q All right. And in February of 2006, you mentioned the
10 contributing to the delinquency of a minor, two counts; right?

11 A Yes.

12 Q Did you use that to come up with your final opinion or
13 diagnosis?

14 A That is the one with the girlfriends --

15 Q I believe that's the one that started -- you mentioned
16 it's two counts of indecent exposure. And I believe you
17 mentioned it was from February of 2006.

18 A Yes. That is the one with the two, and he pleaded
19 guilty. I'm sorry, what was the question?

20 Q So when you say he pleaded guilty, he pleaded guilty to
21 two counts of contributing to the delinquency of a minor;
22 right?

23 A Yes. I was trying to remind myself of which this was.

24 Q Now, that one, you mentioned -- it started as two counts
25 of indecent exposure; right?

1 **A** That's the information that I have, that he was charged
2 with two counts of indecent exposure and two counts of
3 contributing to the delinquency of a minor, and he pled to the
4 two counts of contributing to the delinquency of a minor.

5 **Q** Okay. Now, one of your diagnoses was that he had
6 exhibitionistic disorder; right?

7 **A** Yes.

8 **Q** Is that how it's put? Exhibitionistic? I want to make
9 sure I'm using the right word.

10 **A** Yes.

11 **Q** Okay. So is this part -- did you use this to come up
12 with that diagnosis?

13 **A** Yes. That was a data point.

14 **Q** And so when you're saying it's a data point, did you --
15 and I'm saying "diagnosis," I'm meaning diagnosis opinion --
16 you did use that?

17 **A** For the exhibitionistic disorder, yes. It wasn't the
18 sole reason I gave him that diagnosis.

19 **Q** I understand.

20 And when I say, "Did you use that," you used the two
21 counts of contributing to the delinquency of a minor, you used
22 to come up with your diagnosis and opinion; right?

23 **A** The information associated with that arrest.

24 **Q** Okay. So the fact that he was originally charged with
25 two counts of indecent exposure, you used that had to help you

1 come up with your diagnosis or opinion?

2 **A** Not necessarily like the text or the literal names of the
3 charges. The documents of what the victims reported, yeah.
4 So not what the name of it is.

5 **Q** And of course we have got the current charges that you
6 used; correct? And when I say "current charges," the criminal
7 sexual conduct third, the kidnapping --

8 **A** Yes.

9 **Q** -- and the incest. You used that --

10 **A** Yes.

11 **Q** -- that he pled to.

12 Okay. You mentioned that he did do some classes or
13 some self-help things in the '90s when he was originally in
14 prison; right?

15 **A** The SCDC records or the Department of Corrections records
16 that I received, I believe all of them that I reviewed that
17 listed the services he had were dated from the '90s and one
18 being from 2014 about the drugs and alcohol. And then what he
19 reported to me in the evaluation, I'm not remembering and I
20 did not note in my report if he was referring to this current
21 incarceration or his history of ever being in prison, what he
22 did.

23 **Q** Okay. But we do know that he has done treatment classes,
24 you know, help classes, even if they were not necessarily
25 sexually related; right?

1 **A** Right. He did a number of substance and drug related.
2 I'm also seeing that, in '93, he completed a program called
3 Changing Life Patterns. He completed anger management, and he
4 completed a program called Values Clarification.

5 **Q** Okay. And by the way, just as an aside, you mentioned
6 during your testimony that there were some additional charges
7 that he was not convicted for in July 2013: Exposure of
8 private parts?

9 **A** Yes.

10 **Q** Okay. And that's referring to the female officers that
11 you also talked about with the Department of Corrections
12 charge; right?

13 **A** No, J. Reuben Long.

14 **Q** The J. Reuben Long. Okay.

15 So when you mentioned that, we're not talking about two
16 separate offenses. They were one or a set of offenses that
17 were charged maybe under J. Reuben that also may have been
18 charged but not convicted of?

19 **A** So the information that I had from J. Reuben is two
20 incident reports -- I'm not sure exactly what they call
21 them -- disciplinary reports from March of 2013 for
22 masturbating. And then, in July of 2013, he was formally
23 changed, and that was for exposure, and that was dismissed.

24 **Q** Okay. And then you mentioned various things that he's
25 had at the Department of Corrections during this time that he

1 was serving, like failing to lockdown; right?

2 **A** No. I believe that's all from J. Reuben Long.

3 **Q** Okay. Tell me specifically what year you're talking
4 about. Like the failure to lockdown, what year was that?

5 **A** Let's see. Okay. Yeah, these are detention center
6 incidents. He was given warnings in 2013 for failure to
7 lockdown; 2013 for gambling; 2013 for having extra uniforms;
8 2013 for trading food; 2014, failure to obey staff orders, not
9 trading blanket when told; 2014, gambling with push-ups; 2014,
10 verbal altercation with another inmate over canteen debt.

11 **Q** Got it.

12 And so, with those, did these help you form your
13 diagnosis or opinion?

14 **A** They were things I considered.

15 **Q** And after, let's say 2014, did the trouble sort of drop
16 off? Have you noticed any infractions, arrests, or anything
17 like that since then?

18 **A** No arrests since 2014. No SCDC disciplinarys that were
19 noted in the record or that he was convicted of. I do not
20 believe that I have any current records from J. Reuben Long
21 now, so I don't know one way or the other if he's had any
22 incident reports there.

23 **Q** And I understand you're not able to verify one way or
24 another because you don't have J. Reuben but as far as you
25 know, the trouble-- as far as your records are concerned, the

1 trouble stopped 2013 or 2014; right?

2 **A** Yes. Nothing when he was in prison, unknown about his
3 current period of detention. I don't have any records.

4 **Q** Okay. So moving on from there, you did some tests on
5 Mr. Curtis?

6 **A** Yes.

7 **Q** So these tests, can you tell me specifically the names of
8 the tests?

9 **A** Yes. So I did the MMPI, I did the SASSI 4, I did the
10 PAI, and I did the MIDSA. Those were the ones that he took.
11 And I did some clinician-scored measures as well.

12 **Q** Okay. So that MMPI, what is it for?

13 **A** So that is a test of personalities and psychopathology.
14 So it's looking at, like, what symptoms they're reporting.

15 **Q** And does that -- and so what is the determination,
16 whether somebody has psychopathology? Like what is the
17 ultimate determination of that? Just whether they have traits
18 of something?

19 **A** Yes. I mean, you wouldn't ever diagnose somebody based
20 on, like, just a measure.

21 **Q** I understand.

22 **A** So, yeah, you're looking at their approach to testing.
23 That's the validity scales that I talked about. And then
24 you're looking to see what they're reporting about themselves.

25 So he reported some concerns relating to eating and the

1 weight and shape of his body; the compulsivity stuff that he
2 didn't endure during the clinical interview. Because I'm
3 asking -- I'm doing a full symptom assessment in my clinical
4 interview and for -- in this period of doing the multimethod
5 assessment, I'm also giving measures that are looking at that
6 as well. I'm exploring the whole range of psychiatric
7 symptoms.

8 Q And so does that MMPI help you come up with your
9 diagnosis?

10 A There was nothing, like, really notable in his MMPI
11 results. So, yes, I use it, but there was nothing kind of one
12 way or the other except that he maybe was painting himself in
13 an overly positive light potentially.

14 Q So, normally, that would -- it's designed to help you
15 come up -- and let me not ask you to speculate about what it's
16 designed for, but normally, you would use it to help form your
17 final opinion or diagnosis?

18 A It can provide relevant information to warrant further
19 consideration for diagnoses.

20 Q Got it. In this particular -- and I'm sorry; I didn't
21 mean to interrupt you. But this particular time, nothing
22 really notable?

23 A I didn't think the MMPI was that notable.

24 Q And tell me about the -- you called it the SASSI 4?

25 A Yes.

1 Q And what's that used to signify?

2 A That's looking at the probability that the person had or
3 has had a substance use disorder.

4 Q And in that particular case, was there anything notable?

5 A Only that there was some defensiveness noted. As I
6 mentioned, that's not atypical, so that was really the only
7 finding.

8 Q Is this SASSI 4 written? Does he take a written exam?
9 Is it something you administer orally?

10 A It's on the computer. He answers questions on the
11 computer.

12 Q Okay. And is there a person that he interacts with while
13 answering these questions?

14 A Not on -- no, not on the computer-based tests.

15 Q You mentioned that it showed some defensiveness?

16 A Yes.

17 Q So how does it come up with that? How does it give you
18 that value of defensiveness?

19 A So defensiveness is their approach to taking the
20 assessment. So sometimes, depending on which measure it is,
21 the manual will call it positive impression management. Other
22 manuals, such as the SASSI, will call it defensiveness and
23 that, like, maybe they were defended against being totally
24 forthcoming.

25 Q So, for the sake of an example, what would be a question

1 that they would ask that would help you see that they are
2 defensive or not defensive? Like what would be an example of
3 a question?

4 **A** Yeah. So it isn't, like, based on one question. It's
5 comparing their answers to how the normative and the -- not
6 thinking of the word. When they do the studies, the
7 developmental and normative samples, how most people answer
8 it.

9 So when you think about things like positive impression
10 management, like people are usually willing to, for example,
11 report, like, traits that aren't the most attractive about
12 themselves, like being impatient and things like that.

13 So I couldn't tell you the specific question, but the
14 validity scales are a scale. So they're putting it together,
15 comparing it to what we know about the normative and
16 developmental samples.

17 **Q** Okay. But from that you got he might have been
18 defensive? He might have shown some signs of defensiveness?

19 **A** Yeah. His results indicated that that was, I think, a
20 moderate -- it could be a moderate clinical issue.

21 **Q** All right. So let me move on to the PAI. Tell me about
22 that. What is that?

23 **A** It's a Personality Assessment Inventory. It's, again,
24 looking at personality, psychopathology. Also looking at
25 interpersonal features, treatment motivation, suicidality.

1 Q And tell me what, if anything, significant that you found
2 on Mr. Curtis's PAI.

3 A It was pretty unremarkable. He was reporting the somatic
4 concerns. That could be like headaches or pain.

5 He wasn't reporting anxiety or depression. He wasn't
6 reporting being under a lot of stress. He reported that he
7 had reasonable control over his anger, his hostility. People
8 who produce similar test results report that their lives are
9 stable, predictable, uneventful.

10 For interpersonal, he has close generally supportive
11 connections with people close to him; that he would likely
12 describe himself as being self-assured, confident, forceful.
13 Others might see him as being self-reliant and somewhat
14 controlling. His response is suggestive that he prefers to
15 interact with others in situations in which he can be in
16 control and is more likely to be invested in efforts to
17 sustain relationships and prefers to avoid interpersonal
18 conflict or confrontation.

19 Q And just to be clear, I didn't need you to read the
20 report or tell me all those details. Just for you, you were
21 just remembering that it was unremarkable, basically. There
22 wasn't anything significant that led to personality disorder
23 or paraphilic disorder coming from that PAI; right?

24 A There were some personality characteristics. So looking
25 at things like worth and dominance, those are things you take

1 into consideration. Certainly it's not that you would make a
2 diagnosis, but those are data points to consider.

3 Q Okay. And so that PAI suggested to you that he had
4 issues with being dominant?

5 A Possibly, yes.

6 Q And when I say "issues with being dominant," meaning that
7 he appeared to have dominant behavior?

8 A He scored high on the dominance scale on that measure.

9 Q So, then, it was remarkable to you. He did have a
10 remarkable -- I don't even -- what is the final outcome? I'm
11 so sorry. It's technical, so I don't know.

12 A So you're looking at scale elevations, so he had
13 elevation on schematic concerns, the dominance, but he also
14 was low -- like, he reported both that he was really able
15 to -- like, being in control of situations but also, that he
16 also was reporting, like, being meek. So it was inconsistent.
17 But all of those are personality characteristics that I would
18 consider.

19 Q Okay. And I guess what I'm trying to figure out is you
20 mentioned that dominance was one of the traits that you
21 thought that he might have that was related to your -- what
22 was it? Was it related to your narcissism or was it related
23 to the other disorder?

24 A I mean, so when I'm looking at personality disorders, I'm
25 looking at where they score on dominance, where they score on

1 warms (ph), where they score in relation to each other. So
2 with this being kind of conflicting, I'm not going to say they
3 washed each other out, but they were just data that I
4 considered based on that measure.

5 **Q** Okay. And what about the MIDSA? Tell me what that is.

6 **A** So that is a questionnaire. It's administered on the
7 computer. It's pretty long. It asks them all about
8 childhood, juvenile, and adult substance use; antisocial
9 behavior, arrests, engaging in illegal behavior that they
10 didn't get arrested for, and then a lot about their sexual
11 behavior.

12 **Q** And was there anything in particular about that that you
13 thought was notable with Mr. Curtis?

14 **A** Just as I mentioned about those kind of high percentiles
15 compared to other men incarcerated for sexual offenses. I
16 mean, there was a little bit of evidence of callousness and
17 lack of guilt, some evidence of resistance to rules and
18 supervision, lifestyle impulsivity, lack of realistic
19 long-term goals.

20 If I remember correctly, I think he denied that he had
21 ever been -- let me make sure I'm not -- let me see.

22 Yeah, I mean, so he denied ever being arrested for a
23 sexual offense. That was notable. And then when I talked to
24 him about it during the follow-up interview, he -- I informed
25 him that he did not endorse ever being arrested for a sexual

1 offense, and he just asked "I didn't?"

2 There were times where he said that he thought he had the
3 right answer on certain things, but...

4 Q Now, is that particular test, the one that has the
5 subscores with the sexual lie scale -- I believe you mentioned
6 several subscores that had their own percentiles. Is that
7 that particular test?

8 A That's the MIDSA.

9 Q Okay. Tell me more about those subtests or those
10 subcomponents.

11 A I'm sorry. The --

12 Q Well, for example, what would you call the sexual lie
13 scale? Is that a component of the MIDSA?

14 A It's a validity scale.

15 Q A validity scale.

16 So tell me about those validity scales that you
17 mentioned. You mentioned three of them on your direct?

18 A Yes.

19 Q Tell me about those that you mentioned.

20 A So the MIDSA, that has three validity scales. One is the
21 positive image scale, and that -- the manual notes that people
22 who have high scores on the positive image scale may be
23 inclined to exaggerate their positive traits.

24 It also has the negative emotion denial validity scale.
25 High scores on that scale can indicate that they're not

1 admitting that they have undesirable negative reactions to
2 things.

3 And then, finally, there is the sexual lie scale, and
4 that's the -- the manual indicates that high scores on that
5 scale indicate that the person is denying engaging in sexual
6 behaviors and having sexual thoughts.

7 Q Okay. And after that, you did the -- I'm sorry; what did
8 he score on those three?

9 A I'm sorry?

10 Q As I recall, you gave a percentile. One was 99
11 percentile and one was 98 percentile.

12 A Yes.

13 Q Can you specifically tell me what his scores were for
14 those three?

15 A Like the raw scores? I only list percentiles in my
16 report. I don't input raw data.

17 Q Got it. And that's what I'm talking about because you
18 mentioned -- I just didn't understand which percentile went
19 with which.

20 A Oh, okay. So 97 percentile on the positive image scale,
21 98 percentile on the negative emotion scale, and 99 percentile
22 on the sexual lie scale, and that's comparing his responses to
23 other men in prison for sexual offenses. That's where you're
24 getting the percentiles.

25 Q Okay. And so when we say "98 percentile," in comparison

1 to these other men, what does that mean?

2 **A** So when you're comparing the scores -- like compared to
3 them, he would score -- it's not greater than -- sorry. Hang
4 on. Let me see how I want to explain this.

5 So for personal percentiles -- that's how I'll explain
6 it. So, for the 98 percentile, like 98 percent of that sample
7 would have a lower score. 2 percent would have a higher
8 score.

9 **Q** Okay. And so when we say "lower score," lower score for
10 what?

11 **A** For that scale.

12 **Q** For that scale.

13 And that scale -- I'm sorry; just take me back to what
14 that scale was.

15 **A** The sexual lie scale, for example.

16 **Q** Okay. Got it.

17 So that wrapped up the MIDSA for you; right?

18 **A** Yes.

19 **Q** Okay. And then you went on and you did the STATIC
20 assessments, that 99R and that 2002R; right?

21 **A** Correct.

22 **Q** Yes. Okay.

23 And you gave him some scores for that: 6 on the 99R; 5
24 on the 2002R; right?

25 **A** Correct.

1 Q And you gave a five-year recidivism rate; right? 17.6 on
2 the 99R?

3 A Yes.

4 Q And to be specific, what that means is, in five years,
5 out of, say, 100 sexual offenders, 17.6 of them would have
6 re-offended in that five years?

7 A Yes.

8 Q Yes. Okay.

9 Same thing for that 2002R; you gave the five-year a 13.8
10 percent; right?

11 A Yes.

12 Q So that means, if there are 100 men, 13.8 percent would
13 have re-offended or 13.8 of them --

14 A Yes.

15 Q -- would have re-offended within five years; right?

16 A Yes.

17 Q And they come up with that -- at some point, somebody
18 followed these men for five years, and they got this data, and
19 after five years, they looked back and they said, "These
20 people have re-offended."

21 A Yes.

22 Q Yes?

23 A Or were arrested.

24 Q Were arrested. Okay. So, not necessarily a conviction
25 but were arrested.

1 Now, you mentioned a 20-year?

2 A Yes.

3 Q Now, that 20-year, they don't actually have person data
4 on that. That's a statistic; right?

5 A They estimate them. They extrapolate the data. They
6 have a calculator that they -- they used to be able to use
7 before they published the norms. What's that? 2021? The
8 last time they published those. So it's, like, extrapolated.

9 Q So that 20-year value you gave, you gave a 31.2 percent
10 under that 99R -- right? -- in the 20-year of 99R? Did you
11 say 31.2 percent?

12 A Yeah. 31.2 percent and 25.1 percent.

13 Q For the 20 years?

14 A Expected recidivism rate.

15 Q Okay. But we don't even have -- you're basing it on data
16 that is not even following person data. We're talking about
17 just a number that somebody came up with?

18 A Well, not just the number somebody came up with. So
19 there have been a number of studies. I believe Thornton did
20 that but that doesn't matter.

21 So there used to be, like, a calculator that you could
22 use to figure that out, and then, when they published the
23 latest STATIC-99, in 2021, it's -- the STATIC-99R routine
24 sample estimated five-year to ten-year sexual recidivism rates
25 and projected 20-year sexual recidivism rates from the 2021

1 evaluator's workbook.

2 Q Okay. But you're not disagreeing with me, the five years
3 from real numbers -- they looked back and they have kept real
4 numbers from real offenders who potentially had re-offended;
5 right?

6 A Yes.

7 Q Okay. The 20-year calculations, estimates -- rights? --

8 A Yes.

9 Q -- not real numbers; right?

10 A To my knowledge, from the studies that I have read, yeah,
11 they're extrapolating the data.

12 Q Okay. And then there's another test: Sexual violence
13 risk? Is that the test --

14 A SVR-20, yes.

15 Q Okay. Tell me about that test.

16 A So those, as I mentioned, are structured professional
17 judgment guidelines. So it's used by evaluators to kind of
18 guide your thinking about the empirically supported risk
19 factors. So rather than sitting down and thinking, "What do I
20 think is risky about this guy," you're going through all the
21 ones that have been supported by research and considering if
22 they're present or absent or relevant for the person you're
23 evaluating.

24 Q I got it. So they give you a list of potential risks,
25 for example?

1 **A** Yeah. They're structured professional guidelines that
2 you're kind of, yeah, going through.

3 **Q** And to be specific, when we talk about this -- and I'm
4 saying "list." But when we talk about these values that they
5 give you, are they for things like anger? Like what are some
6 of the values? Give me an example, since I can't look at the
7 test myself necessarily.

8 **A** Substance use. Homicidal ideation. Employment problems.
9 Deviant sexual interests. Problems following rules. Problems
10 with intervention. Problems with supervision. So dynamic
11 risk factors.

12 **Q** Gotcha. And I know you mentioned there was some talk
13 that you mentioned earlier about age, like, at a certain age,
14 they see -- I think you gave the example of 40 that sometimes
15 -- were you saying recidivism or re-offending will go down
16 after a certain age, they found?

17 **A** No. That's special to antisocial personality disorder.
18 Out of all the personality disorders, that's the one that has
19 literature behind it that suggests that, after a certain age,
20 which is right around 40 in the literature, you might see a
21 decrease in a lot of antisocial behaviors, so they might still
22 meet for antisocial personality disorder, but, like, the
23 things that take energy seems to decrease with age. Not that
24 40 is that old, but that's what is suggested in the
25 literature, but that's not everybody. I evaluate and see

1 plenty of people with antisocial personality disorder who meet
2 full criteria and they're 70 years old.

3 Q And what about -- just speaking of this antisocial
4 personality disorder, some of this -- this criteria that shows
5 that it goes down, is health also considered -- like, are
6 there certain health circumstances that show antisocial
7 personality will sort of weight, like the age?

8 A I'm not familiar with any literature on that. I think
9 you could extrapolate that to say, you know, getting older
10 makes you not have the energy, perhaps being sick, but I'm not
11 familiar with the literature on that.

12 Q Okay. So -- and, I'm sorry, the sexual violence risk.
13 And I don't think I have asked you this for but forgive me if
14 I have, but that sexual violence risk, what was notable about
15 Mr. Curtis for you in that particular test?

16 A That was just a guide to think about his dynamic risk
17 factors. So I noted that he had problems with sexual
18 deviation, antisocial personality, relationship problems, not
19 sexual offending, substance use problems -- these are partial
20 possibilities -- substance use problems, homicidal ideation,
21 employment problems, chronic sexual offending. There were sex
22 offending, escalation in sexual offending, extreme
23 minimization/denial of sexual offending, negative attitude
24 toward intervention, and partial possible problems with
25 lacking realistic plans.

1 Q Okay. So the sexual -- and you went through that entire
2 list. That sexual deviation that you mentioned before --

3 A Yes.

4 Q -- what was it that led you to think this is a box that
5 should be checked?

6 A Exhibitionistic arousal.

7 Q Exhibitionistic arousal?

8 A Yes.

9 Q And what led -- because the exhibitionistic arousal, what
10 did that come from? Where did you believe that he showed
11 exhibitionistic arousal?

12 A I think the pattern of him exposing him and masturbating
13 to people in the community and in the detention center and
14 SCDC was strong evidence for that disorder.

15 Q Okay. And I know you mentioned that there were some
16 masturbation issues in SCDC. In the community, where were you
17 getting this, exposing himself in that -- in the community,
18 what was pointing to you -- pointing to that for you?

19 A The 9- and 16-year-old victims and the 20-year-old
20 victim.

21 Q Okay. And, to be very clear, is the 9- and 16-year-old
22 victim the one that did not lead to a conviction or is that
23 one that led to a conviction?

24 A That's the one he pled to -- he had four charges, and he
25 pled to two of them.

1 Q The contributing to the delinquency of a --

2 A Yes.

3 Q Okay. And you said the 20-year-old victim, the one that
4 he just served time for?

5 A Yes.

6 Q And you -- now, the charge that he had did not relate to
7 him exposing himself to her. It related to sexual assault;
8 correct?

9 A Correct.

10 Q Okay. But there was something about that that led you to
11 exhibitionistic -- what did you call it? Offending behavior?

12 A I don't know what I called it. The exhibitionism, yes.
13 She reported to the detectives that he had -- I believe she
14 said numerous times -- exposed himself to her years prior.

15 Q Okay. And all of that said to you sexual deviation?

16 A Yes. So he admitted to some of it in prison or to me, he
17 told me that that he had done that in prison; that he found it
18 exciting. If it had just been in prison, typically -- I can't
19 say all the time, but often, that doesn't raise to the level
20 where I think this is an intense and preferential sexual
21 arousal, but it's in multiple contexts. So that's where those
22 data came from.

23 Q Okay. And so after sexual deviation, you mentioned
24 another one. What one was that?

25 A Traits of antisocial personality.

1 Q Okay. And I'm going to skip past that and come back to
2 that later. What was the one you said after that?

3 A Relationship problems.

4 Q And what led you to believe that he had relationship
5 problems enough that you should check that box?

6 A Unstable romantic relationships. So he reported some
7 conflict in his romantic relationships. He had a number, five
8 or six different significant relationships. This is what he
9 told me about his peer group. You can look at, like, negative
10 social influences. So if he -- co-defendants and things like
11 that.

12 Q But in this particular case?

13 A Yeah. I need to look at that, but definitely the
14 romantic relationships were unstable.

15 Q And you said -- and it was also the volume of them,
16 because there were four or five of them?

17 A Yeah. That's something I would factor in as well.

18 Q Would you factor in the fact that he was divorced? Is
19 that one of the four or five that you were talking about?

20 A No. I think that would be five or six.

21 Q Okay. Okay. So does that divorce signify also to you
22 conflict in relationships? Like, is that one of the reasons
23 why you would have checked the box?

24 A Potentially.

25 Q Is the reason you check that box mostly because he had

1 four or five romantic relationships in his life?

2 **A** No. I checked the box because the data suggested that
3 they were unstable based on his report of arguments and
4 conflict in his interpersonal relationships.

5 **Q** Oh, okay. And you said the data suggests. There wasn't
6 another data checklist. You said to yourself, "This is what
7 he's describing. I think that this would qualify for stable
8 under this particular test" and then "I'm going to check this
9 particular box," right?

10 **A** Yes. So, for that, I remember putting a lot of things
11 together and putting together their self-report about romantic
12 relationships, friendships, you know, their peer group. Any
13 collateral information or documents that I have, yeah, you're
14 putting all of that together.

15 **Q** So what was the one that you mentioned after that?

16 **A** Nonsexual offending.

17 **Q** Okay. And is that stuff like his possessions of
18 marijuana? Is that what you used?

19 **A** It's arrests that are not sexual.

20 **Q** Arrests that are not sexual.

21 So that means -- because you mentioned a seatbelt
22 violation, you mentioned the ABC law. That too?

23 **A** Sure. I mean, if that's all that he had, then that may
24 be a possible or a partial. It probably wouldn't be a full,
25 like, yes, that is present, but that is offending, but he also

1 had the assault and battery with intent to kill, the
2 possession. He had other offending that was not sexual.
3 That's a risk factor.

4 Q Okay. And some of the offending that was not sexual that
5 you used for that, were those the arrests and not convictions?

6 A Yes. I take the entire criminal history into account.

7 Q Okay. And so that means -- and you say "the entire
8 criminal history." What about when the investigations
9 occurred with no arrests?

10 A Typically not, no.

11 Q Typically not. Okay.

12 What was the one after that?

13 A Then I had the partial/possible for substance use
14 problems.

15 Q Okay. And what about after that?

16 A Homicidal ideation.

17 Q Okay. Tell me more about that.

18 A That factored into his conviction for shooting the man
19 with the assault and battery with intent to kill.

20 Q Okay. And what about after that?

21 A Employment problems.

22 Q All right. Tell me more about that.

23 A A history of being terminated from jobs. Having a large
24 number of jobs. Instability in your employment history.

25 Q Now, are you saying those are factors or are you saying

1 he had a history of being terminated from jobs?

2 A Yeah, I'm saying those are what he had that weighed into
3 me giving the partial/possible for the employment problems.

4 Q How did you find out he had a history of being terminated
5 from jobs?

6 A Self-reports and SCDC records.

7 Q And SCDC records?

8 A Yes.

9 Q Okay. And what did he self-report about being terminated
10 from a job or jobs?

11 A I believe it was a kitchen job. I'd have to look. It
12 was something about, like, he requested time off, and he
13 thought it was approved, but then they told him to come in,
14 and he was out of town, so he got fired for that.

15 Q And, in that particular case, he was also rehired, based
16 on what Mr. Curtis told you; right?

17 A That, I don't recall either way. I'd have to look at it.

18 (Reviews document.) I don't have -- I don't have in my
19 report that he was rehired. I'll just have to say no.

20 Q But you do have in your report that he reported being
21 fired one time?

22 A Yes.

23 Q Okay.

24 A And then he was terminated from some jobs at SCDC.

25 Q And tell me -- when you say "some jobs," please be

1 specific.

2 **A** Let's see. He was terminated from a position as a senior
3 inventory operator for unsatisfactory job performance.

4 **Q** What year was that?

5 **A** That was in -- I don't know that I have the year. He
6 worked that job in 1996.

7 **Q** Okay. So he was terminated from that with SCDC?

8 **A** Mm-hmm. And also in 1996, he was terminated from his
9 senior cook position due to disciplinary/lockup.

10 **Q** Okay. Are those the only two?

11 **A** I believe so, at SCDC.

12 **Q** So three?

13 **A** Three terminations, yep.

14 **Q** Okay. And that was enough for you to mark that off?

15 **A** Well, it also the numerous jobs, so 15 to 20. The
16 arguments or getting into a fight or something about
17 altercations at work, I believe. And that is also why I rated
18 it partial/possible, so he didn't get the full.

19 **Q** I got it. The employment history --

20 **A** There was some evidence of problems.

21 **Q** Okay. What about after that? What was on that list?

22 **A** Let's see. Chronic sexual offending.

23 **Q** Okay. And where did you get the "chronic" from?

24 **A** Persistent illegal non-consensual sexual behaviors over a
25 course of approximately 17 years.

1 Q Okay. And so I'm assuming you referred to the charges --
2 the convictions he had that he was just serving time on, the
3 criminal sexual conduct third, kidnapping, and the incest.
4 That was what you took into account with that?

5 A And then beginning with the 1996 SCDC masturbation.

6 Q Okay. And so what about the non-convictions? Did you
7 take those into account when you checked that box?

8 A I don't think so. Typically not. I mean, I think I had
9 enough to say that he had chronic sexual offending from 1996
10 to 2013.

11 Q Okay. And by 1996, you mean the -- is that the
12 thing that -- is the one that ended in contributing to the
13 delinquency? Is that the one you're talking about?

14 A No. Those are the SCDC sexual misconduct ones.

15 Q Got it. So you're saying the SCDC sexual misconduct
16 ones -- two of them, I believe?

17 A Yes.

18 Q Yes.

19 -- and the ones that he just served time on, that said to
20 you, "I'm going to check off that particular box"?

21 A And the one from Sumter in 2000. And then the ones from
22 Myrtle Beach, the contributing to the delinquency of a minor.
23 Those --

24 Q And will you be very specific? The ones from Sumter,
25 what do you mean?

1 **A** Yes.

2 **Q** Were they convictions?

3 **A** No. Those were nolle prossed.

4 **Q** Okay. But, presumably, those were arrests?

5 **A** Yes.

6 **Q** And what about the other one? What's the other one you
7 just said?

8 **A** The two counts of contributing to the delinquency of a
9 minor, the one regarding his niece, and then the 2013 -- the
10 multiple reports in J. Reuben Long.

11 **Q** Okay. So those are the ones that led you to say, "I'm
12 going to check this box"?

13 **A** Yes. That seemed chronic.

14 **Q** And it didn't include all convictions. Some of them were
15 charges that got dismissed; right?

16 **A** No.

17 **Q** Or nolle prossed?

18 **A** The Sumter one, we just learned what those details were,
19 so I wouldn't have known anything about it to consider it. So
20 I misspoke when I said the Sumter one. Just the ones that he
21 was convicted of. So the contributing to the delinquency of a
22 minors, the SCDC ones, the incident reports, the niece one.
23 To me, from 1996 to 2013, were multiple things going on, yes,
24 that that would qualify for chronic.

25 **Q** Okay. And after that, what was on your list that you

1 checked off?

2 And I apologize for having you make you go through all
3 this, but I just want to be very specific.

4 **A** Diversion sexual offending.

5 **Q** Okay. Tell me what you mean by that.

6 **A** He had prepubescent victims to adult victims.

7 **Q** And, again, we're using the term "victims." What do you
8 mean?

9 **A** The 9-year-old from the contributing to the delinquency
10 of a minor charge.

11 **Q** Got it.

12 And then -- but the charge from later on, his niece, she
13 was 20?

14 **A** 20, correct.

15 **Q** So, as far as you were concerned, that was enough to
16 equate diversity which was enough for you to check that box?

17 **A** Yes. So that was diversity and the offense behaviors.
18 His niece reported that he held her down and sexually
19 assaulted her. Other reported reporters said that he
20 masturbated in front of them, so that's diversity as well.

21 **Q** So you didn't just get that information from law
22 enforcement victims. You got that information also from
23 people who just had allegations that may have involved law
24 enforcement at some point?

25 **A** Well, no, those were all from convictions.

1 Q Okay. So every single one of those came from the
2 convictions?

3 A The -- not necessarily like the J. Reuben Long ones.

4 Q Okay. And then after that, what's on your list?

5 A Escalation in sexual offending.

6 Q Okay. Tell me more.

7 A It seems that he went from exhibitionism to rape.

8 Q Okay. And the exhibitionism came from, again, the --
9 some of those reports were not convictions?

10 A The 1996, the two SCDC sexual misconducts, the two
11 contributing to the delinquency of a minor. Those. And they
12 were convictions.

13 Q Gotcha. And then you said it continued to escalate until
14 the ones he did just now or the ones that he was serving time
15 on for this particular --

16 A Yes.

17 Q Okay. And is anything on your list after that?

18 A Yes. Extreme minimization/denial of sexual offending.

19 Q Tell me more.

20 A For example, reporting that his niece made a false
21 accusation because she needed money. He referred to himself
22 as the victim in that case.

23 Q And just out of curiosity, for you to be able to make
24 that sort of professional judgment call, does that not require
25 you to assume that something was true and now he is saying

1 something contrary to it; right?

2 **A** Yes. So we kind of -- or at least I -- when I approach
3 these evaluations, it's -- I come from a standpoint of you
4 pled guilty or you were convicted of this, so this is not the
5 place to really debate, like, whether or not you actually did
6 it. I'm starting from a place of you were either found guilty
7 or you pled guilty, so it's not -- those facts aren't
8 necessarily up for debate.

9 **Q** Got it. Okay.

10 And was there anything after that?

11 **A** For the future plans, negative attitude toward future
12 intervention. So, for example, believing that he's not in
13 need of any sexual behavior treatments.

14 **Q** And did he say to you, "I'm not in need of sexual
15 behavior treatment"?

16 **A** Not verbatim like that.

17 **Q** In fact, what he said to you -- you said to him, "Would
18 you want to do it, because it's not compulsory?" And I'm not
19 saying that's what you said to him but paraphrasing -- said,
20 "It's not compulsory, this treatment, so would you want to do
21 it?" and he said, "No, I wouldn't want to do it"?

22 **A** It more was when I asked him, "Do you think you need any
23 treatment?" he said, "Sure, I would go to treatment." And I
24 said, "What do you" -- like, we were talking specifically
25 about sexual behavior treatment, and I said "Why do you think

1 you need sexual behavior treatment?" And he said, "Because I
2 think it's mandatory."

3 And I said, "If it wasn't mandatory, do you think you
4 would need it?" And he said that he wouldn't want it if it
5 wasn't mandatory.

6 Q Okay. So he said he wouldn't want it?

7 A Correct.

8 Q Okay. And so he did not say he would refuse it; right?

9 A No. He never said that.

10 Q Okay. He just said, "I wouldn't want it if I wasn't
11 forced to do it"?

12 A Right. I don't think that he expressed to me that he saw
13 a need for it.

14 Q Okay. But that also means that he didn't specifically
15 say, "I'm not going to do it" either; right?

16 A No. He never said he would refuse it or anything like
17 that.

18 Q And yet, you checked him off for refusal -- part of that
19 was for refusal?

20 A No. That was a negative attitude toward intervention.

21 Q I gotcha.

22 And so you considered him saying, "Well, I don't want to
23 do it if I don't have to," for you, that was enough for a
24 negative intervention?

25 A Yes.

1 Q Okay. Is there anything after that?

2 A I thought that he had some partial problems with lacking
3 realistic plans. He wants to go to this halfway house. He's
4 not really sure, like, where he's going to live after that or
5 what he's going to do. He didn't have realistic plans of
6 preventing himself from future offenses. I mean, I think that
7 it's realistic to go to a halfway house, so that's why I gave
8 him the partial.

9 Q Okay. But, of course, part of that is because he still
10 would be considered a sex offender; correct?

11 A Yes.

12 Q Right.

13 And so that means he has to register as a sexual offender
14 as far as you know; right?

15 A Yes.

16 Q Okay. And that also means that there are guidelines by
17 which he can -- where he can live. He can't live close to
18 schools with children and that sort of thing; right?

19 A Yes.

20 Q Okay. And so, some of that could have been very well
21 been difficulties of where he's going to live just because
22 he's a sexual offender; right?

23 A Sure.

24 Q But even then, he had lined up a halfway house; right?

25 A I don't know that I had confirmation that he lined it up.

1 He had a place in mind where he was --

2 Q He had a plan at least?

3 A Yes.

4 Q Okay. So he did have a plan.

5 And you mentioned he couldn't really say what he would
6 do; right?

7 A What he would do?

8 Q Like I thought you were relating it to employment; am I
9 wrong?

10 A He did say employment. Like, he wasn't sure if he would
11 be able to work or he would hope to be able to get some
12 assistance. I don't know if -- instability, things like that.
13 He didn't have kind of like a laid-out realistic plan of
14 specific things of what he was going to do upon release and
15 then how he was going to prevent re-offending.

16 Q And my question is, then, when you're talking about
17 laid-out realistic plan, some of that, again, is going to be
18 difficult because he does have restrictions as a sexually
19 violent offender, which he would have to register; right?

20 A Yes, but I would say that I take that into account on
21 every SVR-20 that I do because you only do them with people
22 who have sexual offenses, so most of them have those
23 restrictions, and not everybody has a lack of realistic plans.

24 Q Okay. But, also, we do know that he's used a wheelchair;
25 right?

1 **A** He borrowed our wheelchair when he was there. I did not
2 know if he was -- when he first came, he wasn't in a
3 wheelchair.

4 **Q** Are you suggesting that Joseph doesn't need a wheelchair?

5 **A** No. I'm saying that that was not necessarily something
6 that I factored in of thinking about his realistic plans
7 because I -- I saw that he used our wheelchair. And I guess I
8 didn't consider where he would go if he needed to be in
9 wheelchair. That didn't really factor in, I guess.

10 **Q** But you don't disagree with me that his health and his
11 ability to walk or not could also affect whether -- and the
12 type of plans that he could make for employment?

13 **A** Potentially.

14 **Q** Yes. Okay. But for you, it was enough; he didn't have a
15 realistic employment plan?

16 **A** It was the partial.

17 **Q** Partial. Okay.

18 Is there anything after that?

19 MS. JOHNSON: Your Honor, do you mind if I take a quick
20 break?

21 THE COURT: Would y'all like to take a lunch break and
22 come back and finish this? Let's do that.

23 Why don't we take a break until 2:30. See you back at
24 2:30.

25 MS. JOHNSON: Thank you, Your Honor.

1 (The jury exited the courtroom at 1:24 p.m.)

2 (A lunch recess was taken from 1:24 p.m. to 2:31 p.m.)

3 THE COURT: Go ahead and bring in the jury.

4 MS. JOHNSON: Your Honor, may I go ahead and assume the
5 position?

6 THE COURT: What's that?

7 MS. JOHNSON: May I go ahead and assume the position up
8 there?

9 THE COURT: Oh, absolutely. Absolutely.

10 (The jury entered the courtroom at 2:33 p.m.)

11 THE COURT: You may continue.

12 MS. SHAW: Thank you, Your Honor.

13 BY MS. SHAW:

14 Q Okay. Dr. Gottfried, I am going to try to wrap this up
15 very soon because I'm sure you're exhausted, but I did want to
16 ask you -- we had been going through -- let me find the page
17 I'm referring to here. We had been going through the dynamic
18 risk factors, and I believe that you have something called
19 psychologically meaningful risk factors?

20 A Yes.

21 Q What does that mean?

22 A So prior to lunch, when I testified about the dynamic
23 risk factors that sometimes people use the meta-analysis of
24 research studies, the one 2010 Mann and Thornton, et al., is
25 what people usually use. So kind of -- when we think about

1 risk factors, we think about static risk factors, dynamic risk
2 factors. Dynamic can be stable over time. They can be acute,
3 something serious right now. And the field is kind of
4 starting to move towards -- instead of splitting them up into
5 different categories, calling them -- or looking at ones that
6 are psychologically meaningful. So I scored some of those as
7 well, but as I testified to on direct, a lot of them are
8 overlapped with SVR-20.

9 Q Okay. And so the ones that you were testifying to before
10 we broke for lunch, are those considered static risk factors?

11 A No. Those are the risk factors from the SVR-20.

12 Q Gotcha.

13 MS. JOHNSON: Beg the Court's indulgence.

14 BY MS. JOHNSON:

15 Q And then the 2010 ones are -- the Mann 2010 ones are
16 slightly different or maybe overlapping?

17 A I mean, there's overlap. So when I explain that some
18 evaluators will use a measure to look at dynamic risk factors
19 and some will go through studies, the Mann, et al., is the
20 most current meta-analysis that, if you're not going to use a
21 measure, usually they go through those factors.

22 Q And in this case, you did have some Mann risk factors?

23 A I listed some of them as well.

24 Q Okay. And correct me if I'm wrong -- I'm just going to
25 very quickly go through these -- you listed sexual

1 preoccupation, any deviant sexual interest, lack of
2 emotionally intimate relationships with adults, conflicts in the
3 intimate relationships, life impulsivity, and recklessness,
4 employment instability, grievance and hostility, hostility
5 towards women, and callousness?

6 A Correct.

7 Q And are these all under the umbrella of dynamic risk
8 factors?

9 A Yes.

10 Q Or dynamic risks?

11 A Yes.

12 Q Yes. Okay.

13 And the ones that I just read to you in particular, those
14 were ones that you made specific to Mr. Curtis that you found
15 that he has?

16 A Correct.

17 Q Okay. And very briefly tell me what is the difference
18 between the dynamic risk factors and let's say a personality
19 disorder or a paraphilic disorder.

20 A Those are disorders -- psychiatric disorders, personality
21 disorders, and paraphilic disorders. Risk factors are
22 characteristics, so they could be symptoms of an illness, but
23 they're traits, characteristics, the presence of something
24 that has been identified by studies as being a risk factor for
25 sexual re-offending.

1 Q I see. Okay. And so, some of these perhaps overlap.
2 You mention employment instability under these Mann risk
3 factors. Same thing as the employment that we were talking
4 about before lunch?

5 A Correct.

6 Q Okay. Also, you mentioned lack of emotionally intimate
7 relationships with adults.

8 A Yes.

9 Q Now, is that for the same reason or they're slightly
10 different reasons?

11 A As to what?

12 Q As to why you found that he has -- that he lacks
13 emotionally intimate relationship with adults?

14 A But, I'm sorry, the same reason as?

15 Q Before we went -- and I apologize. Let me be very clear
16 about my question.

17 Before we went to lunch, I was asking you about
18 relationships. That was part of your SRV-20 [verbatim]. You
19 mentioned the relationships -- let's see if I can find it
20 here.

21 MS. JOHNSON: Beg the Court's indulgence.

22 BY MS. JOHNSON:

23 Q Relationship problems.

24 A Yes.

25 Q Yes. And this time you said, "lack of emotionally

1 intimate relationships with adults."

2 A Yes.

3 Q Now, before you go into that, does that -- when you say
4 "adults," would that include family members or just romantic
5 partners?

6 A It can include their peer group. You can consider any
7 relationships that they have. Often, it's looking at -- no,
8 you can look at any relationships with adults. Often, it's
9 looking at romantic partners.

10 So when I went through the Mann factors, just kind of for
11 completeness, they, obviously, are overlapped with SVR-20
12 because they're both -- excuse me -- they are both based on
13 the research and literature about risk factors.

14 And so, thinking about the conflicts in intimate
15 relationships and the lack of emotionally intimate
16 relationships with adults, so that is stemming from everything
17 that I testified to about the relationships before lunch and
18 then the quality of his relationships in that he demonstrated
19 or he described them in really superficial terms. There was
20 evidence of some exploitativeness and entitlement in
21 relationships. So all of that was kind of factored into those
22 risk factors.

23 Q And you mentioned that he sort of described them in
24 superficial terms. Would you give me an example of what you
25 mean?

1 **A** Yes. Let's see. So when I do a sexual behavior
2 evaluation, I ask them about all of the significant romantic
3 relationships that they've had in their life. So I have them
4 describe when that relationship started, how long it lasted,
5 why it ended. I'll also have them describe their most recent
6 partner, and often, I get a lot of information from that.

7 So let me see what he said. So in terms of, like, lack
8 of emotionally intimate, I thought an example of that was when
9 I asked him if he was currently in love with his current
10 partner or if it was only a physical relationship. He said,
11 "I think I'm in love with her because I tell her that on the
12 phone. She asks if I really do and then I go into why and I
13 go into details."

14 And then in terms of exploiting, he talked a little bit
15 at length about what they argue about. So he said, "We don't
16 argue but sometimes I ask her to do something for me and she
17 doesn't do it. It bothers me. I catch a little attitude with
18 her and ask her brother to do it for me, and then I'll call
19 her back and apologize."

20 When I asked for some examples of that, it was things about
21 depositing checks in her account, calling lawyers for him,
22 kind of doing these tasks. That's what I'm recalling offhand,
23 but I'll have to find it in my report. I recall there being a
24 couple of examples of him describing interpersonal
25 relationships in this kind of superficial exploitative manner.

1 Q Okay. And to that end, when he was talking about -- and
2 you've noted in your report, I believe -- when he was talking
3 about how he tells his girlfriend he loves her and she asks
4 him and he tells her on the phone, part of that was that she
5 was asking -- she had some difficulty believing him. He
6 couldn't tell whether she believed him or not.

7 A I'm sorry; are you asking if that's what he said?

8 Q I'm asking if that's what you remember during your
9 interview with him, whether he mentioned that.

10 A I'm not sure if he mentioned that. What I'm referring to
11 is, when I ask somebody, "Are you in love with someone?" or
12 "How do you know you're in love?" and his response was,
13 "Because I tell her I love her." Like, it didn't have the
14 emotional depth that frequently people will provide a response
15 to those kinds of questions.

16 Q Okay. And you mentioned lifestyle impulsivity and
17 recklessness?

18 A Yes.

19 Q Tell me more about that.

20 A So drug use, criminal behavior. There's some
21 impulsivity. Let's see if I can give any other examples. The
22 shooting the man in the back when he meant to shoot or said he
23 shot up into the air. Some family things.

24 Q Okay. And you talked about grievance and hostility.

25 A Yes.

1 Q And what about that?

2 A In talking about some of the reported victims and female
3 officers at SCDC, he demonstrated some hostility towards the
4 victims, towards women in general. There were multiple
5 comments he made about the officers who said that he had been
6 exposing himself and masturbating to them. There was some
7 evidence of hostility and callousness towards women.

8 Q And in that evidence, you said hostility towards the
9 victims, but you're not just talking about the victims for the
10 crimes that he was convicted for; right? You're also talking
11 about the reporters or the people who made the allegations?

12 A No.

13 Q Just the people who he was convicted for?

14 A Yes.

15 Q He made hostile comments about them?

16 A Yes.

17 Q Okay. Like what?

18 A Talking about how his niece falsely reported this maybe
19 because she really needed money. Some of the comments that he
20 made about his girlfriend's two children and about him being
21 asked to leave the house and about what it was like when he
22 was there after they had accused him.

23 Q I got you.

24 And so, for you, that rose to the level of hostility?

25 A Yes. There were a number of comments that he made also

1 about, like, staff at correctional institutions. I thought
2 they suggested hostility.

3 Q Okay. And, ultimately, this led you -- not "this."
4 Those dynamic risk factors are one thing. Now, do you end up
5 diagnosing dynamic risk factors? How does that work? Is that
6 part of your diagnosis?

7 A No.

8 Q Okay. Tell me what that is, the dynamic risk factors,
9 what that means in your...

10 A So the purpose of the evaluation is to look at someone's
11 likelihood to re-offend. So leaving aside the personality
12 disorder, mental abnormality, you also have to determine their
13 likelihood to re-offend. So you can have somebody who has a
14 mental disorder, but they are less likely or not very likely.

15 And the way that you determine their likelihood is to
16 look at the risk factors that they have. So we look at the
17 static risk factors. Those measures indicated that, compared
18 to the normative and developmental samples, he was in the
19 above average and well above average groups.

20 And then, in addition to his appreciable risk on those
21 measures, he also had these other dynamic risk factors that
22 are not accounted for on that static measure.

23 Q Okay. So dynamic risk factors are made -- dynamic risk
24 factors, you believe, are physical in conjunction with, for
25 example, personality disorder or mental disorder?

1 **A** Well, they're two separate things.

2 **Q** Okay.

3 **A** So they're looking at the likelihood that somebody is
4 going to re-offend. How many risk factors do they have of
5 these factors that have been associated with people who
6 re-offend.

7 **Q** I understand. I've got it now.

8 So that helps you see the likelihood of the re-offense,
9 the dynamic risk factors.

10 **A** All of the risk factors.

11 **Q** All of the risk factors.

12 Do you consider the personality disorder part of a risk
13 factor? You were saying all of the risk factors.

14 **A** Well, you said dynamic static also.

15 **Q** Okay. I got you. Okay.

16 And so you've got your dynamic and your static risk
17 factors, but ultimately, you believe that he had a personality
18 disorder; right?

19 **A** Yes.

20 **Q** And so, for this program -- I'm saying "program," but for
21 him to be, by law, to be considered a sexually violent
22 predator, he has to have a personality disorder; right?

23 **A** He has to have a mental abnormality or a personality
24 disorder that makes him likely to re-offend. So not only does
25 he have to have the risk factors, but it's the disorder that

1 is the etiology or the predisposing factor or the cause of his
2 offenses.

3 Q Okay. And so, in this case, you did come up with a
4 diagnosis of a personality disorder; right?

5 A Yes.

6 Q And what was that?

7 A I diagnosed him with other specified personality disorder
8 with antisocial and narcissistic traits.

9 Q Now, we talked earlier about the personality disorders,
10 and maybe you -- I don't want to put words in your mouth, but
11 there were several -- 10, 12, 8, somewhere around there, but
12 you only diagnosed him with one of those; right?

13 A I gave him "other specified personality disorder" with
14 traits of two different personality disorders: antisocial and
15 narcissistic.

16 Q Okay. And to be clear, when you say "traits," you're not
17 saying he had that personality disorder. You're just saying
18 he showed some signs of what that personality disorder looks
19 like; right?

20 A What I'm saying is, if there was evidence of conduct
21 disorder, he would meet full diagnostic criteria for
22 antisocial personality disorder, but because there was no
23 evidence that I had that he had conduct disorder or evidence
24 of it as a child, you can't diagnose antisocial.

25 And then, for narcissistic, I thought that he clearly had

1 four traits. In order to diagnose it, it's at least five.
2 That was what I had data for. So that's why I do the "other.
3 specified" and notate that they have -- what traits they have.

4 Q Okay. And so you're getting this from the DSM-5; right?

5 A Correct.

6 Q So this DSM-5, who is responsible -- this is the bible
7 text -- the foundation text for forensic psychologists?

8 A No.

9 Q No. For who?

10 A For anybody who diagnoses. So it's the American
11 Psychiatric Association. So psychiatrists use that,
12 psychologists, clinical social workers. Anybody who has a
13 license or can diagnose a mental illness, those are the
14 criteria that they use.

15 Q So it's safe to say, if you're evaluating and diagnosing
16 somebody for the sex offender program, you better be relying
17 on this? You better be using this as a foundation?

18 A A foundation?

19 Q For diagnoses. This tells you certain diagnoses; right?

20 A Yes. So psychopathy is not in there. I diagnose
21 psychopathy, if somebody has psychopathy. That is where the
22 criteria are. There is a -- I could wax and wane about the
23 models of the DSM, but that is generally the criteria that we
24 use.

25 Q Okay. And you're saying "we." It's the American

1 Psychiatric Association; right?

2 A Yes.

3 Q All right. And these people said -- and I'm
4 paraphrasing, of course -- but they said we're going to give
5 you some guidelines to let you know, if you're going to
6 diagnose somebody, then they need to have this, this, and
7 this; right? Paraphrasing.

8 A Yes. So that is how they quantify it, but, you know, do
9 you need four symptoms? Do you need five symptoms? That's
10 really not been empirically studied. So some of it seems kind
11 of arbitrary, but they have to -- they have to cut points
12 somewhere.

13 Q And I understand it might not have been empirically
14 studied, but the DSM-5 says, for narcissistic disorder, you
15 need five; right?

16 A Yes, correct.

17 Q You didn't have five; right? You had four.

18 A Correct.

19 Q And that's really important because they're saying, if
20 you're going to diagnose him as that, then you need to have
21 five of these factors; right?

22 A Correct. So I thought there was evidence for four.

23 Q So you didn't meet it.

24 A Correct. Based on the evidence that I had.

25 Q Right.

1 And it's the same thing with antisocial personality
2 disorder. You said he didn't show evidence of conduct
3 disorder; right?

4 **A** I didn't have evidence of conduct disorder.

5 **Q** You didn't have evidence. Okay. I'll rephrase that.

6 And that conduct disorder, that's getting in trouble.
7 That's all that stuff that occurs before you're 15 years old;
8 right?

9 **A** The behavioral problems, significant.

10 **Q** And so that's one of their factors?

11 **A** Yes.

12 **Q** And because of that, you can't say he had antisocial
13 personality disorder; right?

14 **A** Correct.

15 **Q** The closest you can come to it is he had traits; right?

16 **A** Yes, he meets traits.

17 **Q** All right. And so you decided "other specified
18 personality disorders"?

19 **A** Yes. That's the way that I would always do that
20 diagnosis.

21 **Q** Okay. And what does that mean to you? What does that
22 mean, "other specified"? When it doesn't fit into the other
23 named personality disorders?

24 **A** Yes. So you can have "other specified" or you can have
25 "unspecified." So you can say, like, that it's specified, or

1 you can say, "I think this person has a personality disorder
2 because I'm not going to specify what it is or why I'm saying
3 that."

4 Q Okay. And the way -- and you're saying you can say, "I
5 think this person has a personality disorder, but I'm not
6 going to specify the personality disorder."

7 A That's generally -- unspecified is every diagnostic
8 criteria or category in the DSM has "other specified" and
9 "unspecified." One is where you would specify and the other
10 is you choose not to or you don't specify.

11 Q And is the reason why you chose "other" as opposed to
12 "unspecified" because you believe that he has these traits
13 that sort of bring him close to antisocial and narcissistic
14 disorder?

15 A Yes. I believe that he has a personality disorder that
16 is best characterized by specifying the antisocial and the
17 narcissistic features and traits.

18 Q I see. So did you just say you believe he has an
19 antisocial personality disorder?

20 A No. He has a personality disorder that I believe is best
21 characterized with the traits of antisocial and narcissistic.

22 Q Okay. And then if we go down to exhibitionism, now
23 that's a paraphilic disorder; right?

24 A Yes.

25 Q So that's different. Paraphilic is more of his sexual

1 nature; right?

2 **A** Correct.

3 **Q** Okay. And you believe that he has exhibitionistic
4 disorder?

5 **A** I think that the data supports that he is sexually
6 aroused by exposing his genitals to unsuspecting people, yes.

7 **Q** Now, to be clear, exhibitionistic disorder does not lead
8 to sexual violent recidivism; right? It's not one of the ones
9 that leads to that?

10 **A** I'm not sure what you mean.

11 **Q** Meaning somebody who has exhibitionistic disorder, for
12 example, that doesn't necessarily mean that they're in a
13 higher risk to sexually violently re-offend; right?

14 **A** Right. So exhibitionism offenses related to exposing
15 your genitals are not considered sexually violent offense,
16 that's correct.

17 **Q** Okay. And you mentioned personality pathology?

18 **A** Correct.

19 **Q** Now, that's not something that you're saying came from
20 DSM. You're saying that's something you diagnosed?

21 **A** Well, the personality disorders in the DSM represent
22 personality pathology.

23 **Q** I see. And so did you -- when you mention personality
24 pathology, you're referring to the other personality -- the
25 other specified personality disorder?

1 **A** Yes. Typically, I refer to it as personality pathology
2 or maladaptive personality traits, but that is me talking
3 about the disorders.

4 **Q** Okay. Now, one of the things that you mentioned was that
5 Mr. Curtis viewed himself as a victim.

6 **A** Yes.

7 **Q** And you mention in your report, "Mr. Curtis viewed
8 himself as the victim and noted he would never put himself in
9 a position to possibly go through this situation again."

10 **A** Yes.

11 **Q** Is that what you meant when you said he viewed himself as
12 a victim? That's what you were talking about?

13 **A** It appeared that he felt like all of the victims
14 associated his convictions and when he was in prison were
15 lying on him and had done this to him. And so the only thing
16 that he could identify in my evaluation is ways that he would
17 prevent himself from committing a new offense was not to put
18 him in a position where somebody would lie on him.

19 **Q** Okay. But he never actually said, "I am the victim in
20 this"?

21 **A** Not that I recall.

22 **Q** Okay. You also mentioned in your report that there's
23 potential for medication and psychotherapy combination
24 resulting in remission or even a cure for paraphilic disorders
25 or personality disorders; right?

1 **A** Yes.

2 **Q** But then you differentiated it to say there's no current
3 universally accepted cures for personality pathology or
4 exhibitionism disorder; right?

5 **A** Correct.

6 **Q** Okay. Now, did you mean that in the sense that
7 personality pathology, in the sense that we were just talking
8 about, those personality disorders?

9 **A** Yes.

10 **Q** Okay. So you're saying that some scientists said we can
11 address this with medicine, but then you said that it can't be
12 addressed with medicine? Will you clarify?

13 **A** Yeah. So when I say there's no universally accepted --
14 let me back up.

15 So personality disorders and paraphilic disorders are
16 difficult to treat. You can treat them. You can treat them
17 so they're managed, and there is evidence that you can treat
18 them so that they don't meet diagnostic criteria for those
19 disorders anymore, but there's no universally accepted here
20 like this is what's going to take care of this personality
21 disorder.

22 So, for example, if somebody has a borderline personality
23 disorder, they might be treated with dialectical behavior
24 therapy and they might be given a mood stabilizer, and that
25 might work for that person, but there's no universally

1 accepted cure right now to treat these disorders.

2 Q Okay. So if I were to give an analogy -- and tell me if
3 this analogy is very off -- if somebody has diabetes, you
4 could be treated with Metformin. You could be treated with
5 insulin injections. Is it sort of the same thing that there
6 are several ways that could be treated but nobody has come up
7 with one particular way?

8 A So I'm not a physician and I don't have experience with
9 diabetes. The way you're explaining it, that sounds to me
10 like I think we're saying the same thing but I don't want to
11 --

12 Q I understand. You're not a medical -- gotcha. I
13 understand.

14 Okay. And so there are treatments possibly to -- there
15 are medical treatments basically? Yes?

16 A There's medicine.

17 Q Yes. And then there's also treatments to manage.
18 There's psychological treatments that can be done.
19 Nonmedical, so to speak.

20 A Yeah, managed and potentially cure. If you can learn the
21 skills and those are not problems for you anymore, I mean, you
22 can -- things like substance use disorders, we will classify
23 if you don't meet criteria, you're in remission, because we
24 know that people experience relapses. So we don't take that
25 off their diagnostic picture.

1 But if you don't -- if you no longer meet diagnostic
2 criteria for a paraphilic order -- well, you'd be in remission
3 for that. A personality disorder, then, if that is cured, you
4 no longer meet for it.

5 Q And treatment can occur without being institutionalized;
6 right?

7 MS. SHAW: Objection to the relevance. Sidebar.

8 BENCH CONFERENCE

9 (The following conference was held at the bench with
10 attorneys present and outside the presence of the jury and
11 others:)

12 MS. JOHNSON: Your Honor, the law says that it requires
13 that -- it has to have -- the law requires that
14 institutionalization. Maybe I'm using the wrong phrase, but
15 the law requires that he has to be institutionalized because
16 he's dangerous to the community, and so that's why I'm
17 specifically asking is there treatment available outside of
18 being institutionalized. I can rephrase it, but I'm trying
19 not to say --

20 MS. SHAW: But this was a specific motion in limine which
21 Ms. Johnson filed to preclude discussion of treatment whether
22 -- what modalities, where it would be. I mean, this is
23 exactly what we talked about in motions in limine.

24 MS. JOHNSON: Your Honor, I didn't agree to what
25 modalities or where it would be. I agreed that I would not

1 bring up where it specifically is okayed at Wellpath in
2 Columbia. That's what I was agreeing to.

3 But I think the jury needs to know that there's treatment
4 options available that don't include institutionalization,
5 which is one of the elements of this disorder or this offense.

6 THE COURT: And I think the motion in limine was talking
7 about prison or confinement, all that kind of stuff.

8 MS. JOHNSON: Yes.

9 THE COURT: But -- or I do think it is relevant if he
10 could be treated outside of a --

11 MS. SHAW: But, Your Honor, that's not a question for the
12 jury, and that's part of one of my motions in limine, to
13 preclude any discussion of that, because it's going to confuse
14 them and it's going to get them thinking, "Well, can he get
15 treatment on the outside? Does he need to be treated inside?"
16 I mean, the questions that they have to answer are does he
17 have this personality disorder and is he likely to re-offend,
18 not the effectiveness of treatment or where he could get it.
19 I mean, that's *Kansas v. Crane* right there. And *Hendricks*.

20 MS. JOHNSON: Your Honor, I believe that it says that the
21 likely to re-offend if not -- and I'm using the word
22 "institutionalized" but if not committed to a --

23 MS. SHAW: Confined to a secure facility.

24 MS. JOHNSON: Right. So, I mean, I can re-word it to say
25 treatment as available outside of a confined, secure facility,

1 but I think still it's relevant. I mean, it's one of the
2 things the jury actually has to decide. I do think it is a
3 question for them.

4 MS. SHAW: And, Your Honor, the effectiveness or
5 ineffectiveness of any potential treatment is not a question
6 the jury has to even consider. I mean, we have federal case
7 law on that that says just because treatment would be
8 ineffective or not able to be given doesn't mean that a jury
9 should let dangerous people loose on the street. I mean, it's
10 the same as if you have a homicidal maniac who can't be cured;
11 you can't let that person go.

12 So, no, it's definitely not a question the jury needs to
13 even think about considering -- and it will definitely confuse
14 and mislead them which is -- I mean, that's the heard of the
15 motions, is to keep this as clean as possible.

16 MS. JOHNSON: Your Honor, but my question wasn't related
17 to the effectiveness of the treatment. It was just related to
18 the availability of the treatment.

19 MS. SHAW: But that's also the suggestion that he could
20 get equally effective treatment on an outpatient basis, which
21 we have expressed agreed we're not going to discuss.

22 MS. JOHNSON: I think that's reading a little bit more
23 into my question. I was simply asking about availability, can
24 it be done outside of a secure facility.

25 THE COURT: Is that as far as you're going to go?

1 MS. JOHNSON: Yeah. I want the jury to know --

2 THE COURT: Then that's it.

3 MS. JOHNSON: -- that it can be done outside of a secure
4 facility.

5 THE COURT: You know, it does seem somewhat relevant to
6 me because he wouldn't have to be confined if he could be
7 treated outside of --

8 MS. SHAW: No, he would have to be confined. He meets
9 criteria, he goes in --

10 THE COURT: But if he's treated, then that takes him
11 outside the criteria.

12 MS. JOHNSON: But the law requires that his disorder is
13 so bad that he has to be confined to a secure facility. So
14 that's actually the statute, Your Honor. That's a statute
15 you'll be reading.

16 THE COURT: So, I mean, you see what I'm saying?

17 MS. SHAW: I mean, if all she's going to -- I mean, I can
18 redirect on it if Your Honor is going to allow her to ask if
19 it can be done on an outpatient basis.

20 THE COURT: Are you going to go that far with it?

21 MS. JOHNSON: No. I'm just asking about availability.
22 I'm not going into efficacy.

23 THE COURT: But, yeah, you can redirect. If she opens
24 the door, you can have at it.

25 MS. JOHNSON: But, Your Honor, I would like it to be

1 known: I haven't gone into efficacy of the treatment. So if
2 she's redirecting on efficacy of the treatment, I think that's
3 out of the scope of my cross-examination.

4 THE COURT: So what was your question?

5 MS. JOHNSON: My question is, is it -- can treatment be
6 done outside -- without it being institutionalized.

7 THE COURT: Yeah, I think she can respond to it.

8 MS. JOHNSON: Right. But she's also talking about -- now
9 she's talking about efficacy, if it's effective, but I haven't
10 asked that, and I have no intention of asking that.

11 MS. SHAW: But we're an open cross state. I can redirect
12 on anything I'd like.

13 THE COURT: I think so too. I mean, once you open the
14 door, it's open.

15 MS. JOHNSON: But I haven't the door, Your Honor. How
16 have I opened the door?

17 THE COURT: The availability of outside treatment.

18 MS. JOHNSON: Well, if that's the case, Your Honor, then
19 I'd like to go into efficacy because I'm only talking about
20 availability. I'm not talking about whether it's good
21 treatment or not. I'm just saying does treatment exist.

22 THE COURT: Yeah, but the door was open. You have
23 insinuated that he can be treated outside of an institution
24 and not have to go --

25 MS. JOHNSON: Well, then, can I go down that road, then,

1 with the full efficacy? Because I wasn't going to, but if
2 that's the case, then I believe that I should -- if I'm going
3 to get punished for it, Your Honor, then I might as well go --

4 THE COURT: I'm not punishing. I'm just trying to give
5 y'all a fair trial.

6 MS. JOHNSON: I know, Your Honor. I'm being a dramatic
7 lawyer. But if I'm going to have to deal with it anyway...

8 MS. SHAW: Well, no, I'm not going to go into efficacy
9 because I don't want to confuse our jury. It's not -- I mean,
10 our case law is very clear across the board.

11 THE COURT: Have you got a case that you can show us?

12 MS. SHAW: Yeah. What is it? *Kansas v. Crane* and the
13 *Hendricks* cases.

14 THE COURT: Have you got it with you?

15 MS. SHAW: I've got it in my -- yeah, in my memo.

16 MS. JOHNSON: Again, that's related to efficacy. I'm
17 just still talking about availability. And, Your Honor, it's
18 just that question. I'm leaving it alone.

19 So if you're not going to talk about it, I'm going to
20 leave it alone, and then we can just move forward.

21 MS. SHAW: I'm not going into efficacy, but I'm going to
22 go into, you know, in her opinion, does his mental abnormality
23 and personality disorder rise to the level he needs to be
24 institutionalized.

25 MS. JOHNSON: Well, I think that's fair.

1 THE COURT: Yeah. If you ask that question -- you can
2 ask that question.

3 MS. JOHNSON: Yeah. I think that's fine.

4 MS. SHAW: Fair enough.

5 THE COURT: I think so. Good deal.

6 MS. JOHNSON: And, Your Honor, I might object, but I
7 understand that that is part of it.

8 THE COURT: Of course.

9 [Open court resumes:]

10 BY MS. SHAW:

11 Q Okay. Dr. Gottfried, back to my last question: Does
12 treatment for the personality disorders or any of the
13 disorders that you mentioned, can that be done without
14 institutionalizing Mr. Curtis?

15 A Are you asking me specific about Mr. Curtis or
16 specifically about the disorders?

17 Q Great question.

18 In general, is it available outside of institutions?

19 A In general, yeah, treatment can be provided on an
20 inpatient or outpatient basis. It depends on different
21 factors.

22 Q Okay. And you said my client -- what grade did he
23 complete?

24 A He left school in the 8th grade. He tried to return, and
25 then he told me that he had a tutor I think until the 11th

1 grade, but I don't think he -- I don't think he finished the
2 11 grade.

3 Q Okay. The test that you ran, Dr. Gottfried -- and I'm
4 wrapping up. The tests that you ran, are these tests that you
5 use every time when you're doing these sexually violent
6 offender evaluations?

7 A I do them every time, provided that the person has the
8 grade reading level and the reading comprehension level.

9 Q And the testing that you did with him, sounds like you
10 had a full day of testing, or was it broken up into several
11 days? And I know you did an evaluation. That was probably
12 was on a different day?

13 A Yeah. He was in our office -- well, he was there more
14 than three times. But he did things on three days. The other
15 day, he indicated he was in pain so we rescheduled.

16 Q Okay. But the day when you were running all the tests,
17 how long do you think he was there?

18 A I can look and tell you.

19 Q Of course, yes.

20 A He arrived at 9:30 in the morning. He departed at 3:25
21 p.m., and he took a 45-minute lunch break.

22 Q Okay. Now, you mentioned that this STATIC-99R is the
23 most widely use and researched actuarial instrument for the
24 assessment of sexual re-offending or recidivism; correct?

25 A Correct.

1 Q Okay. And, in this case, you did that STATIC-99R and the
2 2002-R?

3 A Right.

4 Q Dr. Gehle did it as well; right?

5 A Yes.

6 Q And you guys came up with a little bit of a difference in
7 your final score; right?

8 A I believe we have the same score on the STATIC-99, and
9 one point different on the 2002.

10 Q And what do you believe caused the difference between you
11 and Dr. Gehle?

12 A I don't know.

13 Q And you understand that Dr. Gehle -- her assessment led
14 to no personality disorder; right?

15 A Yes.

16 Q Because you read her report?

17 A I have.

18 Q Okay. And why do you think yours came in differently?
19 Or do you have no idea why yours would have come in different?

20 A I mean, I can't speculate what she saw during her
21 evaluation, what her perception of the records --

22 Q But based on her evaluation that you did read.

23 A I read it in the course of my evaluation. I did not read
24 her report in preparation for today. I summarized it in a
25 paragraph. I mean, I think that she said that she didn't have

1 evidence that he met.

2 Q But, for you, you're really not sure. It's fine if
3 you're not sure. I'm just asking.

4 A Yeah, I'm not -- all I know is -- all that I remember is
5 that she did not diagnose.

6 Q Okay. And you mentioned that my client had lack of
7 remorse for the things that he did?

8 A Yes. Empathy, I believe.

9 Q Okay. And can you tell me why you said that?

10 A Yes. So for narcissistic personality disorder, the
11 traits that I thought he had was a marked sense of
12 entitlement, being interpersonally exploitative, lacking
13 empathy, and being arrogant.

14 I noted that he had -- sorry; it's kind of all tied
15 together. I noted that he had multiple relationships since he
16 was 12 or 13 years old. He describes these in arrogant and
17 superficial terms, a lack of depth, demonstrated a lack of
18 empathy, exploiting others, arrogance, entitlement.

19 His current romantic relationship, marked entitlement.
20 He described his relationship with his children in a manner
21 that really lacked empathy and demonstrated entitlement
22 regarding the relationship he wants to have with them upon his
23 release.

24 And I noted that many of his offense behaviors were
25 marked with being exploitative, lacking in empathy,

1 demonstrated entitlement.

2 Those were kind of the factors that I was pulling for
3 that piece of it.

4 Q Okay.

5 MS. JOHNSON: Beg the Court's indulgence, Your Honor.

6 Just one more second, Your Honor, and then I believe I'm
7 going to be finished.

8 (Pause in the proceedings.)

9 MS. JOHNSON: Your Honor, I have no further questions for
10 this witness.

11 THE COURT: Redirect?

12 MS. SHAW: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. SHAW:

15 Q Dr. Gottfried, we have gone through a lot on
16 cross-examination. I'm going to be relatively brief, but
17 there are certain points that I want to hit with you.

18 So you were initially asked about getting paid for these
19 evaluations. And the fee is \$5,600. And so -- and it
20 includes three days of evaluation, full day of testimony, and
21 the assessments and reports; correct?

22 A Yes.

23 Q Do you receive any of that \$5,600?

24 A No. I mean, it goes to MUSC, but I don't get a check for
25 it.

1 Q Okay. Do you receive any form of compensation outside of
2 your normal salary for conducting these evaluations?

3 A No.

4 Q Do you receive any form of bonuses for conducting these
5 evaluations?

6 A No.

7 Q Is there any motivation for you at all to skew your
8 results in any way, shape, or form?

9 A No.

10 Q Now, secondly, with the allegations that did not lead to
11 arrest, which were the assault and -- the sexual -- the
12 physical assault and one of the sexual assault allegations,
13 would you have been able to make your diagnosis even without
14 that information?

15 A Yes.

16 Q Okay. And with the unconvicted conduct, would you have
17 taken that into account regardless because it did result in
18 charges?

19 A Yes. So I need those data to score the measures, so I
20 would have considered it.

21 Q Okay. And that's considered ethically responsible and,
22 in fact, required by the STATIC scoring rules; right?

23 A Yes. Per the STATIC manual and the PTLR manual, you look
24 at charges and convictions.

25 Q Okay. And with convictions as well as the institutional

1 infractions, would you have been able to make your diagnosis
2 even without that information?

3 **A** For the personality, I think I would have.

4 **Q** Okay.

5 **A** The exhibitionistic, I think I needed all of that
6 information to kind of pull it together.

7 **Q** Okay. And you were asked about talking to alleged
8 victims and victims where there have been convictions. Do you
9 remember that?

10 **A** Yes.

11 **Q** And in this type of evaluation, is it standard practice
12 to seek those victims out and discuss things with them?

13 **A** No.

14 **Q** Why not?

15 **A** There's many reasons. It would be unethical. I think I
16 can just say that as a blanket. If there were ever a case
17 that I was going to contact a victim, I would go through
18 Victim's Advocate. There would be a process for it. For me,
19 it would have to be such a high bar of contacting a victim.
20 It's not standard practice. That's not our role.

21 **Q** And, in fact, the standard practice is to review all of
22 the available records, no matter what they are, as they relate
23 to the offender and his history?

24 **A** Yes. Everything provided, I review.

25 **Q** And you assign what weight to it you feel is appropriate?

1 **A** Yes.

2 **Q** And unconvicted conduct and uncharged conduct, obviously,
3 carries less weight; correct?

4 **A** Correct.

5 **Q** Okay. Now, you were asked some questions regarding
6 personality disorder. You have described the personality
7 disorder as a pervasive pattern of behavior and interaction
8 with the world around it. Is that a fair characterization?

9 **A** Yes.

10 **Q** Now -- and you were asked what a pervasive pattern means.
11 And would that typically be a pattern that is evidenced over a
12 period of years by repeated behaviors?

13 **A** Yes. And in different situations.

14 **Q** So it's across a variety of situations. It's the same
15 types of behaviors, attitudes, and --

16 MS. JOHNSON: Your Honor, I object to the leading
17 question.

18 THE COURT: Sustained.

19 BY MS. SHAW:

20 **Q** What is it?

21 **A** The pervasive?

22 **Q** What does the pervasive aspect mean to you when you are
23 assessing an individual?

24 **A** Well, I think I testified too that it wouldn't be like
25 just if somebody was under the influence on that day or had a

1 particularly, like, argumentative relationship with one
2 person. This was a pattern that they're demonstrating
3 typically from adolescence like through their adulthood, that
4 you're seeing it in multiple contexts with multiple people.
5 Like they might be able to hold it together in one situation,
6 but you're seeing this pattern of how they interact with the
7 world themselves and the people around them.

8 Q And are you looking to see if those same behaviors and
9 patterns and attitudes are evidenced when you interview the
10 person to see if they're currently still showing?

11 A Yes. A lot of people can hold it together for an
12 interview, not everyone, but I'm definitely looking at
13 personality features while I'm interviewing them. But, I
14 mean, if somebody were able to hold it together for the whole
15 interview, that doesn't necessarily negate data from other
16 sources.

17 Q So it's a historical pattern that you're looking for
18 current manifestation?

19 A Correct.

20 Q And did you see that in Mr. Curtis?

21 A From all of the data that I reviewed and everything I had
22 available, yes.

23 Q Now, you were also about, since 2014, Mr. Curtis has been
24 in SCDC and he has not had any disciplinary infractions from
25 2014 to present; is that your understanding?

1 **A** There was none listed in the SCDC records, and I didn't
2 have access to his current J. Reuben records.

3 **Q** Would that lack of disciplinary infractions while he's
4 incarcerated for his most recent and most serious sex offense
5 be significant to your ability to make a diagnosis?

6 **A** Can you ask it a different way?

7 **Q** Sure. Would that relatively good history while in prison
8 this time, would that be relevant to your ability to make a
9 diagnosis?

10 **A** It's definitely something that you take into
11 consideration.

12 **Q** And did you?

13 **A** Yes.

14 **Q** But you still were able to diagnose a personality
15 disorder and a paraphilia?

16 **A** Yes. It's not uncommon that somebody can maintain their
17 behavior when they're in a really structured and restricted
18 environment. It's not uncommon that you see that.

19 **Q** And you were asked about, when individuals with
20 antisocial personality disorder turn about 40 years old, you
21 sometimes see a drop-off in behaviors; is that correct?

22 **A** Sometimes you do.

23 **Q** And in Mr. Curtis's case, how old is he now?

24 **A** He's 55.

25 **Q** So how old would he have been in 2014?

1 **A** Let me do the math.

2 **Q** About 15 years? 14 years?

3 **A** So he was 40 then. 41.

4 **Q** So would the relatively improved behavior in SCDC this
5 time potentially be attributable to that?

6 **A** Potentially? Yes, that's possible.

7 **Q** But there's no way to determine that?

8 **A** It's not unusual to see somebody who has antisocial
9 personality disorder not get a lot of infractions within a
10 controlled environment like a prison. That's all I can say.

11 **Q** Okay. Now, you commented in terms of his dynamic risk
12 factors and on the SVR-20 that he has had a series of unstable
13 relationships and lack of intimate relationships with adults.
14 I'm not going to go into it too much, but could you describe
15 to me certainly marked aspects other than what we've already
16 discussed that have been apparent in your relationships? For
17 example, was there infidelity? Was there lying? cheating?
18 stealing? Other conflict that would suggest, in addition to
19 the lack of empathy and exploitiveness, that there were
20 problems in this area?

21 **A** Yes. I mean, I think all of those things would be
22 relevant. Multiple relationships, conflict in the
23 relationships, infidelity, getting back at partners for
24 certain things.

25 **Q** And were there records to indicate that?

1 **A** I'm trying to think if that was just based on his self
2 report. I mean, he definitely endorsed several of those
3 things.

4 **Q** So he admitted that?

5 **A** Yes.

6 **Q** Okay. Now, you were also asked about grievance and
7 hostility, and you had testified on direct that he, in fact,
8 sees himself as the victim. And was that borne out by his
9 statements as well as by his records review when testing?

10 **A** Yes. That's based on his statements that he made to me,
11 statements that he made to detectives that I reviewed from the
12 reportings. It was based on several things.

13 **Q** And understanding that you did not diagnose antisocial
14 because you lacked that prerequisite conduct disorder and you
15 did not diagnose narcissistic personality disorder because he
16 does not meet full criteria, are you confident that your
17 diagnosis of other specified personality disorder with those
18 features is accurate as opposed to unspecified personality
19 disorder? Like why did you pick "other specified" over
20 "unspecified" when you could have chosen either?

21 **A** Because I was able to specify it. I think, if you have
22 somebody and they have a lot of problems that you would see
23 associated with personality pathology but you have no idea
24 what's going on with them, then you could say it was
25 unspecified. But I can specify it. So he has these traits.

1 It is my opinion that his personality is what led to his
2 sexual offenses, so it's very relevant. I think he clearly
3 has that personality pathology.

4 Q Okay. And you were asked about treatment, if it can be
5 done -- if it has to be done in an institutionalized setting.
6 And what is the answer to that?

7 A I think that I asked if she was referring just to
8 Mr. Curtis, and I think she said in general. In general,
9 there are inpatient treatment, there's outpatient treatment.
10 It really depends on a number of factors, how severe the
11 illness is and what's going on with a person. So not all
12 psychiatric treatment is inpatient. There's both inpatient
13 and outpatient.

14 Q So your ultimate recommendation that Mr. Curtis be
15 committed is based on not only the personality disorder but
16 also the associated risk from the measures?

17 A Yes. So he has personality pathology that he has acted
18 on before, which resulted in the abuse of another person that
19 he has not had treatment for; that I don't believe that he has
20 insight into his need for that treatment or his level of risk,
21 and because he hasn't had the treatment, I have concerns that,
22 if acted on again, his personality pathology, it will result
23 in a new victim. So he should be in a secure setting for his
24 own treatment and safety and care.

25 Q So it is your opinion that his personality disorder and

1 paraphilia, combined with the risk, rise to the level where he
2 needs to be in a confined setting for long-term control, care,
3 and custody?

4 **A** Yes. I think that he has symptoms that can be treatable.
5 He's open to treatment. But if he acts on them again and
6 they're not treated that that will result in abuse of another
7 person.

8 **Q** And the risk level is simply too great; is that correct?

9 **A** Yes. He's at above average or well above average risk.

10 **Q** Okay. Thank you.

11 MS. SHAW: I have nothing further.

12 MS. JOHNSON: Your Honor, just one or two questions very
13 quickly.

14 RECROSS-EXAMINATION

15 BY MS. JOHNSON:

16 **Q** You mentioned that, since 2014, his -- it's not uncommon
17 for the disciplinary infractions to be lessened or to sort of
18 go away. And I don't want to phrase it wrong, but would you
19 agree that that's kind of the point of what you were saying?

20 **A** Yeah. So it's not uncommon, with somebody with
21 antisocial personality disorder, excuse me, who has a lot of
22 unrest in the community, to then go into prison and be
23 seemingly be functioning okay. It's generally attributed to
24 the controlled environment, this really structured
25 environment.

1 Q Okay. But you said antisocial personality disorder but
2 you did not diagnose him with antisocial personality disorder;
3 correct?

4 A I believe that he has many features of the disorder.

5 Q Right. But you did not diagnose him with antisocial
6 personality disorder.

7 A Correct.

8 Q Okay. And surely you agree that, in the '90s, he had
9 some infractions while he was incarcerated or detained?

10 A He had the two for sexual misconduct in the '90s.

11 Q Okay. And then, in 2014, none since then that you have
12 been able to find from your records?

13 A I believe the ones from J. Reuben Long, from the records
14 I had, were from 2013 and possibly the beginning of 2014, but
15 that period of time that he was there before transfer to SCDC.

16 Q Okay. And so, although you say it's not uncommon, the
17 truth is, he is showing a difference because, before, he was
18 incarcerated and still sometimes getting in trouble. And then
19 around 2014 -- around -- no more trouble, as far as you can
20 tell from your records that you have; right?

21 A Nothing that he was given, like, a formal disciplinary
22 write-up, infraction for.

23 Q So as far as your records, no more trouble; right?

24 A Correct.

25 MS. JOHNSON: No further questions, Your Honor.

MOTION FOR DIRECTED VERDICT

348

1 THE COURT: You may step down.

2 And we have an hour and a half to go. Do you want to
3 call your next witness?

4 MS. JOHNSON: Well, Your Honor, I still have to -- I'd
5 like to do some quick motions, DV and...

6 THE COURT: Are you resting?

7 MS. SHAW: Your Honor, I just want to confirm that the
8 State's 1 has been moved into evidence.

9 THE COURT: State No. 1 is in evidence is my
10 understanding, yes.

11 MS. JOHNSON: What's State's 1?

12 MS. SHAW: That's the condition --

13 MS. JOHNSON: Oh, yes. Yes, Your Honor. There was no
14 objection.

15 MS. SHAW: Then, yes, Your Honor, the State rests.

16 THE COURT: If you would step into the jury room for just
17 a moment. We have to take up some motions. I'll be back with
18 you in just a second.

19 (The jury exited the courtroom at 3:26 p.m.)

20 MS. SHAW: Your Honor, may I let my witness go?

21 MS. JOHNSON: No objection, Your Honor.

22 THE COURT: Have a good day.

23 THE WITNESS: Thank you.

24 MOTION FOR DIRECTED VERDICT

25 THE COURT: Any motions from the Respondent?

1 MS. JOHNSON: At this time, I would like to renew my
2 prior motions, and also, I would move for directed verdict.

3 Your Honor, we believe that the State has not met its
4 burden. First of all, the State has the burden of beyond a
5 reasonable doubt, and just for the purpose of this motion,
6 Your Honor, I believe that Dr. Gottfried did testify that
7 there is another expert who has said that my client does not
8 have a personality disorder and does not meet the sexual
9 violent offender definition for South Carolina law, and we
10 believe that, in and of itself, says that the State cannot
11 meet its burden.

12 But beyond that, Your Honor, we believe that they haven't
13 proven their case so far enough to get to the jury, and so we
14 would move for a directed verdict.

15 THE COURT: Do you want to briefly respond?

16 MS. SHAW: Thank you, Your Honor. With respect to the
17 directed verdict motion, we have a material of issue of fact
18 question as to whether Mr. Curtis suffers from a personality
19 disorder or mental health issue. We have two competing
20 experts. The State has offered more-than-adequate testimony
21 as to the existence and the reasons for the existence of his
22 mental abnormality and personality disorder. So we would most
23 respectfully disagree with counsel that a directed verdict is
24 appropriate and request that this matter go to the jury.

25 THE COURT: I'm going to deny the motion.

1 MS. JOHNSON: You said that you denied it, Your Honor?

2 THE COURT: Yes.

3 MS. JOHNSON: Okay.

4 THE COURT: I think we have a question of fact, clearly.

5 MS. JOHNSON: Thank you.

6 THE COURT: Do you want to call your witness?

7 MS. JOHNSON: Your Honor, may I just have a brief moment
8 to discuss with him?

9 THE COURT: Go ahead and talk with him real quick.

10 MS. JOHNSON: Thank you.

11 (Pause in the proceedings.)

12 MS. JOHNSON: Your Honor, may I meet with my client
13 outside of the courtroom?

14 (Pause in the proceedings.)

15 COURT REPORTER: Do you want this on the record?

16 MS. SHAW: No.

17 MS. JOHNSON: Maybe not.

18 BENCH CONFERENCE

19 (A bench conference was held off the record and outside of
20 the hearing of the jury.)

21 (A brief recess was taken from 3:32 p.m. to 3:35 p.m.)

22 (The jury entered the courtroom at 3:35 p.m.)

23 THE COURT: Ms. Johnson, you may call your first witness.

24 MS. JOHNSON: Thank you, Your Honor. May it please the
25 Court? I call Dr. Marie Gehle to the stand.

1 DR. MARIE GEHLE

2 after having been duly sworn, was examined and testified
3 to as follows:

4 THE CLERK: When you take the stand, just say your name
5 for the record, please.

6 THE WITNESS: My name is Marie Gehle, and it's spelled
7 G-e-h-l-e.

8 DIRECT EXAMINATION

9 BY MS. JOHNSON:

10 Q And I have been calling you "Dr. Gehle." Are you a
11 doctor?

12 A Yes. I'm a clinical psychologist.

13 Q So tell me, where do you currently work, Dr. Gehle?

14 A At the South Carolina Department of Mental Health in
15 Columbia.

16 Q And what do you do there?

17 A I am an evaluator at the Forensic Evaluation Service. My
18 title is chief psychologist. And I do sexually violent
19 predator evaluations, almost entirely precommitment
20 evaluations.

21 Q And how long have you been working at the South Carolina
22 Department of Mental Health?

23 A For 13 years.

24 Q And did you do any of this work before you started
25 working at the South Carolina Department of Mental Health?

1 **A** I began working with sex offenders when I graduated from
2 college in 2000, and I have worked with sex offenders in
3 various capacities throughout the year. But this is the first
4 time that I have done sexually violent predator evaluations,
5 has been in South Carolina.

6 **Q** And that's been for the last 13 years?

7 **A** That's correct.

8 **Q** So tell me about your education. Where were you -- where
9 did you go to school and for what?

10 **A** I have a bachelor's in psychology from Ohio Northern
11 University. I have a master's degree in clinical psychology
12 from Xavier University in Cincinnati, Ohio, and I have a
13 doctorate in clinical psychology from Xavier University.

14 **Q** And when did you complete your doctorate?

15 **A** In 2008.

16 **Q** And can you tell me what areas -- you said it was
17 clinical psychology for your doctorate?

18 **A** Yes.

19 **Q** And can you tell me what type of work that -- or what
20 type of study that involved?

21 **A** Clinical psychology is -- it's a specialty concerned with
22 the assessment and treatment of mental illness, abnormal
23 behavior, and other kind of problems in life.

24 **Q** And you mentioned you had a master's as well?

25 **A** Yes. I got a master's as -- when I was completing my

1 doctorate, that was one thing that you worked towards, was
2 your master's.

3 Q So did that master's also involve clinical psychology
4 then?

5 A Yes.

6 Q And did you have to do any student training during that
7 time?

8 A Yes. I did a practicum, which is kind of a work
9 experience every year during my doctoral program, so four or
10 five years. I also worked at Children's Hospital in the
11 Psychiatry Department in Cincinnati. And then I did a
12 predoctoral internship in Washington State at their Sexually
13 Violent Predator Treatment Program and at their Forensic
14 Evaluation Services in inpatient and outpatient evaluations
15 there. And then I did a postdoctoral fellowship at East
16 Central Regional Hospital in Augusta, in forensic psychology.

17 Q So you have been sort of -- did you always want to kind
18 of gear yourself towards sexually violent offenders? Did you
19 always want to be in that area because you had been involving
20 yourself with that even in college and even with your
21 doctoral?

22 A No, I did not always -- I did not always want this.

23 What I was interested in was forensic evaluations. When
24 I first took a class in forensic psychology in graduate
25 school, I was very interested in that. I thought that kind of

1 practice was very appealing, and so I focused on that. It
2 just so happened that I did an internship -- one of the few
3 internships that had experience with sexually violent
4 predators in Washington state, and that -- that training was
5 so specialized, especially at that time, that it just opened
6 up a lot of possibilities to do that work.

7 Q Okay. And when you completed your bachelor's, master's,
8 doctoral, you completed them satisfactorily based on your
9 grades and that sort of thing?

10 A Yes.

11 Q And so, after that, how soon did you start really
12 specializing in the area of sexually violent offenders and
13 offenses?

14 A It was when I started working in South Carolina in 2009.
15 I took a job in the Sexually Violent Predator Treatment
16 Program. I was part time doing evaluations of people who were
17 in the program, and then the other half of the time, I was
18 supervising the treatment providers who were doing the
19 treatment.

20 Q Okay. And so -- and have you worked in other leadership
21 positions that sort of relate to this area?

22 A I'm also on faculty at the University of South Carolina
23 School of Medicine in their psychiatry department. There, I
24 help train psychiatry -- forensic psychiatry fellows. I'm
25 also involved in our training at the Department of Mental

1 Health where we train psychology forensic fellows, so -- if
2 that's what you mean by leadership. But those are the major
3 things.

4 Q And that is what I meant, sort of supervisory roles.

5 A Yes. I supervised those people when they train with me.

6 Q Got it.

7 And does that mean that you're also training the people
8 too, or you're just supervising their work?

9 A Let me explain. So we have our fellows there with me
10 today, so they have been working with me for the last -- I
11 believe last two months on doing these types of evaluations.
12 So they did the evaluations with me, they observed me doing
13 evaluations, helped with report writing, and I supervised
14 their work during that time.

15 Now, they'll move on, and they'll be supervised by
16 another evaluator at the Department of Mental Health in doing
17 different types of evaluations. We like them to have a lot of
18 different evaluator experience so they can figure out how they
19 want to do this work and what type of, you know, report
20 writing speaks to them so they can find their own way. We
21 don't want to just stick them with one person the whole time.

22 Q Okay. And when you're working in that regard, do you --
23 will you let them know if they have produced an evaluation
24 that is satisfactory or unsatisfactory?

25 A Yes. We're working on that together. So they might

1 write a draft or a part of a draft. It kind of depends. And
2 I'll edit that, give suggestions. We'll talk about it. We'll
3 kind of do it together.

4 Q And in that process, are you helping them to -- helping
5 to guide with them everything they need for a complete
6 evaluation? Do you help to do that as well?

7 A Yes. I'm explaining what they need, what the records
8 are, how things work, different ways they can look at
9 information. I'm talking to them about that stuff.

10 We also do didactic seminars, so, you know, more -- we'll
11 have certain articles that we read, and we'll have group
12 discussions about those things so they also get that
13 experience.

14 Q And what sort of -- I know you sometimes do training.
15 What sort of training have you done?

16 A What training have I received or --

17 Q Received, yes. I apologize. What training have you
18 received? You do training yourself; right?

19 A Yes. I mean, I do continuing education training.

20 Q That's what I meant.

21 A Things like that. I'll go to conferences, participate in
22 grand rounds, research, do things like that, be in supervision
23 -- group supervision with my colleagues. That's the bulk of
24 the continuing education.

25 Q And with your particular position, do you have to have

1 continuing education every year?

2 **A** It's not with my position. It's to be a licensed
3 psychologist, you have to have continuing education. You have
4 to have it -- I think we renew our license every two years,
5 and you have to meet the continuing education requirements set
6 by the State within that two years.

7 **Q** Okay. And so since you have been a licensed
8 psychologist, you have consistently met your continuing
9 education requirements?

10 **A** Yes.

11 **Q** Okay. And do you review a lot of text related to
12 sexually violent offenders in regards to your position as the
13 chief psychologist at SCDMH?

14 **A** Yes.

15 **Q** And can you tell me what sort of areas it goes into? Do
16 any of them involve evaluations of sexual violent offenders?

17 **A** What sort of literature I read?

18 **Q** Yes, literature.

19 **A** I mean, I do -- I will keep apprised of the literature on
20 diagnoses, on risk assessment, on actuarial risk assessment,
21 on dynamic risk factors, on a wide variety of issues that are
22 related to sex offending. I keep apprised of specific, you
23 know, sexually violent predator issues in terms of legal
24 issues, things like that because sexually violent predator is
25 a legal designation instead of a just a sex offender, somebody

1 who has committed a sex offense. So they're kind of different
2 issues or, I guess, sexually violent predator is a specialized
3 issue.

4 So I read about sex offenders in general and sexually
5 violent predator evaluations and legal issues involved.

6 Q Have you written any literature or contributed to any
7 literature regarding those issues or licensed psychologist
8 issues in general?

9 A I have written some -- I guess they're part of a legal
10 digest. So we would get a legal case submitted to us by a
11 journal -- and I say "us"; it was when I was supervising
12 forensic psychiatry fellows, we would get a legal case sent to
13 us, and then we would write a brief and it would be published.
14 I have done that several times, and I have written some other
15 articles. I haven't done any research since I have been at
16 the Department of Mental Health.

17 Q Okay. But you have also written articles regarding some
18 of these issues?

19 A Yes.

20 Q Yes. Okay.

21 And you mentioned that you do almost -- that you work for
22 the South Carolina Department of Mental Health and that you do
23 quite a lot of precommitment evaluations; correct?

24 A Yes.

25 Q And is that because the South Carolina Department of

1 Mental Health is the first stop when it comes to evaluating
2 potentially sexual violent offenders -- is that first
3 evaluator they see at the South Carolina Department of Mental
4 Health?

5 **A** Yes, they are.

6 **Q** Once a petition is done for them.

7 **A** Correct. So when the Court orders an evaluation under
8 the Sexually Violent Predator Act, the evaluation comes to the
9 Department of Mental Health.

10 **Q** Okay. And how many -- and the other -- if it's not a
11 precommitment evaluation, do you also do annual review
12 evaluations?

13 **A** When I first started the Department of Mental Health, I
14 did annual review evaluations, so evaluations of people who
15 were in the Sexually Violent Predator Program already. Now, I
16 do maybe one a year, one every couple of years. I rarely do
17 them. It will be if I have some downtime. If there's a need
18 or if somebody needs to be supervised doing one -- one of the
19 postdoctoral fellows, then I will do an annual review. But
20 it's not very often and it's not typical.

21 **Q** So you're almost exclusively precommitment evaluations?

22 **A** Yeah.

23 **Q** And you're not doing private evaluations or anything like
24 that on the side. You're almost exclusively South Carolina
25 Department of Mental Health?

1 **A** Well, I also do some private practice and I just do
2 therapy. No evaluations. I just do treatment with juveniles
3 and adults just with general mental health problems, anxiety,
4 depression, things like that.

5 **Q** And are you licensed just in South Carolina or are you
6 licensed in other states as well?

7 **A** I'm licensed in South Carolina and in Georgia.

8 **Q** And have all of your evaluations been done in South
9 Carolina or have you done them in other states?

10 **A** All the sexually violent predator evaluations that I have
11 done have been in South Carolina.

12 **Q** Have you ever testified in court before today?

13 **A** Yes.

14 **Q** Yes. Okay.

15 And when you testified in court, has it ever been in
16 relation to this sexually violent predator area?

17 **A** In South Carolina, it's always been in relation to the
18 sexually violent predator area.

19 **Q** How many times do you think that you have testified in
20 court regarding this issue?

21 **A** It's well over a hundred times. It's probably
22 approaching 150 times. I have lost count. It's been a lot.

23 **Q** What is the main and normal role that you have when
24 you're testifying? Is it -- are you usually testifying --
25 being brought her on behalf of the person who is being accused

1 of being a sexually violent predator or are you usually
2 testifying on behalf of the State?

3 **A** When I give an opinion in these cases as a
4 Court-appointed evaluator, I'm called by who is ever helped by
5 my opinion. So that -- I have a subpoena to be a witness for
6 the State next week. The week after, it's the respondent.
7 The week after that, it's the State again. So it varies.
8 It's whoever is helped by my opinion, I testify on that side.

9 **Q** And would you say that, most of the time, it's the State
10 that calls you to testify in these?

11 **A** I would say most of the time, yes, it's the State.

12 **Q** And you have been actually qualified as an expert witness
13 in that regard many times before; right?

14 **A** Yes. Every time that I have testified -- I said it's
15 well over 10 times, approaching 150 times. Every single time
16 has been as an expert witness in sexually violent predator
17 proceedings.

18 **Q** And, interestingly, you give an objective opinion.
19 You're not trying to give an opinion that specifically speaks
20 towards one side or another. You just go in and make your
21 opinion. Is that how it works?

22 **A** Yes. I'm Court-appointed as a neutral party.

23 **Q** Are you paid by any particular side for your evaluations?

24 **A** I'm paid by the Department of Mental Health. This is
25 part of our, I think, statutory requirement is to do these

1 evaluations.

2 Q And so, in this particular case, you didn't get a check
3 from me or from our side to come here and testify; right?

4 A No.

5 Q Okay. Now, in regards to your role at the South Carolina
6 Department of Mental Health, you said that you're the chief
7 psychologist there?

8 A I'm a chief psychologist.

9 Q A chief psychologist.

10 A That's actually a title for the State that the State
11 uses.

12 Q Can you tell me what that means then if it's a title that
13 the State uses?

14 A I think that it means that you're a clinical
15 psychologist. They make whatever titles they want. That's
16 the title that I was given, I guess, when I started there in
17 2009. But I'm not the chief. I'm not in charge of everybody
18 else.

19 Q How many other chief psychologists are you working with
20 right now at the South Carolina Department of Mental Health?

21 A I have to count that. It's maybe like -- maybe like
22 eight.

23 Q And is that for the whole state of South Carolina? Not
24 that there's not a chief psychologist somewhere else, but for
25 the South Carolina Department of Mental Health doing these

1 evaluations, there's maybe around eight of y'all who are chief
2 psychologists?

3 **A** I don't know if they all have that title.

4 **Q** I see.

5 **A** Because I don't know if that's still the State title
6 that's used when people take new jobs. I know that that's the
7 title I had when I started.

8 I work for the Forensic Evaluation Service. We do
9 evaluations of competency to stand trial, criminal
10 responsibility, competency to be executed, juvenile competency
11 and criminal responsibility evaluation, sexually violent
12 predator precommitment, sexually violent predator annual
13 review evaluations. All of those evaluations come to the
14 Department of Mental Health at the Forensic Evaluation
15 Service, and it's about eight psychologists, we have a
16 psychiatrist, and then there are some contract psychologists
17 and psychiatrists who also do the work.

18 **Q** Are you -- would you say that you're one of the chief
19 psychologists there at the South Carolina Department of Mental
20 Health working for them -- being employed by the South
21 Carolina Department of Mental Health?

22 **A** Well, that's my title.

23 **Q** I'm sorry. I said chief. I meant senior. I'm so sorry.
24 Would you say you're one of the senior --

25 **A** I have been there longer than any other evaluator, yes.

1 Q And, in this particular case, did you evaluate Joseph
2 Curtis, Jr.?

3 A I did.

4 MS. JOHNSON: Your Honor, at this time, I would like to
5 offer Dr. Maria Gehle as an expert witness in the field of
6 precommitment evaluations and forensic psychology.

7 THE COURT: Any objections?

8 MS. SHAW: Your Honor, I just have a couple of questions
9 for Dr. Gehle.

10 VOIR DIRE EXAMINATION

11 BY MS. SHAW:

12 Q Dr. Gehle, when was the last time you published a
13 peer-reviewed article?

14 A It's been, I think, a couple of years, a few years. I'd
15 have to look at my C.V. to tell you exactly when, if I have it
16 with me.

17 Q But it's been more than a year or two?

18 A Yes. I think it was 2020.

19 Q Okay. Thank you.

20 And you said on direct you haven't done any research in
21 the past 13 years since you have been with DMH?

22 A That's correct. It's not part of my job
23 responsibilities.

24 Q Do you have any particular areas of study that you like
25 to focus on, just personally?

1 **A** What do you mean by "study"?

2 **Q** In your field. Some people are interested in autism.
3 Some people are interested in sexual predator. Some people
4 are interested in depression treatment. Do you have any
5 particular --

6 **A** Well, I'd say, like, my entire practice has been sexually
7 violent predators and the issues that are inherent in those
8 evaluations. So that's a wide variety of issues in terms of
9 it includes risk assessment, diagnoses that are related to sex
10 offending, risk assessments, yes.

11 **Q** And are you a member of any professional organizations?

12 **A** I'm a member of a couple. The primary one is the Sex
13 Offender Civil Commitment Program Network. That is one
14 dealing especially with sexually violent predators so it's
15 very relevant to the work that I do.

16 **Q** Are you associated with the American Psychology in Law
17 Society?

18 **A** I'm not sure if I have kept up my membership, but I was
19 at one time, and I -- so I don't know if I can answer that yes
20 or no specifically.

21 **Q** Are you a member of the Association for the Treatment
22 and -- I know the name just changed -- Association for the
23 Prevention and Treatment of Sex Abusers? Are you a member of
24 that organization?

25 **A** No.

1 Q Do you work with any international psychologists in the
2 study of sexually violent predators?

3 A Do I work with --

4 Q Any other professional colleagues, whether they're in
5 this country or outside of this country?

6 A Well, the -- the Sex Offender Civil Commitment Program
7 Network, that is called "sock pin" for short. That's a group
8 of individuals in different states who are working in sexually
9 violent predator programs and evaluations, and we have a
10 LISTSERV. We consult with each other on issues that we're
11 seeing in our programs and in the evaluations of sexually
12 violent predators.

13 Q And do you routinely consult with other psychologists in
14 your role or something else?

15 A I'm not sure what you mean.

16 Q Well, are your recommendations based primarily on your
17 own judgment or do you conference with, say, Dr. Gottfried or
18 some other evaluators at your organization? Or is it pretty
19 much just all your judgment?

20 A It's pretty much my opinion. If there's an issue that I
21 want to talk through, I have colleagues to talk through these
22 issues and might consult with something -- we routinely
23 consult with each other on scoring issues of the STATICS,
24 maybe talk through issues if there's, you know, a diagnostic
25 question or even a record kind of question, stuff like that.

1 Q And did you do any of this in this case?

2 A I think I did consult with somebody in this case because
3 there was an issue when I issued my first report before your
4 office -- I think I issued my report on March 28, and then
5 your office maybe two days later sent more records.

6 So before I -- before I received that additional
7 information, I was trying to figure out whether the
8 contributing to the delinquency of a minor convictions were
9 sexually related and how to score those on the STATIC, given
10 the information that I had. So I consulted with a colleague
11 about those.

12 MS. SHAW: Okay. Thank you.

13 Your Honor, there's no objection to qualifying Dr. Gehle.

14 THE COURT: Your motion is granted.

15 MS. JOHNSON: And, Your Honor, may we approach?

16 COURT REPORTER: Did you want this on the record?

17 MS. JOHNSON: No, just scheduling.

18 BENCH CONFERENCE

19 (A bench conference was held off the record and outside of
20 the hearing of the jury.)

21 THE COURT: Members of the jury, we're going to go ahead
22 with the substance of her testimony tomorrow morning at 9:30.
23 And we'll have something for you to eat when you get here.
24 Thank you so much.

25 And we'll finish tomorrow. Have a good evening. Don't

1 discuss the case. Don't research the case.

2 (The jury exited the courtroom at 3:59 p.m.)

3 THE COURT: All right. Y'all have a good night.

4 (At 4:00 p.m., the trial was adjourned until February 9,
5 2023, at 9:30 a.m.)

6 * * * *

7 (The trial recommences on Thursday, February 9, 2023, at
8 9:24 a.m.)

9 THE COURT: Everybody ready?

10 MS. JOHNSON: Yes, sir.

11 MS. SHAW: May I get to the stand, Your Honor?

12 THE COURT: Oh, yes.

13 (The jury entered the courtroom at 9:43 a.m.)

14 THE COURT: You may continue.

15 MS. JOHNSON: Thank you, Your Honor.

16 CONTINUING DIRECT EXAMINATION

17 BY MS. JOHNSON:

18 Q Dr. Gehle, refresh my memory: Tell me where you work.

19 A At the South Carolina Department of Mental Health.

20 Q And your role there?

21 A I'm a chief psychologist. I do sexually violent predator
22 precommitment evaluations.

23 Q And you're the most senior chief evaluator there?

24 A I'm not in charge of anybody else.

25 Q Right.

- 1 **A** I've just been there the longest.
- 2 **Q** Fair enough.
- 3 And, again, tell me what your degrees are in.
- 4 **A** Clinical psychology. I have a bachelor's degree in
- 5 psychology, a master's and a doctorate in clinical psychology.
- 6 **Q** How long have you been doing evaluations of sexually
- 7 violent offenders?
- 8 **A** For 13 years.
- 9 **Q** And do you only do precommitment like the evaluations
- 10 that were done today, or do you also do other evaluations?
- 11 **A** I do almost only precommitment. Every now and then, I
- 12 will do an annual review, but I do 100 percent sexual violent
- 13 predator evaluations.
- 14 **Q** Do you know about how many that you think you've done to
- 15 date?
- 16 **A** It's about, altogether, maybe about 325.
- 17 **Q** And in that time, do you -- I'm sorry. You said 320 --
- 18 **A** About 325, I believe so.
- 19 **Q** And in that time, do you do them for the -- have you done
- 20 them entirely for the State of South Carolina?
- 21 **A** Yes.
- 22 **Q** And you've testified as a witness before?
- 23 **A** Yes.
- 24 **Q** About how many times?
- 25 **A** It's been well over 100 times.

1 Q And when I say "witness," I'm sorry, I mean expert
2 witness.

3 A Yes. I have testified as an expert witness in sexually
4 violent predator proceedings in South Carolina more than 100
5 times.

6 Q And you're here today to testify as an expert witness in
7 this case; right?

8 A Yes.

9 Q And you don't specifically have a client in this case
10 per se; right?

11 A No. I'm court-appointed so I -- maybe my client is the
12 Court but not a single person.

13 Q And have you met Joseph Curtis before?

14 A Yes.

15 Q Can you tell me how you came to meet him?

16 A Well, I met him when he came to the forensic evaluation
17 service in Columbia for an interview.

18 Q And was that interview to be part of a Sexually Violent
19 Offender evaluation to see if he would qualify?

20 A Yes. That was in response to a court order for a SVP or
21 sexually violent predator evaluation.

22 Q When was that?

23 A I interviewed him on February 15th, 2022.

24 Q Can you tell me about your interview process?

25 A Well, the way I conduct my interviews is I have a

1 standard interview that I use. It's a diagnostic and risk
2 assessment interview. It pulls questions from, really, to
3 look at all the risk factors and the diagnoses that anybody
4 would have in terms of mental health problems. Most questions
5 are asked to everybody that I interview. There are
6 specialized questions that will depend on what their history
7 is, what their reported symptoms are, things like that. But
8 it takes questions from different risk assessment instruments
9 that are related to sexual offending so that I can answer all
10 the questions that I need to answer in the court order.

11 Q Okay. And are there -- tell me what type of diagnostic
12 tools that you use to do your evaluations.

13 A I primarily use an interview to do my evaluation in terms
14 of diagnosis. If there are questions that I'm unsure about
15 after the interview -- for example, if I think that there's
16 some evidence in the interview that somebody has a personality
17 disorder but it's not clear enough, then I'll do psychological
18 testing, like a personality measure.

19 Q And in this case, did you do an interview of -- you did
20 say you did an interview of Joseph Curtis?

21 A Yes.

22 Q Okay. Do you happen to remember your initial
23 observations about Mr. Curtis when you met him?

24 A He was pleasant. He was cooperative. I think when the
25 interview started -- I usually have them read a notification

1 form so I can assess their reading. He didn't have his
2 glasses so he couldn't read that. I remember him being stiff
3 when he was walking, but his hygiene was good, his grooming
4 was good. He was dressed in jail attire. He interacted in a
5 very normal way. He knew where he was. He knew what he was
6 doing. He knew the date. He knew things like that and so his
7 mental status was pretty normal and his interaction style and
8 attitude and stuff were flexible, adaptable; and he was
9 cooperative and agreeable.

10 Q And after that, what did you decide? What was the next
11 step you took in your interview with Mr. Curtis?

12 A Well, that information that I just talked about, I mean,
13 that was sort of, you know, comprehensive throughout the
14 interview.

15 Q And I'm sorry to interrupt you, by the way, do you look
16 at background documents before you meet a person?

17 A Yes.

18 Q Tell me about those.

19 A I had a wide variety of records, but what I initially
20 received is basically two files of information. One is the
21 petition which has a lot of documents. That's what the State
22 is saying here's the evidence that they're a sexually violent
23 predator. So it will have some narrative, things that the
24 Attorney General's Office writes up and summarizes in their
25 words, and it will have some attachments to that or some,

1 like, records that are supporting what they're saying. I get
2 that information. That's often redacted or names are blacked
3 out.

4 I also get a file of information which we call the MDT
5 file or the multidisciplinary team file. That information is
6 a lot of the same stuff that's in the petition, but it's often
7 not redacted. And then there will be, you know, often
8 additional Department of Corrections' records and things like
9 that. That's usually what it is.

10 When we get a case, the paralegal in my office who
11 processes the orders, she will automatically look in the
12 Department of Mental Health's database and pull a report to
13 see if he's had any contact.

14 The Department of Mental Health has a statewide database
15 that would pull any contacts they've had at the Department of
16 Mental Health facility. So that would be hospitals but it
17 would also be, like, the local mental health centers which are
18 located in every community or county throughout the state.

19 So she would pull that, and if there were entries -- if
20 he had contact with the Department of Mental Health, she would
21 request those records. That's the typical information --
22 well, then there's one other step.

23 When I get the file, I have to request a National Criminal
24 Information Center criminal history report from our public
25 safety department. The DMH has its own police force. So I

1 request it from them and then I'll go pick it up from their
2 office, and I have to keep that securely, some of the rules
3 that we have about that information so I will have that.

4 I will also either before the interview or after the
5 interview, depending on timing, I will pull all of their
6 records from the public index, which is just a publicly
7 available website related through the court system; and I can
8 often get more local charges if they have things that didn't
9 rise to the level to make it on their National Criminal
10 Information Center criminal history report. It will have
11 information about that, and sometimes it provides more
12 information about the disposition or the timing of charges and
13 things like that, that might not make it on to the NCIC.

14 Q Okay. And so that's -- it's commonly referred to as the
15 NCIC?

16 A The NCIC, yes.

17 Q And is that like an official law enforcement record?

18 A It comes from the National Criminal Information Center
19 which is an FBI, I believe, program.

20 Q And is that what we would commonly think of is like a RAP
21 sheet?

22 A Yes.

23 Q How critical is that to you making your diagnosis or
24 coming up with your final opinion?

25 A In coming up with the final opinion, it is absolutely

1 essential to have that. I think Dr. Gottfried testified
2 yesterday that, for a period of time, they weren't able to get
3 those -- she wasn't able to get those and she didn't have it
4 in this case. And when that issue came up, it came up for all
5 the evaluators from the Department of Mental Health and from
6 MUSC. And we basically stopped submitting reports -- or I
7 stopped submitting reports -- I should speak for myself --
8 because I needed that information before I could absolutely
9 give an opinion. I can't score a risk assessment measure
10 without that official criminal information center report or
11 official RAP sheet per the status scoring rules.

12 Q And the rules per the DSM-5?

13 A No, not the DSM-5. It's for the risk assessment that
14 it's most essential.

15 Q And so there's a set of guidelines that require you to
16 use a certified record or an official record?

17 A Yes.

18 Q And in this case, you have it?

19 A Yes.

20 Q But Dr. Gottfried apparently did not have it?

21 A Yes, that's my understanding from what she said yesterday
22 and from what I noted in her report.

23 Q And you mentioned you will also pull Department of Mental
24 Health records. Why are those important?

25 A Well, I want to see if they have any mental health

1 history, what kind of contacts they have had. They may have
2 been hospitalized. They may not have. They may have had
3 prior forensic evaluations. They may have been evaluated for
4 competency to stand trial, criminal responsibility. They may
5 have also been evaluated before for sexually violent predator
6 proceedings, things of that nature.

7 **Q** Did you get a South Carolina Department of Mental Health,
8 an SCDMH record for Mr. Curtis? Or did you search for one?

9 **A** Let me see. I want to just be clear. Like, I want to
10 make sure I'm remembering this correctly, but I believe
11 that -- okay. So he had an interesting entry on his DMH
12 history, and it was something I had not come across before;
13 but he had received treatment at a place that was called the
14 James F. Byrnes Medical Center, which is a Department of
15 Mental Health or -- I'm not sure if it even exists anymore,
16 but it was a Department of Mental Health -- like a hospital.
17 And that was between May 5th, 1994, and May 9th, 1994.

18 I had to ask the most senior people at the Department of
19 Mental Health to explain that because he was in the Department
20 of Corrections at the time. And normally if you're in the
21 Department of Corrections, they're going to handle any mental
22 health care and medical care; but apparently, at this time,
23 the Department of Mental Health, Byrnes Center, treated or
24 provided medical care for some Department of Corrections
25 inmates. They had an agency agreement at that time.

1 So although his entry was on the Department of Mental
2 Health records, it appears that it was just a medical -- like
3 medical treatment that he had at a facility here. And that
4 was also reflected that had he would -- that, in SCDC records,
5 the Department of Corrections records, that he went to the
6 Byrnes clinic for those days. So I believe that that was just
7 medical care.

8 **Q** Okay. And so, for you, at that point, did you have any
9 evidence that he had had some encounter or some prior
10 evaluation for mental health issues?

11 **A** No.

12 **Q** Okay. Tell me about what you noted from the records.
13 What did you think was remarkable or notable from the records
14 that you saw with Mr. Curtis?

15 **A** Well, in his case, what was, I guess -- I had little to
16 no records about his history outside of, like, criminal
17 history and that sort of stuff. So it was mostly law
18 enforcement records that were the bulk of information that I
19 had in the file.

20 **Q** And what -- commonly, what would you see that you thought
21 was missing in his -- that you didn't notice -- not missing
22 but that you didn't get?

23 **A** I requested school records for him from a couple
24 different schools but didn't receive any school records.
25 That's something that I'll do after the interview when they

1 tell me where they've gone to school. I will have them sign a
2 release of information, and I will request those records from
3 the schools, and I didn't receive those in that -- in this
4 case. So that's something that I do usually do receive, and
5 I'm not sure why they didn't come. We requested them from, I
6 think, three different schools, and none of them came.

7 Q Okay. And did you review all of the records before you
8 actually started your interview with Mr. Curtis?

9 A I reviewed all the records that I had at the time.

10 Q Okay.

11 A There were records that I was provided after I submitted
12 my report that I was informed that the Attorney General's
13 office had mistakenly forgot to send, or they thought I had
14 them, but I didn't. And so after they read my report, they
15 submitted additional information to me, and I reviewed that
16 information and then I amended my report to incorporate that
17 information.

18 Q And so based on your review of the documents, did you
19 feel comfortable proceeding with an interview with Mr. Curtis?

20 A Yes.

21 Q Okay. So -- and I think I interrupted you. So after you
22 come in and you have your initial introduction with him,
23 what's the next step?

24 A What's the next step in the interview?

25 Q Yes, ma'am. And by the way, where does the interview

1 occur?

2 **A** The interview occurs on the State hospital grounds,
3 Crafts-Farrow State Hospital. It's off I-20 outside of
4 Columbia. And it occurs in the forensic evaluation service.
5 We have evaluation rooms. They're just sort of empty rooms
6 with table and chairs where we do the interviews at the
7 forensic evaluation service and then most of the offices are
8 upstairs. So it's just a building that just -- it does that
9 and then it houses the Not Guilty by Reason of Insanity
10 Clinic. So he came there. I met with him. I explained to
11 him what was happening. I went over the notification, the
12 limits to confidentiality, you know, who would receive the
13 report, what my job was, what the purpose of the evaluation
14 was. And he asked to speak to his attorney, and so we placed
15 a phone call to you, and I think I spoke to you briefly about
16 why he was calling. And he was -- I explained why we were
17 calling and then I left the room and gave him privacy to talk
18 to you.

19 And when he finished with that phone call, he said he
20 was ready to proceed. He was agreeable to that and ready to
21 answer questions, and we proceeded with the questions.

22 **Q** And so at that point, did you -- was it your observation
23 that he was willing to take any tests or have any
24 conversations with you that you were going to have?

25 **A** Yes, it appeared so.

1 Q Okay. So tell me from there what happens. Once he's
2 shown his willingness, how do you start the process? Well, I
3 guess you have already started; but what's the next step in
4 the process?

5 A Well, I kind of start at the beginning so I start about
6 where they were born and raised, their childhood, problems
7 growing up, educational history, employment history, medical
8 history, mental health history, substance use history,
9 relationship history, sexual history. I will then pull out
10 the legal records, and I will go through each and every
11 incident regarding the records that I have. So usually I -- I
12 will pull out the NCIC and I just say, you know, "You were
13 charged with this. Tell me what happened." You know, and
14 depending on what the charge is, whether it's important to the
15 purpose of this evaluation, I'll ask more or less questions.
16 If it's something that's not sexually related, I'll ask less
17 questions; and if it's sexual, we'll talk about it for a good
18 long time, and I'll ask him lots of questions about it.

19 After the legal history, when we're done with that
20 part, I will ask them about any treatment, about their
21 perspectives, about their offense history, how -- how they see
22 their risk to re-offend, whether they think they need
23 treatment, their opinions about themselves kind of questions.
24 I'll ask them what their plans are for the future, if they
25 have any supervision, things like that.

1 Q And, ultimately, do you draft a report about your
2 interview with an individual?

3 A I draft a report that summarizes all the records that I
4 have received and reviewed and the interview, yes.

5 Q Okay. And in this case, did you do a report on
6 Mr. Curtis?

7 A Yes, I did.

8 Q Did that report contain a diagnosis or lack of a
9 diagnosis? Did you address a diagnosis in his report?

10 A I addressed diagnoses, and I did not diagnose him with a
11 mental abnormality or a personality disorder or any mental
12 illness.

13 Q Okay. And did you make -- did you have an opinion or
14 make a recommendation as to whether he met the legal
15 guidelines to be a sexually violent predator?

16 A Because I didn't make a diagnosis of a mental
17 abnormality, my opinion was that he was not a sexually violent
18 predator per the statute.

19 Q And you heard -- you've been here for the majority, if
20 not all, of the trial; correct?

21 A Yes.

22 Q Okay. And you heard Dr. Gottfried's testimony. You've
23 heard the testimony of the motions, etc.?

24 A Yes.

25 Q Is it still your opinion -- is it -- do you still have

1 the same -- would you still have the same lack of a diagnosis,
2 meaning, do you still find that he does not have a personality
3 disorder or mental abnormality?

4 **A** Yes.

5 **Q** And do you still believe that he is not a person who
6 should be admitted into the Sexually Violent Predator Program?

7 **A** I give an opinion -- just to be very clear, I give an
8 opinion as to whether they meet the criteria.

9 **Q** Okay.

10 **A** So whether they have a mental abnormality or personality
11 disorder, that makes them likely to engage in acts of sexual
12 violence. I give that opinion and only that opinion. I don't
13 make treatment recommendations. I don't make any
14 recommendations about what they should do, you know, to
15 improve their likelihood of, you know, being, I guess,
16 noncriminal in the community.

17 **Q** Okay. And so today, do you still believe he does not
18 meet the criteria to be considered a sexually violent
19 predator?

20 **A** Yes.

21 **Q** Okay. So let's talk about his history. Tell me about
22 his residential history. Where is he from?

23 **A** He's from here. I think he was born and raised for at
24 least till -- till about age 8 in Sumter. When he was 8 years
25 old, he told me that his dad, who he never recalled meeting

1 before, came to Sumter and picked up the entire family,
2 including his mom. And it was determined that his parents
3 were getting back together; and they drove to Newark, New
4 Jersey. He lived there until he was about 21 or 22 and then
5 he moved back to the Sumter area with his family. And I think
6 he's lived -- he also, I think primarily lived in Sumter
7 County, and he commuted to Horry County. He lived in Horry
8 County at times as well.

9 Q But based on your interview, you believe most of his life
10 he spent here in South Carolina?

11 A Well, I believe that he spent quite a few years in
12 Newark, New Jersey.

13 Q Okay. And did he have siblings?

14 A Yes. He was the second of five children born to his
15 mother, and his father may have also had other children. I'm
16 not sure.

17 Q So what about -- from there, did you gather any
18 information that led you to have a -- to believe that he was
19 close to his family or he's estranged from his family?

20 A He described having family that I believe he was close
21 to, but his father died when he was 10 or 12 years old. He
22 died, I believe, of liver failure, kidney failure. And his
23 mother passed away in 2003 from a brain aneurysm.

24 He told me that, throughout his life, there was always
25 a man who he referred to as his stepdad who was not an actual

1 stepdad. He was not ever married to his mom. He didn't even
2 think his mom and this man were ever romantically involved,
3 but that man took a kind of a father role with him; and that
4 man still lives in Sumter, and he's lived with him as an
5 adult; and I believe that they have a close relationship, from
6 what he described. And he still has a relationship with his
7 siblings who are in Sumter.

8 Q And what about his mother? Did he give any indication
9 whether he and his mother were close when she was alive?

10 A I believe that he was close to his mother, yes.

11 Q So tell me about what you learned regarding his
12 childhood.

13 A He described himself as a good kid. He said he was
14 overweight. He got picked on some. He got bullied and beat
15 up as a kid at least one time. He denied any problems with
16 his behavior -- so no conduct problems, so no stealing, no
17 significant lying, no getting into fights or starting fights,
18 things like that. Said he fathered a child when he was 15
19 years old. Really had no problems following rules. Didn't go
20 to jail.

21 He did report significant problems with his knees. When
22 he was in 8th grade, he had to have surgery and he ended up --
23 or he was in a wheelchair. He had surgery. The surgery
24 didn't resolve all the problems, so he was out of school for a
25 while on home instruction, and I think that he continues to

1 have problems with his knees. When I interviewed him, he had
2 trouble kind of walking around and had trouble standing up,
3 and especially if we were sitting for awhile.

4 Q And as far as his conduct and behavior as a young child,
5 did your records show anything that would suggest that he was
6 not being truthful about his behavior or how much trouble he
7 got into as a child?

8 A I didn't have records about his childhood, and I didn't
9 have a parent who would have a good account of his childhood.
10 So I just had a lack of information about that. I also didn't
11 get school records. It's pretty rare that when -- he was born
12 in 1967. I'll often get school records. I think they keep
13 school records forever. I'll often get school records of
14 somebody his age, but I will rarely get disciplinary records
15 if they ever existed. So I'll look at things like whether
16 there were big gaps in time when they weren't there, whether
17 there was lots of absences, and see if there's an explanation
18 for that. But I didn't have any of those records in this
19 case.

20 Q Okay. And what about whether he committed criminal
21 violations as a young person? Did you have any criminal
22 records suggesting he got in trouble as a young person?

23 A No.

24 Q No. Okay. So why is that information important?

25 A Well, it would be important if he did get in trouble as a

1 kid, that I would know that.

2 Q Okay. Why would it be important?

3 A Well, it is a prerequisite or requirement in the
4 diagnosis of antisocial personality disorder. You have to
5 have evidence of conduct disorder, which are significant
6 behavior problems and problems like with -- whether you're
7 aggressive towards people or animals, whether you're
8 deceitful, whether you're stealing, breaking and entering,
9 whether there are other serious violations of rules like
10 truancy or running away from home, or just disregarding, you
11 know, like, curfews, things like that; and it's all before
12 certain ages. So many of those have to be present before 15.
13 Serious violations of rules have to be present before 13.

14 It's important that I have that information if it's
15 available, if it exists, so I always try to get that
16 information if it's possible.

17 Antisocial personality disorder is the most relevant
18 personality disorder in sexually violent predator evaluations,
19 and that's why it's important.

20 Q Okay. So tell me, then, about what you learned regarding
21 his employment history. Did you -- from what you learned, did
22 you believe that he had consistent work history?

23 A Yes. From what he described, his work history was
24 consistent. There was nothing out of the ordinary in that.

25 Q And did he work at -- as far as you know, did he do any

1 work or was he working at the Department of Corrections while
2 he was there?

3 A I believe so, yes.

4 Q Also, did he do any programs? He's been at the
5 Department -- he was at the Department of Corrections maybe
6 about 12 years or so; is that about right?

7 A I don't like to do math. Let me see. He was at the
8 Department of Corrections from 2014 to 2022.

9 Q Okay. And during that time, do you remember whether he
10 did any programs or community service or anything like that?

11 A I believe he worked in the -- worked with -- in the
12 Restorative Justice program, so for younger offenders. And he
13 said that he completed a violence prevention class, helping
14 him make better decisions, and then he had just some -- I
15 think very limited programming that's offered by SCDC.

16 The problem with SCDC in the way that they keep records
17 is often the programming that they provide is provided through
18 volunteers or through different programs, and they don't put
19 those records or they don't put that programming into their
20 main records that I receive.

21 So I will often get documentation of lots of programming
22 from the person themselves. They'll provide certificates and
23 hours that they've had in, like, the character housing unit
24 and things like that, but it won't be in their main record.

25 Q Okay. And did you happen to learn anything about

1 Mr. Curtis's health or medical history?

2 **A** Yes. I learned that through the interview and then
3 through -- I also got his health records for the last couple
4 of years from the Department of Corrections. So he had high
5 blood pressure, type 2 diabetes, chronic back pain, and he was
6 on a number of medications.

7 **Q** Okay. Was there anything that suggests to you that he
8 should not be in a wheelchair or have a walker? It wasn't a
9 situation where he was faking or something like that?

10 MS. SHAW: Objection, Your Honor. Calls for speculation.

11 MS. JOHNSON: I'll withdraw it. Moving forward.

12 BY MS. JOHNSON:

13 **Q** Did you learn anything about whether he's ever used
14 illegal drugs or had any substance abuse history?

15 **A** He told me that he had a history of using marijuana from
16 when he was 17 or 18 years old and that he used marijuana
17 every day for a period of time. I went through all the
18 criteria related to substance use disorder, and he only
19 endorsed a couple of problems.

20 **Q** Okay. So tell me about what you learned regarding his
21 relationship history, his romantic relationships. Is that
22 important information when you're looking or -- when you're
23 doing an evaluation of this nature?

24 **A** It's important information in terms of scoring a couple
25 or at least one item on the risk assessment measures.

1 Q Okay.

2 A Or one risk assessment measure. And it's also important
3 for the dynamic risk factors.

4 Q Okay.

5 A At least one dynamic risk factor.

6 Q And so was Mr. -- was he or is he married?

7 A He was married one time, and I think he was separated and
8 then he had at least one other long-term romantic
9 relationship. He had three children. That was the bulk of
10 it.

11 Q And did he give you any indication as to why his marriage
12 broke up?

13 A He said they didn't have problems when they first were
14 together but that they started having problems when he was
15 commuting between Sumter and Horry County for work. She
16 eventually moved to Horry County with him, and I think there
17 were maybe -- she moved back to Sumter County. So there were
18 problems with just them being in the same place, with them
19 being absent.

20 He also met another woman. He was apparently commuting
21 on a bus, and he met another woman on the bus, and they began
22 having an affair that lasted several years. So I believe that
23 that also was problematic in their marriage.

24 Q Okay. So do you also discuss during your evaluations
25 somebody's sexual history?

1 **A** Yes.

2 **Q** And tell me what you discussed or what you learned
3 regarding Mr. Curtis's sexual history.

4 **A** In terms of his sexual history, I think that he started
5 having sex at a fairly young age, 12 or 13 years old. He
6 seemed pretty interested in sex throughout his life. He had
7 overlapping partners so he might be having sex with a couple
8 of different people in the same time frame. I think that he
9 was unfaithful to his partners. He was having sex mostly with
10 people that he knew, only a couple of strangers so not like
11 one-night stands kind of things. He was having ongoing
12 affairs. Like I said, he was interested in sex. He indicated
13 he wanted to have sex a couple of times a day if it was up to
14 him. Said he had a sexually transmitted disease one time.

15 **Q** And what did he say about now or since he's been in the
16 Department of Corrections? Did he -- has he been engaged in
17 any sexual relationships while he's at the Department of
18 Corrections? Did he give any indication?

19 **A** He denied having sex with anyone while incarcerated, male
20 or female. He indicated that he just took care of his sexual
21 needs by masturbating, and he said that was not often. He
22 couldn't give me like a specific frequency.

23 **Q** Did he happen to indicate to you what sex meant to him?

24 **A** Yes. That's something that I asked him about. And he
25 described it as intimacy between two people.

1 Q Okay. So let's talk about his legal history. Did you --
2 as you mentioned when you do your interviews, you go through
3 the legal history with whom you're interviewing. Did you do
4 that with Mr. Curtis?

5 A Yes.

6 Q Tell me about that.

7 A Okay.

8 Q And what I mean is -- that was sort of a broad question.

9 A Yes.

10 Q But tell me about what you noticed was remarkable in your
11 discussions about his legal history.

12 A Well, when I asked him -- you know, went through and
13 asked him about everything, and he gave me a response. I
14 think that his responses were maybe self-protective where he
15 wasn't fully to blame, but he was taking responsibility for
16 having done something, but it was maybe the reason why it was
17 done was not -- was self-protective.

18 So that -- broadly, that was what I noticed.

19 Q Okay. And did you discuss with him the sexually violent
20 offense he was serving time for at the Department of
21 Corrections?

22 A Yes.

23 Q Now, how important is the information that you received
24 from him regarding sexually violent offenses?

25 A How important is the information I received from him?

1 Q Yes. Or, in general, regarding sexually violent offenses
2 they may have committed or that he -- sorry. Let me rephrase
3 that. Regarding sexually violent offenses he's been convicted
4 for.

5 A It's important. I want to hear how they explain it, how
6 they interpret it, what their -- I mean, really what their
7 explanation is, how they talk about the victim, how they talk
8 about their responsibility. Sometimes the information that
9 they provide can fill in some gaps in terms of, you know,
10 whether they were released on bail. That's not always clear
11 from the records or records I receive. That stuff can be very
12 important.

13 Q Did you ever question him about accusations regarding him
14 exposing his genitals to other people?

15 A Yes.

16 Q And what did you learn about that from him?

17 A Well, again, they were -- he admitted that some of them
18 happened; but it was the reason that it happened was more
19 self-protective. So it was, you know, "I just walked into the
20 room. I didn't know she was in there, and my robe was open.
21 I saw she was in there; I closed my robe," or something like
22 that, where the victim reported it differently.

23 Q Did you happen to notice whether -- and I'm moving
24 forward just a little bit -- whether Mr. Curtis had excessive
25 prison or detention center infractions?

1 **A** From the cases that I reviewed, he did not have excessive
2 infractions.

3 **Q** Do you recall that Mr. Curtis has been -- has served sort
4 of significant time twice: once in the '90s and then the time
5 he was serving for when you evaluated him?

6 **A** Yes.

7 **Q** Okay. And when or if he did have infractions, when did
8 most of those occur? Was it during the current time or in the
9 '90s?

10 **A** No. In terms of prison, he had two infractions, and they
11 were in 1996.

12 **Q** Okay.

13 **A** He had no infractions during this period of
14 incarceration.

15 **Q** Okay. Let's talk about your diagnostic impressions.
16 Tell me what you -- tell me about what you considered him for
17 as far as making a diagnosis regarding the sexually violent
18 predator offenses or program.

19 **A** Well, I specifically considered whether he had a
20 personality disorder or whether he had a paraphilic disorder.
21 Those are the two most relevant, like, categories of diagnoses
22 related to sexually violent offending. I didn't see any
23 evidence of a major mood disorder or a thought disorder. He's
24 not psychotic; he's not schizophrenic; he doesn't have bipolar
25 disorder or depression, or I didn't see evidence of an

1 intellectual disability or autism or anything like that.

2 I also didn't see evidence of a personality disorder. So
3 it's something that is -- is considered in terms of how my
4 whole interview and process is set up; but when I met with
5 him, he was polite, cooperative, compliant, agreeable, wasn't
6 disruptive, he didn't take over the interview, he wasn't rude,
7 he wasn't irritable. He interacted in a very normal way, and
8 so I didn't see evidence of a personality disorder, and I
9 didn't see significant evidence of a paraphilic disorder that
10 it could be diagnosed.

11 Q Tell me about when you're looking to give somebody a
12 diagnosis, what about their criminal records -- like tell me
13 the weight. Describe to me how you use their criminal records
14 to come up with a diagnosis.

15 A Okay. That's a complicated question. I think that these
16 evaluations are complicated because each piece of information
17 is considered in a couple of different ways so it depends on
18 the context that it's being considered. When I'm looking at
19 whether somebody has a mental abnormality, specifically a
20 paraphilic disorder, I'm looking at what they've been
21 convicted of and what they are admitting to.

22 So if they were charged with something but not convicted
23 of it and they deny it, I take it as that didn't happen,
24 that hasn't been proven to happen, and I don't consider it in
25 terms of the paraphilic disorder.

1 When we're looking at personality disorder, what is
2 significant from the records is the type of crimes they've
3 had, the variety of crimes they've had, the number, the
4 frequency, the seriousness, that sort of stuff.

5 **Q** Okay. What about crimes where he -- well, you were --
6 you heard Dr. Gottfried's testimony about the criminal record
7 that she used to come up with his diagnosis? Were you here
8 for that?

9 **A** I believe so.

10 **Q** Yeah. And there was discussion regarding arrests that
11 did not lead to convictions. Do you use it sort of in the
12 same weight when you use arrests that do not lead to
13 convictions when you come up with your final opinion and your
14 diagnosis?

15 **A** Okay. And you just asked that question in a complicated
16 way because you added the "final opinion." So --

17 **Q** Let me subtract the "final opinion" then because I don't
18 want to overcomplicate.

19 **A** Again, each piece of information has to be considered a
20 little bit differently, determined -- based on the context of
21 how it's being viewed. So when I am doing the risk
22 assessment, if I'm scoring an actuarial measure, one of the
23 actuarial measures requires that I do look at sexual offense
24 charges and convictions. So in that context, I look at
25 charges in the way that I'm required to use that instrument.

1 The other actuarial instrument does not consider
2 charges. So it only is convictions or almost entirely just
3 convictions.

4 When I am considering a diagnosis of a paraphilic
5 disorder, I am looking at convictions and then I give them the
6 benefit of the doubt that they're innocent until proven
7 guilty. If they're not proven guilty and they are not
8 admitting those behaviors to me, then I take it as they are
9 innocent or it's not proven. I try not to make a judgment
10 call on whether it actually happened or not or who I believe.
11 I just take it as it hasn't been proven.

12 **Q** And what about when they are simply being investigated
13 but they're never actually arrested? Did you use any of those
14 with Mr. Curtis?

15 **A** Again, when I'm looking at a paraphilic disorder, no, I
16 did not.

17 **Q** So tell me about your actuarial tools that you use.

18 **A** I scored him on two actuarial tools. It's the STATIC-99R
19 and the STATIC-2002R. Those are written by the same research
20 group. That's why I think they have similar names, but
21 they're actually very different instruments, and they consider
22 information in very different ways.

23 The STATIC-99R, the scores range from negative 3 to 12,
24 and the mean score is 2 in the research samples. And the
25 STATIC-2002R scores ranges from negative 2 to 13, and the mean

1 score is 3 in the research samples.

2 When you score the person on these risk assessment
3 measures, you get a variety of different information. For
4 one, you get a total score, which was the range I just talked
5 about. That total score will correlate with a risk level. So
6 it goes from level 1, very low risk, to level 4B, well above
7 average risk.

8 I take the score, and I can go to an actuarial table, and it
9 will tell me that individuals with this score -- what
10 percentage of them re-offended sexually within five years and
11 sometimes within ten years; it depends on the instrument, and
12 it depends what table you're looking at.

13 Q And does it tell you 20 years as well?

14 A Well, there is -- that is new on the 99R, but it's not a
15 table that I routinely use -- or it's not a statistic I
16 routinely use because it's extrapolated. It's a statistical
17 estimation. It's not based on following sex offenders for 20
18 years, so I think it's less reliable.

19 Q Okay.

20 A There's also one other piece of information that I get
21 that I report, and that is based on the average sex offender,
22 like, how they compare to that. So it's a risk ratio that I
23 will report.

24 Q And did you do an actuarial risk assessment on
25 Mr. Curtis?

1 **A** Yes.

2 **Q** What were your findings -- or what did he score? I'm not
3 sure of the lingo to use.

4 **A** No, "findings" is good.

5 **Q** Okay.

6 **A** So on the STATIC-99R, he had a score of six, which is a
7 level 4B. It's the highest level, well above average risk
8 category. Individuals with that score, 17.6 percent re-offend
9 within five years; 25 percent re-offend within ten years,
10 sexually. I must add that they're looking at all sexual
11 offenses, not just things that are considered sexually violent
12 offenses in South Carolina. So it is things that are sexually
13 violent and not sexually violent per our statute.

14 And that, on the 2002R, he had a score of four. That
15 puts him in the level 3, average risk category. And
16 individuals with a score of four, 9.7 percent of them
17 re-offended sexually within five years.

18 **Q** Okay. Did you have an opportunity to review
19 Dr. Gottfried's report regarding Mr. Curtis?

20 **A** I did not fully review it. Like, I don't have it
21 memorized or anything like that. I can refer to it. I was
22 glancing through it, looking up things, you know, that she
23 said, but I haven't, like, fully read it.

24 **Q** Do you remember whether there was a difference in the
25 actuarial scores, the 99R and the 2002R that you had versus

1 that she said?

2 A I heard her to testify to that, yes.

3 Q Okay. And do you happen to recall why there was a
4 difference or what the difference was? And if you need to
5 refer to the report, I can...

6 A I believe she had a higher score on one of the
7 instruments. I don't remember what her score was
8 specifically. I'd have to find her report.

9 Q Do you have a copy with you there?

10 A Yeah, it's here. And if you know the page number, that
11 will help.

12 Q Yes.

13 A Oh, I think I found it.

14 Q Okay.

15 A She reported a score on the STATIC-2002R as five. So
16 hers was one point higher.

17 Q Okay. Why would there be a difference in point scores
18 between experts or evaluators? Why would something like that
19 happen?

20 A Well, it can be a scoring error. It can be a difference
21 in interpretation. There are some things that you have to
22 interpret a little bit. But I don't know. I don't know if --
23 she didn't testify as to why or how she came up with her score
24 as five --

25 Q Okay.

1 **A** -- of five.

2 **Q** Knowing that her score is slightly -- or different from
3 yours, do you still feel confident that your score was
4 reliable and accurate in this case?

5 **A** Yes. I think I might actually -- I'm looking at her
6 report right now, and I think my score is reliable and
7 accurate. I think that she scored -- on the 2002R, she gave
8 him a point for a noncontact sexual offense based on what she
9 wrote on -- in her report. And per the scoring rules, he
10 doesn't have a noncontact sexual offense because those rules
11 are very specific about that.

12 **Q** Okay. And so you mentioned that that would be outside of
13 the rules and guidelines that you have been given for that
14 scoring process.

15 **A** I think that my score is correct.

16 **Q** You and Dr. Gottfried have come up with significantly --
17 she came up with a personality disorder and a paraphilic
18 disorder and you did not; right?

19 **A** That's correct.

20 **Q** And having read her report and heard her testimony, do
21 you feel confident today that -- do you stand by your finding
22 that he has no personality disorder or mental health disorder
23 for the purposes of the Sexually Violent Predator Program?

24 **A** Yes.

25 **Q** Do you think that your finding is more accurate than

1 Dr. Gottfried's or more reliable?

2 **A** What I can say is I believe -- I believe in my opinion.
3 I feel confident in my opinion.

4 **Q** Do you understand the reasons -- did you read or hear the
5 reasons why she found that he had a personality disorder and
6 paraphilic disorder? .

7 **A** I think that I understand why she diagnosed that.

8 **Q** And can you tell me what your understanding of that is
9 and perhaps why you didn't have that same finding?

10 **A** Well, I can say that, when I met with him, he was very
11 agreeable, adaptable, flexible in terms of his personality.
12 In general, a personality disorder is inflexible, rigid --
13 like interaction style, attitudes, the way that they're
14 interpreting events, the way that they are thinking about
15 things in general, impulsivity, and their affect. Those are
16 the major components.

17 When I'm interviewing somebody, I'm sometimes pushing
18 buttons; I'm sometimes challenging them, confronting them,
19 doing things like that to see if that information is there, to
20 see if their personality can handle that. Are they flexible?
21 Can they roll with it? Do they get really snappy? Do they
22 get really upset? Do they get argumentative? Do they do
23 things like that in the interview? So I'm looking for that
24 flexibility. And with him, I saw that flexibility.

25 I think when she interviewed him, what she reported in

1 her mental status exam was that he was superficial. I also
2 reviewed the personality measures she gave, and I didn't see
3 evidence of antisocial or narcissism in those personality
4 measures.

5 Q Is antisocial personality disorder -- is it quite often
6 something that's very obvious when you're sitting down and
7 talking to somebody?

8 A Yes.

9 Q And now, correct me if I'm wrong, she did not diagnose
10 him with antisocial personality disorder; right?

11 A That's correct.

12 Q She diagnosed him with other specified disorder?

13 A Other specified personality disorder.

14 Q Personality disorder.

15 Tell me what that means.

16 A Well, that means that she couldn't make that diagnosis --
17 a full diagnosis of a personality disorder. She -- let me --
18 it's a category that you use, "other specified personality
19 disorder," when somebody doesn't meet full criteria for one of
20 the personality disorders. I could give you, like, the
21 definition that's in this book, but that's essentially it.

22 Q Okay. And she noted that he had traits, anti-personality
23 disorder traits and -- sorry -- antisocial personality traits
24 and narcissistic traits under the "other specified."

25 Is there anything notable or interesting about her use

1 of those traits to fulfill the "other specified personality
2 disorder"?

3 **A** Is there anything notable?

4 **Q** Yes. Or did you notice -- like, is there anything -- is
5 there anything nonstandard or strange about using those traits
6 in that particular diagnosis?

7 **A** No.

8 **Q** No. And so when you say somebody has a trait, for
9 example, in this case, antisocial personality disorder, does
10 that then mean that they have antisocial personality disorder?

11 **A** No.

12 **Q** And tell me why that distinction is important.

13 **A** You can only say that somebody has antisocial personality
14 disorder if they meet all of the criteria for antisocial
15 personality disorder. If you think they have some traits of
16 it, you would say they have some traits of. But that's all I
17 can say. You have to meet the full criteria to have
18 antisocial personality disorder.

19 **Q** What are traits? What does that mean, traits?

20 **A** I think it's personality characteristics. You know,
21 there's a wide variety of personality characteristics in --
22 with just general population, they're on a continuum. So you
23 might have somebody who is kind of a jerk sometimes, but he
24 doesn't have antisocial personality disorder. You might have
25 somebody who is full of themselves sometimes, but they're not

1 a narcissistic. You might say that they have some
2 narcissistic traits, but they don't have all of the other
3 accompanied symptoms to make it a full-blown disorder.

4 We all have problems in our personality, everybody does.
5 And so you might have a problematic trait. It might be mild.
6 It might be moderate. It might be severe. It's something
7 that, you know, gets in your way in life maybe a little bit,
8 causes some problems in your relationship. Like, you know,
9 somebody could say you're inconsiderate because you don't pick
10 up your towels in the morning, or they might be say that
11 you're -- I don't know, you take advantage of other people
12 because you don't clean up after yourself, things like that.

13 We all have little problems in our personality, but a
14 personality disorder is a different thing. It is much, much
15 more serious. It's pervasive. It is with you all the time in
16 every situation that you go into because it's the way you see
17 the world. You don't see the world any other way but that
18 way.

19 With antisocial personality disorder and narcissism,
20 you're a very disruptive person -- unruly, difficult to
21 manage, difficult to get along with, very reactive to any
22 small thing. Like, you make a comment to somebody. They're
23 going to overreact. They're going to be controlling. They're
24 going to use, like an interview as -- especially a
25 narcissistic, they going to use an interview as a way to

1 convince of what a wonderful person they are, how special they
2 are and how they deserve special treatment, and how,
3 obviously, you're going to give them special treatment because
4 they're so special and wonderful. That's what a narcissistic
5 personality disorder would be in this kind of interview. It's
6 not just might here and there be a little bit full of himself.
7 That's not a disorder.

8 Q Is it possible that using terms like "antisocial
9 personality traits" and "narcissistic traits" under "other
10 specific personality disorder" is an alternate way of giving
11 the impression that somebody has antisocial personality
12 disorder?

13 MS. SHAW: Your Honor, objection. That's, again, calling
14 for speculation. We have two doctors with two different --

15 THE COURT: Your question was to this doctor?

16 MS. JOHNSON: Yes, sir. And I wasn't asking specifically
17 about Dr. Gottfried in that particular question. I was just
18 asking is there a way that that happens or is that possible.

19 THE COURT: From her perspective?

20 MS. JOHNSON: From her perspective.

21 A Yes, it is. And I -- one of the big sticking points with
22 antisocial personality disorder is whether you have evidence
23 of conduct disorder before age 15. And so people will give
24 that diagnosis to say that they have antisocial personality
25 disorder, but I don't have evidence of conduct disorder so I

1 can't say -- I can't call it antisocial personality disorder,
2 but that's what I think they have.

3 BY MS. JOHNSON:

4 Q Do you think that Mr. Curtis has "other specified
5 personality disorder"?

6 A I didn't see evidence of a personality disorder. Like I
7 said, somebody with personality disorder, they're going to be
8 the people that are very difficult to manage. They're going
9 to cause problems in the interview. It comes out right away,
10 and it will be repeated throughout the interview. So you
11 really do see it in the room. You see it in the way that they
12 interact with you, the way that they explain things, the way
13 that they interpret things, the way that they respond
14 emotionally. You're going to see all that during an
15 interview, especially an interview that's five hours long.
16 You're going to see that.

17 And they also -- it's the way that they see the world.
18 They don't even realize that not everybody sees the world that
19 way, and so they think that it's very normal so they often
20 don't know, unless they have had a lot of treatment, that this
21 isn't normal and that they need to hide these attitudes and
22 opinions and reactions and stuff. So they don't even know
23 better. Sometimes if they have been through a lot of
24 treatment, they'll be able to recognize those symptoms, and
25 they'll be able to, you know, change them a little bit or hold

1 them back.

2 **Q** What, if any, antisocial personality traits did you
3 notice with Mr. Curtis? What, if any?

4 **A** He has some repeated criminal behavior, which is part of
5 it. I don't think that he has a personality disorder, in
6 general, so it would be mostly -- he has the right type of
7 criminal history, but that doesn't make it a disorder, to have
8 a criminal history. And if all criminal behavior and all
9 sexual, you know, criminal behavior was due to a mental health
10 problem, we would probably have hospitals instead of prisons.
11 But there's criminal behavior that is not called mental
12 illness.

13 **Q** So -- and speaking to that, is it possible -- in your
14 professional experience, is it possible to have somebody who
15 is a sexually violent offender, they have committed sexually
16 violent offenses, but they're not sexually violent predators;
17 is that possible?

18 **A** Yes, absolutely.

19 **Q** Okay. And tell me about that distinction. Why is that
20 possible? Why is it that you can have some offenses, but they
21 don't fully rise to you being a sexually violent predator, at
22 least for the purposes of South Carolina law?

23 **A** Because the law says that those sexually violent offenses
24 had to have been, I guess, caused by or predisposed from a
25 mental abnormality or personality disorder. So what they're

1 saying is you have to have a mental health problem that causes
2 you to commit sexually violent offenses and that you are
3 likely to do it again. So you can have people who have
4 committed sexually violent offenses and they don't have a
5 mental abnormality or a personality disorder.

6 Q Let me ask you about an example: Let's say that we have
7 a rapist, somebody who has raped another person. And is it
8 possible that you have a person who is a rapist who has done
9 it once and it was momentary, for example, lapse of
10 judgment -- they wanted to have sex, something like that --
11 versus somebody who is titillated or turned on by causing the
12 harm to somebody else during the rape process?

13 A Yes, absolutely. And that -- not every person who
14 commits a rape or not every rapist has a mental abnormality.
15 They have criminal behavior but maybe not a mental
16 abnormality.

17 So we look at -- people in my professional, we look at
18 certain characteristics during the offense. We're looking at
19 whether there was gratuitous violence used, like was there
20 violence that was used above and beyond what was necessary?
21 Was there efforts to gain compliance? Did they not want
22 compliance? Is the behavior repeated? Did they have a rape
23 kit with them so they were planning? Did they torture the
24 victim? Did they choke, strangle, you know, punch the victim?
25 Did they punch the victim to get somebody subdued or was

1 during the sexual assault?

2 How did the victim act? If a victim acquiesces, which
3 victims often do -- and that doesn't put them at any fault for
4 any of this, obviously -- but if we have somebody who has a
5 mental abnormality, they're wanting that fight; they're
6 wanting that nonconsent; they want to have the fear over the
7 victim; they want to humiliate the victim; they want to hurt
8 the victim, and so acquiescing probably doesn't satisfy that.
9 It also is more difficult to tell that they're aroused by when
10 a victim acquiesces. When you have somebody who commits a
11 rape while a victim was crying, fighting, beating them,
12 screaming "no," things like that, then that's more evidence
13 that they are titillated by that kind of thing, because
14 despite all of this fighting, they're still proceeding,
15 they're still aroused. Like, that's significant.

16 **Q** So it's not just about the sex. It's about the fight.
17 It's about the pain.

18 **A** It's about all those offense dynamics, things that happen
19 in between the offender and the victim and the responses and
20 that whole interaction and that whole dynamic. But it's also
21 more than that because it can't just be a one-time thing. I
22 mean, in order to have a disorder, you have to have a
23 six-month pattern of that type of arousal. Most people deny
24 that arousal when we interview them, but if you can see the
25 offense characteristics show that that arousal was there, they

1 were aroused while those events were happening, you would
2 still need two data points that are six months apart in order
3 to make a diagnosis of that. So it would have to be two data
4 points where, in both situations, that stuff was happening
5 that arousal was seen, and that's how you come to a diagnosis.

6 Q So, for example, if we were dealing with the example of
7 somebody -- a rapist, they would have had to show within six
8 months that they had committed the similar offense, same sort
9 of dynamics that you were discussing regarding not just the
10 sex but the aggravation, the fight, the pain, the humiliation?
11 It would have to be within a six-month time, like, say,
12 January to June?

13 A No, no, no. It has to be a six-month pattern. So it can
14 be two years apart. It can be things like that. I just need
15 to see that it wasn't a one-time thing or that it didn't
16 happen for four months and never happened again. So if you
17 had somebody who did it in January and then again in April and
18 that was it and there's -- they're denying any of that kind of
19 arousal outside that time, then they wouldn't meet criteria
20 per the DSM-5-TR.

21 Q What if they were denying it but you had criminal records
22 that showed that you did have that six-month pattern? Would
23 that meet the DSM-5?

24 A Yes.

25 Q So it's not just based on conversations that you have

1 with a particular person. It's also based on their criminal
2 history and other information you have about them.

3 **A** It's largely based on the information from the records.
4 If it's available in the police report, sometimes the police
5 reports are not detailed enough to talk about those offense
6 dynamics, and that's unfortunate; but in a good police report
7 or witness statement, victim interviews, things like that,
8 you'll have that information about, you know, whether the
9 victim was fighting and the incident still progressed or how
10 the victim acted and how the offender responded to that or
11 whether they proceeded.

12 So if you have a victim who starts fighting and says,
13 "no," and the offender stops, that would be evidence that
14 would not support that titillation that you described. It
15 would not support that interest.

16 Many offenders deny that type of arousal, and so you
17 have to look at the records available.

18 **Q** You don't just take their word for it?

19 **A** I don't just take their word for it.

20 **Q** You know that Dr. Gottfried did diagnose Mr. Curtis with
21 a paraphilic disorder; correct?

22 **A** She diagnosed him with exhibitionistic disorder.

23 **Q** Tell me about that disorder. Tell me what you know about
24 that disorder.

25 **A** So that disorder is a six-month pattern of exposing your

1 genitals or sexual arousal to exposing your genitals to
2 unsuspecting persons.

3 Q Did you have information that suggested that Mr. Curtis
4 had exposed his genitals to unsuspecting people?

5 A Yes.

6 Q Did you consider exhibitionistic -- is it called
7 exhibitionistic disorder?

8 A Yes.

9 Q Okay. Did you consider that?

10 A Yes.

11 Q Did you find that he had exhibitionistic disorder?

12 A No.

13 Q Why do you believe that he did not meet the requirements
14 of having exhibitionistic disorder?

15 A That one was a very tough call for me because he did
16 have -- there were incidents that were six months apart,
17 potentially. What I had was he was charged with two counts of
18 indecent exposure and two counts of contributing to the
19 delinquency of a minor.

20 The indecent exposure would be exposing his genitals to
21 these two minor victims. The contributing to the delinquency
22 of a minor was -- I believe it was corrupting those kids in
23 some way -- I'd have to look up what the specific -- what it
24 specifically said. Because that mattered in this case to me.

25 So what I noted was the basis of the contributing

1 charges was that Mr. Curtis's exposures of his private parts
2 to the two girls on February 13th, 2006, willfully injured and
3 endangered their morals. That made it unclear whether he had
4 intentionally exposed himself because they dropped those
5 charges. They dismissed those indecent exposure charges. If
6 they had convicted him of the indecent exposure charges, the
7 language on those charges would likely -- I don't remember
8 specifically what it was, but it would be more direct that it
9 was about that.

10 So it was unclear to me whether that was intentional,
11 why the direct sex offense charges of indecent exposure was
12 dismissed, and why they convicted him on the, like,
13 contributing charges, which is not a sexual offense, per se.
14 It's not categorized as that.

15 And then he had two incidents around the same time in the
16 Department of Corrections. So I thought the information
17 didn't rise to that level that it was very clear that I could
18 make that diagnosis, and that diagnosis also doesn't matter
19 for these proceedings because exhibitionistic disorder,
20 exposing your genitals to unsuspecting persons, most commonly
21 results in indecent exposure charges; and those are not
22 sexually violent charges per the statute.

23 Q So some offenses -- sexually violent offenses will lead
24 to the reoccurrence -- the re-offending of other sexually
25 violent offenses; is that correct?

1 **A** Can you state that again?

2 **Q** For the purposes of having somebody put into the Sexually
3 Violent Predator Program, is one of the main concerns that, if
4 you have a sexually violent offense, it may lead to you
5 continuing or doing more sexually violent offenses?

6 Tell me why you're having difficulty. Why are you having
7 difficulty with that question?

8 **A** Because you're saying that one sex offense is going to
9 lead to another sex offense. For my purpose, I need to have a
10 mental abnormality or a personality disorder that's telling me
11 that that behavior -- like one offense might have anything to
12 do with another offense.

13 **Q** I understand. So you're saying we can't just isolate.
14 You also have to have this personality disorder?

15 **A** Well, I would say that, if the first offense was caused
16 by a mental abnormality or a personality disorder, then it may
17 be likely that they will do the same type of offense that was
18 caused by that in the first place.

19 **Q** And I think what I'm getting at is, this exhibitionistic
20 disorder, even though you didn't find that he had it, is it --
21 is what you're saying that, even if he did have it, that's not
22 going to be the thing that would make him eligible or make him
23 appropriate for the Sexually Violent Offender program alone?

24 **A** That's absolutely correct. I would never recommend
25 somebody for commitment or say that they meet criteria based

1 on the diagnosis of exhibitionistic disorder alone because it
2 doesn't lead to sexually violent offending per the statute.
3 It's a sex offense for sure, it's a nuisance, it's a crime,
4 but it's not classified as a sexually violent offense.

5 Q So --

6 MS. JOHNSON: Beg the Court's indulgence.

7 BY MS. JOHNSON:

8 Q Dr. Gehle, one of the things that I believe was discussed
9 during direct exam of Dr. Gottfried was related to empathy or
10 remorse, whether Mr. Curtis showed empathy or remorse. Do you
11 remember in your interview and evaluation of him whether he
12 showed empathy or remorse for the things that he had done?

13 A Yes. I thought he was empathic, and I specifically asked
14 about how he felt about his offenses now, which elicits that
15 remorse. And --

16 Q In your report -- you have a paragraph, page 12. And I'm
17 going to read off a statement in there, and I would like to --
18 for you to tell me about when you were talking with him about
19 how that statement came to be. But he said, "I don't want to
20 put" -- and he was referencing -- stop me if I'm wrong -- but
21 he was referencing whether or not he would commit another
22 sexual offense of the same nature. And he said, "I don't want
23 to put anyone else through this ever again. It's wrong. I
24 hope that she is all right. I pray that she is all right,
25 that she is not messed up." And then when you asked him about

1 his offenses, he said, "I'm disgusted with myself" --

2 MS. SHAW: Your Honor, objection. She's reading the
3 report and the statements into the record. I mean, if
4 Mr. Curtis wants to testify, he can testify as to what he say.
5 Dr. Gehle can testify as to her memory, but we can't read
6 reports like this into the record if they're not admitted.

7 THE COURT: It's a leading question as well.

8 MS. JOHNSON: I'm sorry, Your Honor. I didn't mean --

9 THE COURT: It's a leading question as well.

10 MS. JOHNSON: Okay.

11 BY MS. JOHNSON:

12 Q So tell me about any remorse or empathy that you have in
13 your notes. Tell me about that.

14 A Well, I asked him how he felt about his offenses now; and
15 he said that he wouldn't do anything like this again. He
16 learned how to make better decisions. He said he didn't want
17 to put anyone else through this again; that his behavior was
18 wrong; that he hoped the victim was all right; that he prayed
19 that she was all right and that she wasn't too messed up from
20 what happened; and he said, I am disgusted with myself. I
21 took that to be taking responsibility and being remorseful
22 about his actions.

23 Q Did you happen to talk to him -- what, if any,
24 discussions did you have with him about this plan for if and
25 when he's released from the Department of Corrections or being

1 held?

2 **A** He said he plans to live in a halfway house in Sumter.
3 He felt Sumter would be a better place for him. He said he
4 wanted a clean slate. He hopes to be working at a chicken
5 processing plant. When I saw him, he was having trouble
6 walking and kind of, you know, stiff, but he wasn't in a
7 wheelchair so I'm not sure, you know, what's going to happen
8 if he's, you know, able to work.

9 He told me when I interviewed him that he would be on
10 community supervision, but I think that that has since
11 expired.

12 **Q** And so when you talked to him, did you feel like he
13 gave -- in your professional opinion, do you believe he gave
14 appropriate attention to his plan after release?

15 **A** He responded to the questions that I asked, and I thought
16 his responses were just fine. They're comparable to other
17 people that I interview.

18 I do not do an extensive interview. I don't ask a lot
19 about what their future plans are. It's not -- it's not, I
20 guess, a big part of my decision-making because I need to know
21 whether they have a mental abnormality and personality
22 disorder and whether they're likely. And that kind of depends
23 on, you know, it doesn't matter if they're going to go out
24 here and do this or do that. It's whether that exists now.

25 So it's -- I don't think that there is some sort of

1 plan that they might have that is so great that it's going to
2 overcome that personality disorder, a mental abnormality, or
3 their risk and that it would make -- like, change my opinion.
4 So it's not something that I asked extensively. His answers
5 were fine, and if it's not thorough enough for anyone in this
6 report, that would be just a function of my interview.

7 MS. JOHNSON: Beg the Court's indulgence, Your Honor.

8 BY MS. JOHNSON:

9 Q Dr. Gehle, is there anything else that was important to
10 you during your interview and evaluation process during your
11 interview with Mr. Curtis?

12 A I think what really struck me from this case was there
13 were a lot of records, a lot of allegations, a lot of things
14 that came up that he was not convicted of. Ultimately, he was
15 convicted of two sexually violent offenses. They were both
16 against that same victim in 2012. And he has no other
17 offenses that are sexually violent. No other convictions
18 before that.

19 The contributing to the delinquency of a minor, it's hard
20 to say what those are, like, what to make of those, per se;
21 but they're -- I'm don't want to say that they're not sexual
22 offenses, but they're not classified as sexual offenses; and
23 they're definitely not sexually violent offenses.

24 So for all the accusations he had, he was clearly
25 convicted of the sexually violent offenses from one incident

1 only, and that incident occurred on a single date. And that's
2 what we're really left with.

3 MS. JOHNSON: Beg the Court's indulgence, Your Honor. I
4 think I'll just be a moment.

5 BY MS. JOHNSON:

6 Q Okay. And so, finally, Dr. Gehle, in case I hadn't asked
7 you or made clear before, do you believe that Mr. Curtis,
8 today, meets the criteria to have a mental abnormality or
9 personality disorder?

10 A No.

11 Q Do you believe today that Mr. Curtis meets the criteria
12 to be considered a sexually violent predator in South
13 Carolina?

14 A No.

15 MS. JOHNSON: I have no further questions for this
16 witness.

17 THE COURT: Let's take a 15-minute break and come back
18 for cross-examination.

19 (The jury exited the courtroom at 11:13 a.m.)

20 (A brief recess was taken from 11:13 a.m. to 11:36 a.m.)

21 THE COURT: Let's go ahead and bring out the jury.

22 MS. SHAW: Your Honor, may I assume the position?

23 THE COURT: Please do.

24 (The jury entered the courtroom at 11:37 a.m.)

25 THE COURT: Cross-examination?

1 MS. SHAW: Thank you, Your Honor, may it please the
2 Court.

3 CROSS-EXAMINATION

4 BY MS. SHAW:

5 Q Good morning again, Dr. Gehle.

6 A Good morning.

7 Q So I want to keep my cross-examination relatively short.
8 So -- and I want to go through some things that Ms. Johnson
9 went over with you about.

10 So when you're considering information that you receive
11 in the context of one of these evaluations, you receive a
12 variety of documents which includes charged, uncharged, and
13 convicted conduct; right?

14 A Correct.

15 Q And is your testimony that, if it's un-convicted conduct,
16 meaning there's not an accompanying conviction for the actual
17 charged offense, you don't consider an allegation as having
18 been proved; correct? You said that earlier?

19 A Correct. Unless they admit to it during the interview --

20 Q Okay.

21 A -- correct.

22 Q All right. And in the interview, the only thing that
23 Mr. Curtis admitted to was raping his niece in 2012; right?

24 A He admitted to some other behaviors but not -- I don't
25 think that it was, you know, exactly as described in the

1 incident report. Like, some things occurred but it wasn't for
2 the reasons -- he gave other reasons.

3 Q Yeah. So he was giving reasons why it was inferred or I
4 didn't do this?

5 A Yes, that's correct.

6 Q And you gave him the benefit of the doubt?

7 A Yes. Because, in those instances, many times, they were
8 not convicted, that's correct.

9 Q Okay. So if he wasn't convicted for the actual offense,
10 you did not consider the facts as they were relayed in the
11 reports; is that accurate?

12 A Not in terms of the diagnosis, correct.

13 Q Okay. So I want to show you a document -- and please
14 don't lose this page; it took me a minute to find. What is
15 that document?

16 A It's -- looks like a copy of the petition.

17 Q Okay. And you had that as part of your evaluation?

18 A Yes.

19 Q Okay. Now, I'm going to show you a page from one of his
20 offenses, the police report. Can you read that highlighted
21 pink item? And don't read it into the record. Just read it
22 for yourself. And then please just tell me what it says.

23 A (Witness reviews document.) Okay.

24 Q What does it say?

25 A What does it say?

1 Q Yeah.

2 A It says that Victim 2 said that he -- she turned around
3 and that his penis was in his hand and that he was stroking
4 it, making moaning sounds. And there were about 15 to 20 more
5 times throughout the next year that this happened.

6 Q Okay. And that was the 15-year-old victim in that
7 particular allegation, the indecent exposure and contributing
8 to the delinquency of a minor? And if you need to take a look
9 at the other pages in that report, please feel free.

10 A I do because she's just identified through a number. And
11 I don't know if it will be in here to clarify. I don't know
12 that I can clarify it from here.

13 Q Well, I'll represent to you that that is the police
14 report that emanated from those charges. That was the initial
15 police report. And so in your -- you considered that report;
16 correct? You had it, you read it?

17 A Yes.

18 Q Okay. But because he was only convicted on one charge
19 and because the indecent exposure charges were nolle prossed,
20 you didn't consider that information in coming to a diagnosis,
21 did you?

22 A Yes, that's correct. Yes.

23 Q All right. So for the -- specifically for the
24 exhibitionistic part, you have -- you're aware that he was
25 convicted of two institutional infractions in SCDC in October

1 of 1996?

2 **A** Yes.

3 **Q** Okay. You're aware that he was accused by those victims
4 of masturbating in front of them and exposing himself to them
5 approximately 15 to 20 times in roughly 2000, I believe?

6 MS. SHAW: Actually, may I approach, Your Honor?

7 THE COURT: Yes, ma'am.

8 MS. SHAW: Thank you.

9 BY MS. SHAW:

10 **Q** In 2006, that's when he was accused of this?

11 **A** That's when the -- that's when the charges were brought.
12 I'm not sure about that time frame specifically, but that
13 sounds about right.

14 **Q** Okay. So we have two masturbating charges in SCDC in
15 1996. We then have this charge for indecent exposure and
16 contributing to the delinquency of a minor in 2006. And then
17 have you had the chance to review the J. Reuben Long records
18 from 2013?

19 **A** I'm not sure if I received those or not.

20 **Q** Okay. Well, are you aware that Mr. -- well, actually,
21 it's documented in the report. You're aware that he was
22 charged in 2013 with indecent exposure as a result of behavior
23 at J. Reuben Long; correct?

24 **A** He was charged with, I think, something along those
25 lines. It was exposure of private parts in a lewd and

1 lascivious manner, yes.

2 Q But it's essentially the same as an indecent exposure
3 charge?

4 MS. JOHNSON: Objection to that, Your Honor.

5 MS. SHAW: Withdrawn.

6 BY MS. SHAW:

7 Q So he was accused of exposing him while he was in the
8 county detention center awaiting his hearing for -- final plea
9 hearing for his most recent rape charge, that he was exposing
10 himself in the jail at that point; you're aware of that?

11 A The charge was dismissed.

12 Q Okay. But you're aware that there's that allegation?

13 A Yes.

14 Q And it was a charge?

15 A Yes.

16 Q And charges are counted in scoring STATICS?

17 A Yes.

18 Q Thank you.

19 Now, before we go into the STATICS, do you happen to
20 have your DSM with you?

21 A Yes.

22 Q Can you pull up "exhibitionistic disorder," to that page?
23 And it's page 73. Are you there?

24 A Yes.

25 Q Okay. Thank you.

1 Please read me diagnostic criteria A and B for
2 exhibitionistic disorder.

3 **A** "Over a period of at least six months, recurrent and
4 intense sexual arousal from the exposure of one's genitals to
5 an unsuspecting person as manifested by fantasies, urges, or
6 behaviors. The individual has acted on these sexual urges
7 with nonconsenting person or the sexual urges or fantasies
8 cause clinically significant distress or impairment in social,
9 occupational, or other important areas of functioning."

10 **Q** Okay. So, essentially, you've got to have a six-month
11 pattern of an individual repeatedly exposing himself to
12 individuals who were unsuspecting, right, and it has caused
13 problems?

14 **A** Yes. You have to have that recurring intense sexual
15 arousal from that, yes.

16 **Q** Okay. And yet, despite the fact that we have a 1996
17 institutional conviction for public masturbation and then we
18 have charges from 2006 from two juveniles, a 15-year-old and
19 an 8-year-old at the time, indicating that had he repeatedly
20 exposed himself to those children, and then we have
21 allegations which were charged in 2013 that he was, again,
22 inappropriately exposing himself in prison, you still did not
23 find that he met diagnostic criteria?

24 **A** That's correct.

25 **Q** Okay. So you also testified on direct that you did not

1 take that noncontact offense into account when you were
2 scoring STATIC-2002R because you and Dr. Gottfried both had a
3 slightly different score; is that a fair characterization?

4 A Yes, I believe that that's what the difference is.

5 Q Okay. And you said there's very specific rules for
6 whether you would take into account a noncontact offense on
7 scoring; correct?

8 A Yes.

9 Q Okay. Now, let me show you this. And can you please
10 identify it for me?

11 MS. JOHNSON: Your Honor, may I see what's being shown to
12 the witness?

13 MS. SHAW: It's the STATIC-99 Coding Rules.

14 MS. JOHNSON: Okay.

15 BY MS. JOHNSON:

16 Q Is that what this is?

17 A Is that what?

18 Q Is that what this is?

19 A It's the 99R Coding Rules.

20 Q Okay. And do these rules also apply to the 2002R?

21 A The rules are slightly different.

22 Q Okay. Well -- so can you tell me what a Category A
23 offense is?

24 MS. JOHNSON: Your Honor, I'm objecting as to the
25 relevance of that since the rules are different.

1 MS. SHAW: It's not irrelevant as to whether she should
2 have given him an extra point on STATIC.

3 THE COURT: I'm going to overrule it.

4 BY MS. SHAW:

5 Q Tell me what a Category A offense is.

6 A I'd actually need the manual to be able to specifically
7 tell you that, like, to give you a good definition.

8 Q Okay. Well, I'll represent to you on page 28, it says
9 that incest and rape are both Category A offenses. Would you
10 disagree with that?

11 A No.

12 Q Okay. So moving to page 74, are you familiar with Item
13 No. 7, Convictions for Noncontact Offenses?

14 A Yes.

15 Q Okay.

16 A The question, yes.

17 Q Okay. And would you agree that a noncontact sex offense
18 as defined by these rules does include exposure to other
19 people?

20 A I'd have to look at the rules in order to see exactly
21 what you're talking about. I don't have them memorized.

22 Q It's actually that little arrow that is under your thumb.
23 Okay?

24 A And the question was?

25 Q The question was just is that -- does exposing yourself

1 to another person constitute a noncontact offense for purposes
2 of the coding rules?

3 A Well, right there, it does say, "exposure to others,"
4 yes. You have to read through the whole thing to make sure it
5 meets that criteria.

6 Q Okay. Now, I'm going to read to you "The Basic Rule,"
7 which is a subheading. Did you just read that?

8 A I don't know what you're...

9 Q Okay. Well, it says, "The Basic Rule."

10 MS. JOHNSON: Your Honor, may we approach?

11 BENCH CONFERENCE

12 (The following bench conference was held with the
13 attorneys at the bench and outside the hearing of the jury and
14 others:)

15 THE COURT: Yes, ma'am.

16 MS. JOHNSON: I apologize for keep interrupting.

17 But I'm concerned that she doesn't know what you're
18 reading and your --

19 MS. SHAW: That's the problem. She doesn't know the damn
20 rules.

21 MS. JOHNSON: Okay. But if she's not familiar with it,
22 I'm wondering why we're cross-examining her on it. That means
23 she didn't base her opinion on it or her evaluation on it.

24 MS. SHAW: Because she based her opinion in part on the
25 STATICS, and if she didn't score the STATIC correctly, then...

1 MS. JOHNSON: But she specifically said what she based
2 her opinion on was slightly different than that, so...

3 THE COURT: Anyway, it is relevant for sure, and it is
4 cross-examination.

5 MS. JOHNSON: Okay.

6 THE COURT: And she can answer and she can take as long
7 as she wants to answer --

8 MS. JOHNSON: Okay.

9 THE COURT: -- and certainly, you can redirect her.

10 MS. JOHNSON: All right. Thank you.

11 MS. SHAW: Thank you.

12 [Open court resumes:]

13 MS. SHAW: I'm sorry; I am naturally very soft-spoken. I
14 fall back into that, and I apologize. So if you guys can't
15 hear me, just wave and yell.

16 BY MS. SHAW:

17 Q All right. So Dr. Gehle, the Basic Rule in, as these
18 coding rules say is that, "If the offender's criminal record
19 indicates a conviction for a noncontact offense, the offender
20 is scored a one on this item. If the offender's criminal
21 record does not show a conviction for a noncontact offense,
22 the offender is scored a zero on this item." Is that accurate
23 to the extent that you understand these rules?

24 A I believe so. And on the 99R, I scored him a one on that
25 item.

1 Q Okay. Good. But you didn't give it to him on the 2002?

2 A I don't believe so, no.

3 Q Okay. So is it possible -- I'll leave that.

4 A I would have to look at those 2002R scoring rules.
5 They're different instruments, and the scoring rules are
6 different for both instruments.

7 Q Specifically for noncontact offenses?

8 A I'd have to look and see, but that's what I did when I
9 had the manuals in front of me, so I'd have to assume yes.

10 Q Okay. But you're not sure because you don't have the
11 manuals?

12 A I don't have my manual in front of me; that's correct.

13 Q Do you have it with you?

14 A No.

15 Q Okay. So you were asked about the NCIC on direct. Do
16 you recall that?

17 A Yes.

18 Q Okay. And you said it's absolutely essential for
19 diagnostic purposes and for scoring the STATICS; right?

20 A To have officials records, yes, like a criminal RAP
21 sheet, yes.

22 Q Okay. I'm going to show you page 23, and this is
23 information required to score on the STATIC-99R, and there's a
24 subsection that says, "Official Criminal Record." Can you
25 please review that?

1 **A** (Witness complies.) Yes.

2 **Q** All right. Anywhere -- is there anywhere in there that
3 it says it has to be the NCIC that an evaluator has?

4 **A** No. That's written for people in Canada, so they don't
5 have NCICs.

6 **Q** Okay. So it doesn't specify that you have to have that
7 particular document. You just have to have an official
8 record?

9 **A** It says you have to have an official record, then it
10 listed the sources that that record could come from.

11 **Q** And it says, "Police court or correctional officials;"
12 right?

13 **A** That's correct.

14 **Q** Okay. So you have -- you and Dr. Gottfried have the same
15 records that were provided by my office and whatever else you
16 saw. Would court records that we provided to you have been
17 considered official records?

18 **A** Yes, they are --

19 **Q** Okay.

20 **A** -- definitely.

21 **Q** And police records that we provided to you, those would
22 be considered as well?

23 **A** Yes.

24 **Q** Okay. So -- and you're aware that, in fact, my office
25 was not allowed to give you the NCIC or Dr. Gottfried for a

1 considerable amount of time, and that's recently changed
2 though? You aware of that?

3 A Your office is still not allowed to give me that record.

4 Q But you get it?

5 A I get it from a different source; that's correct.

6 Q From the SCDC records?

7 A No, I get it from the Department of Public Safety, our
8 police department at the Department of Mental Health. That's
9 where I get it.

10 Q Okay. But you're not familiar with receiving NCIC
11 reports with new records recently?

12 A No, I haven't received any NCICs with new records. I
13 file an affidavit that our hospital attorneys came up with. I
14 file that or that gets sent over. It's gets notarized and
15 sent over to the Department of Public Safety at the Department
16 of Mental Health. They run the report. They call me, let me
17 know it's ready to pick up. I go over there and have to sign
18 it for again, and then when I finish with it, I have to store
19 it in a certain way in compliance with that affidavit.

20 Q Okay. And you have to go through that procedure because
21 my office can't give it to you?

22 A That's correct.

23 Q Okay. And we can't give it to anybody else; right?

24 A That's my understanding, yes.

25 Q Okay. But you had all those additional records which you

1 would consider valid for purposes of scoring the STATIC?

2 **A** Yes, they're valid. You still need that criminal RAP
3 sheet to know that you have everything.

4 **Q** Okay. Now, when we go to diagnoses -- I want to go back
5 to that to the personality disorder -- because you heard
6 Dr. Gottfried testify that she agrees with you, that the
7 exhibitionistic disorder wouldn't get us over the hump; it's
8 really personality disorder as to Curtis's case that's the
9 important thing. You heard that; right?

10 **A** Yes.

11 **Q** Okay. And you said on direct that you consider
12 antisocial personality disorder to be kind of the main
13 personality disorder in this particular context. Do you
14 recall saying that?

15 **A** Yes.

16 **Q** Okay. Have you ever diagnosed other specified
17 personality disorder in the context of an SVP evaluation?

18 **A** Yes, I have.

19 **Q** And have you ever recommended an individual with that
20 disorder for commitment?

21 **A** Yes, I have.

22 **Q** How long ago was that?

23 **A** I couldn't tell you how long ago that was. I don't know.

24 **Q** More than five years?

25 **A** I don't know.

1 Q Within the last two years?

2 A I don't know.

3 Q Okay. How many times have you actually recommended
4 someone with "other specified" for commitment?

5 A I don't know.

6 Q So what other personality disorders do you consider when
7 you are looking at one for an offender in this context?

8 A Well, it would depend on the -- you know, how the
9 personality disorder, like, if it predisposed them to commit
10 acts of sexual violence. So, I mean, it could be any
11 personality disorder. But, typically, I only remember
12 antisocial and maybe narcissism if they had a different -- if
13 they also had a paraphilic disorder. I'm not sure if I have
14 ever recommended on narcissism alone. I'm not sure.

15 Q Okay. But pretty much, you're focusing on looking at
16 antisocial and if this person meets criteria; right?

17 A If they meet criteria for antisocial?

18 Q Correct. When you're considering a personality disorder
19 diagnosis, you're primarily looking at antisocial and you need
20 to see, obviously, if that person meets criteria; right?

21 A It's going to be one that's considered -- yes.

22 Q So that's your focus?

23 A I don't know if -- I don't know what you mean by "focus."
24 What do you mean by "focus"?

25 Q What I mean by "focus" is you're looking for a very

1 specific set of behaviors and history that would indicate that
2 an individual has that particular disorder. Basically, you
3 wouldn't recommend someone be committed if they just had
4 borderline personality disorder; right?

5 **A** It would depend on their -- how their personality
6 disorder was related to their offense history.

7 **Q** So are you saying you wouldn't diagnose a personality
8 disorder if you didn't think it was related to the offense
9 history?

10 **A** No, I'm not -- I thought you said borderline
11 recommending. I'm sorry.

12 **Q** No. I'm saying you would not recommend someone with
13 borderline personality disorder for admission to the SVP
14 program unless the borderline personality disorder was causing
15 a sexual offense; right?

16 **A** Correct.

17 **Q** Would you ever recommend someone with borderline?

18 **A** I don't know. I don't believe I have, that I can recall.
19 It would depend on the case.

20 **Q** Okay. Have you ever diagnosed someone in this context
21 with borderline?

22 **A** I'm not sure.

23 **Q** So have you ever diagnosed someone in this context with
24 narcissistic personality disorder?

25 **A** I believe so, yes.

1 Q And have you recommended that person for commitment?

2 A The case that I'm remembering, I also diagnosed with
3 paraphilic disorder.

4 Q So if you have anything other than antisocial, generally,
5 you want to see a paraphilia as well?

6 A It's not that I want to see anything. It's that those
7 disorders are less related to sexually violent offending, most
8 often, than the other personality disorders. Sometimes, in
9 that particular person, it might be; but I don't know that I
10 have ever recommended somebody just based on a personality
11 disorder that wasn't antisocial --

12 Q Okay.

13 A -- in particular --

14 Q Okay.

15 A -- alone.

16 Q All right. Thank you.

17 So let's go to antisocial personality disorder. And
18 that's one of the cluster B personality disorders; right?

19 A Yes.

20 Q Can you tell the jury what cluster A, B, and C
21 personality disorders are?

22 A So it's a way that they've categorized -- the DSM
23 categorizes personality disorders. They all kind of have
24 different features. But the cluster A features, things are
25 consistent with each other. Cluster B, things are consistent

1 with other. Cluster C, things are consistent with each other.

2 Q Okay. Well, let's talk about specifically cluster B
3 personality disorders. Now, would you disagree that
4 narcissistic personality disorder and antisocial both fall
5 under cluster B?

6 A They both do; that's correct.

7 Q Okay. Could you please turn to page 748 of your DSM.

8 A (Witness complies.)

9 Q Ready? Are you there?

10 A Yes.

11 Q Okay. Let's go through the diagnostic criteria for
12 antisocial. And we understand that Mr. Curtis has not --
13 well, there's not been a demonstrated conduct disorder history
14 so obviously he doesn't carry the diagnosis; but let's go
15 through the seven criteria and see if they apply to him.

16 So No. 1, "The failure to conform to social norms with
17 respect to lawful behaviors as indicated by repeatedly
18 performing acts that are grounds for arrest." Would you agree
19 that that applies to Mr. Curtis?

20 A Yes.

21 Q Okay. "Deceitfulness, as indicated by repeated lying,
22 use of aliases, conning others for personal profit or
23 pleasure." Did you see any of that behavior in Mr. Curtis's
24 history?

25 A No.

1 Q Okay. "Impulsivity and failure to plan ahead." Did you
2 see any of that?

3 A Not really, no.

4 Q Okay. So the 2012 rape of his niece, even though he had
5 at least two concomitant and willing sexual partners in the
6 community, and yet he chose to deliberately go to her house
7 and forcibly rape her, do you think that that's evidence of
8 impulsivity?

9 A No.

10 Q When he could have gotten the sex he wanted in the
11 community and not had to commit a criminal act to get it?

12 A I don't think that was necessarily an impulsive act, no.

13 Q Okay. So you think it was planned?

14 A It might have been, yes.

15 Q Okay. So it's possible that there was preplanning in
16 that particular offense? And that was the most recent one;
17 right?

18 A Yes.

19 Q Okay. "Irritability and aggressiveness as indicated by
20 repeated physical fights or assaults." Now, you're aware that
21 Mr. Curtis has had multiple assault charges; right?

22 A He's had a couple of assault charges, yes.

23 Q Okay. So would you say Criteria 4 may apply to him?

24 A May. But I do not believe it applies to him, no.

25 Q How about "reckless disregard for the safety of himself

1 and others"? In addition to his fighting charges, he's got
2 drug charges; and he's got a variety of other relatively minor
3 charges while in prison and in the community. You don't think
4 that that constitutes reckless disregard for the safety of
5 himself and other people?

6 **A** Not a pattern of that, no.

7 **Q** Okay. Despite a 17-year chronic sexual offending history
8 and despite a criminal offending history that begins in 1985?
9 Still don't think that's reckless?

10 **A** And you're describing -- what you're describing is
11 criminal.

12 **Q** Okay.

13 **A** So is it always reckless to be criminal? You could
14 perceive it that way. That's not how I view it.

15 **Q** Okay. "Consistent irresponsibility" is Criteria No. 6.
16 "Consistent irresponsibility as indicated by repeated failures
17 to sustain consistent work behavior or honor financial
18 obligations." Would you say that applies to Mr. Curtis?

19 **A** No.

20 **Q** You're aware that he has three children with three
21 different women; right?

22 **A** Yes.

23 MS. JOHNSON: Your Honor, I object to that. May we
24 approach?

25 BENCH CONFERENCE

1 (The following bench conference was held with the
2 attorneys at the bench and outside the hearing of the jury and
3 others:)

4 MS. JOHNSON: Your Honor, part of my motion in limine was
5 in regards to references to his children.

6 MS. SHAW: No. That was absentee fathers. I'm not
7 saying anything about that. I'm just saying that fathering
8 three kids on three different women, none of whom are your
9 wife, is irresponsible. And I'm going to let the jury --

10 MS. JOHNSON: Your Honor, I don't think it was just
11 absentee fathers. I mean, I can pull it but I thought -- my
12 understanding was --

13 THE COURT: I think he's already been asked it and it's
14 already answered. So why do we just move on from that?

15 MS. SHAW: Okay.

16 MS. JOHNSON: Thank you.

17 [Open court resumes:]

18 BY MS. SHAW:

19 Q And No. 7, last one, "Lack of remorse as indicated by
20 being indifferent to or rationalizing, having hurt,
21 mistreated, or stolen from another." Did you see any evidence
22 of that when you were talking to Mr. Curtis?

23 A I didn't see a pattern of that, no.

24 Q Okay. So the fact that he denies all of his allegations
25 of sexual abuse except for the rape, which he said was

1 consensual but which the facts bear out was not -- because you
2 did read the report and you've heard the interviews that we
3 sent to the victim in the 2012 assault and the other -- and
4 his interview. You heard that; right?

5 **A** I think that you're mischaracterizing that he's denied
6 all these offenses except for that last one. He admitted to
7 many behaviors. He provided different self-protective
8 explanations for those behaviors but admitted to many of those
9 behaviors.

10 **Q** What behaviors did he specifically admit to with you?

11 **A** He admitted to masturbating in front of a guard in prison
12 but said that the guard had allowed him to do that, and that
13 can be accurate.

14 He admitted that he had -- that he had inadvertently
15 exposed himself in 2006.

16 **Q** To those two children?

17 **A** At least to one of them.

18 **Q** So he didn't admit to exposing --

19 **A** I'm not sure if he admitted to the second one.

20 **Q** He didn't admit exposing himself to the 8-year-old?

21 **A** I can't recall if he admitted -- I remember what he
22 specifically said about the older victim.

23 **Q** And yet he was convicted of that?

24 **A** He was convicted of contributing to the delinquency of a
25 minor, yes.

1 Q And the report clearly documents that the older child
2 said this had been going on for a year, 15 or 20 times?

3 A That's correct.

4 Q And yet he wouldn't admit that, takes no responsibility
5 for it?

6 A Again, I think that he admitted to some of those
7 behaviors with different explanations.

8 Q Inadvertently exposing yourself is not the same as
9 deliberately exposing yourself; right?

10 A That's correct.

11 Q Okay. So you say he said these self-protecting things;
12 but, basically, he's not admitting to the conduct that he's
13 been convicted of.

14 A Okay. And I believe that we're talking about 7, "Lack of
15 remorse" --

16 Q Mm-hmm.

17 A -- "as indicated by being indifferent to or rationalizing
18 having hurt, mistreated, stolen from another." He's not
19 blaming the other people necessarily. He's saying that he did
20 some stuff, and it was accidental and self-protected -- his
21 explanations are self-protective. But then also in the end of
22 the interview, he talked about having hurt the victim and
23 feeling disgusted with himself, and I think that that does
24 show a lack of remorse.

25 Q Okay. But yet he would essentially after -- and can you

1 relate the facts as you know them regarding that rape?

2 **A** He had sex with his 20-year-old niece against her will.
3 It was a sexual assault, and she was, I think, fighting back,
4 crying, saying no.

5 **Q** Okay. So she was -- according to the record, she was
6 fighting back, crying, telling him to stop, begging him to
7 stop. And what did he say to her during that rape?

8 **A** Per the victim, he said, "I know you're my niece, but I
9 love you."

10 **Q** Okay. Repeatedly he said that; right?

11 **A** Yes.

12 **Q** Okay. And when you interviewed him, he gave you a --
13 and, oh, actually, before I ask that question -- you heard his
14 audio-recorded police interview from when he was charged with
15 that offense; right? We sent that to you the week after you
16 issued your initial report. Do you remember listening to
17 that?

18 **A** I don't remember specifically remember listening to that.
19 I know that I did, but I don't remember it.

20 **Q** Okay. So do you know what he said to the police?

21 **MS. JOHNSON:** Your Honor, I object as to the relevance of
22 this.

23 **MS. SHAW:** The admissions that he made to police back in
24 2012 are highly relevant because he's told a different story
25 to both of these evaluators.

1 THE COURT: I'm going to overrule it.

2 BY MS. SHAW:

3 Q So do you remember what he said to police?

4 A I don't remember what he said to police. No, I don't
5 remember that.

6 Q Well, do you recall that he denied even going to the
7 house and that his DNA present in his niece's vagina confirmed
8 that he was in fact --

9 MS. JOHNSON: Your Honor, this has been asked and
10 answered. I object.

11 MS. SHAW: That hasn't been answered.

12 THE COURT: She said she didn't remember.

13 MS. SHAW: This is a different question, that there's DNA
14 found.

15 THE COURT: Go ahead and ask it.

16 MS. SHAW: Okay.

17 BY MS. SHAW:

18 Q Do you remember that they did find DNA?

19 A Yes.

20 Q And do you remember whether the victim remembered what
21 clothing he was wearing and that he had changed? Do you
22 recall reading that?

23 A I don't recall reading that specifically, no.

24 Q So you don't recall a whole lot about the specifics of
25 that offense; right?

1 **A** Not off the top of my head. Just from memory, no. I'd
2 have to, like, look at my report.

3 **Q** Okay. Please, go ahead.

4 **A** Thank you. (Witness complies.)

5 I'm sorry. And the question was?

6 **Q** The question is, do you remember the facts of that
7 offense and that they're highly relevant to diagnostic
8 procedure, to diagnostic protocols, are they not, the facts of
9 the underlying offense?

10 **A** I did not diagnose paraphilic disorder, where a lot of
11 those facts would be most relevant.

12 **Q** Okay. But lacking remorse and telling different stories,
13 lying repeatedly, that didn't factor into your assessment of
14 him because he presented well?

15 **A** When you are diagnosing a personality disorder, you need
16 to see these traits over a wide variety of situations, not
17 just in a criminal proceeding in -- it has to be in other
18 contexts.

19 **Q** Okay. So a 20-year-history of this type of behavior
20 would not be enough context where you would be able to
21 identify these behaviors and traits?

22 **A** I don't understand your question.

23 **Q** Well, I'm asking if a 20-year-history of engaging in
24 behaviors that are directly relevant to the diagnosis of
25 antisocial, would you take those facts and those underlying

1 allegations, whether they're convicted or not, into account?
2 Or do you have to see this person getting annoyed with you and
3 mouthing off during the process?

4 **A** In order to diagnose a personality disorder, you should
5 be seeing that in the room. It should be quite, like,
6 relevant in the room because you're seeing their attitudes,
7 their interaction style, their affect, all of that stuff.
8 It's their personality. And if they have a personality
9 disorder, if it is that impairing, if it is that significant,
10 you will see it in the room.

11 **Q** Okay. But you'll also see it in these underlying older
12 behaviors; right? Because personality disorder is a
13 longstanding way of interacting with the world, a longstanding
14 behavioral pattern; correct?

15 **A** I think you're conflating personality disorder and
16 criminal behavior.

17 **Q** Well, don't we often see a considerable amount of
18 criminal behavior with antisocial?

19 **A** Perhaps, yes.

20 **Q** Okay. And the facts of that criminal behavior would be
21 relevant to assessing whether he meets these criteria if he's
22 engaging in these behaviors, not just the convictions; isn't
23 that correct?

24 **A** I mean, that's where it gets tricky because if you're --
25 if he doesn't get convicted of the behaviors and he's denying

1 these behaviors, then did they actually happen? What's that
2 based on?

3 Q Well, that is the question. And you don't consider the
4 behaviors as having even occurred or some variation of them
5 unless you have a conviction?

6 A Or they admit to it --

7 Q Or they admit to it.

8 A -- for diagnostic purposes, yes.

9 Q Okay. So basically, you disregarded all of that
10 information?

11 A I didn't disregard this information.

12 Q Okay.

13 A No.

14 Q All right. So let's go to other things that Mr. Curtis
15 didn't report to you; but, first, let's finish up with the
16 most recent victim. You don't remember and you don't know the
17 facts of what he said to police back in 2012 when he was
18 interviewed; right?

19 A I don't specifically remember that interview. I did
20 write in my report that he denied being at the house.

21 Q Okay. And what did he say to you this time? He, in
22 fact, accused her of having consensual sex for money with him.
23 Do you -- is there any record anywhere prior to his say-so
24 that would bear that out or support that?

25 A No.

1 Q Okay. Now, he also reported to you that he had some
2 illegal drug use, just marijuana; right?

3 A Yes.

4 Q Okay. He only reported marijuana? He didn't report
5 anything else?

6 A He reported marijuana use and, I think, early in
7 adulthood, that he was caught with some PCP, which was for
8 personal use.

9 Q Okay.

10 A That's how he described it.

11 Q But he was charged and convicted of that position in New
12 Jersey; wasn't he?

13 A He was charged, but it was unclear from the NCIC if he
14 was convicted.

15 Q Okay. Well, what did he indicate to you?

16 A He said he was convicted.

17 Q Okay. So he --

18 A Or -- I'm sorry. He said he was unsure if he was
19 convicted, but he recalled being on probation, which could
20 have meant that he was convicted, but it also could have been
21 some sort of pretrial intervention or something like that. It
22 could have even been bond conditions because he was unsure if
23 he was convicted.

24 Q Okay. But he's also got an earlier offense before that
25 offense. And how old was he at that point in time?

1 **A** At what point in time?

2 **Q** When he was arrested for PCP. 17?

3 **A** That was 19- -- no, that was 1989. So he would
4 probably -- I think he was 18 or 19.

5 **Q** Okay. So, in 1989, he was 18 or 19. How old was he in
6 1985?

7 **A** Wait. Is that right? No, he would be -- I'm sorry. He
8 would be 21 or -- yeah, 21 or 22. I'm sorry.

9 **Q** Okay.

10 **A** Because he was born in 1967. I'm sorry.

11 **Q** Okay. But he's also got a conviction from 1985, right,
12 for assault unknown? You document that in your report.

13 **A** Yes. From what I found in the corrections records, it
14 noted that he had been committed for more than 90 days, which
15 is one category that they list things under for an assault
16 unknown.

17 **Q** Okay. And you don't know the details of that? You
18 weren't able to get any records?

19 **A** That's correct.

20 **Q** Okay. So all you know is that he assaulted somebody, and
21 it was 1985?

22 **A** I know it was 1985, and I know that the charge was
23 assault unknown or it was something like that. I don't -- I
24 don't know if he assaulted somebody.

25 **Q** It shows he was convicted and incarcerated for it; right?

1 **A** I don't know what the underlying basis of that assault
2 unknown is.

3 **Q** So we don't know if it was just a fight or if he sexually
4 assaulted somebody or -- you don't know what that happened --
5 or what happened in that; right?

6 **A** That's correct.

7 **Q** But how old was he at that time, in 1985?

8 **A** I think he was maybe 17, 18.

9 **Q** Okay. So he actually does have violent assaultive
10 offenses as a young person, even if he does not have them
11 before --

12 **A** We don't know what the basis for this charge is, if it
13 was violent or assaultive or if it was an attempted or if it
14 was something else or what it was.

15 **Q** Okay.

16 **A** There's no --

17 **Q** So did you disregard that too?

18 **A** I don't know what this is. I don't -- I know it was in
19 the records. I don't know what the behaviors are. And to --
20 to just consider that -- the name of the charge is not really
21 helpful to making determinations like...

22 **Q** Okay. Well, it doesn't seem like you know a whole lot
23 about the facts of any of these charges.

24 MS. JOHNSON: Your Honor, I object. That's
25 argumentative.

1 THE COURT: Sustained.

2 BY MS. SHAW:

3 Q So -- now, let's go through the dynamic risk factors.

4 Are you familiar with the SVR-20?

5 A Not very familiar. I've given it one time in a case
6 where the STATICS couldn't be used. It's not used in sexually
7 violent predator proceedings very often.

8 Q Well, you don't use it very often; correct?

9 A That's correct.

10 Q Okay. But, I mean, there's more than one way to do one
11 of these evaluations. Your methods aren't the only methods;
12 right?

13 A That's correct. I use the best practice methods, but
14 there are other ways, that's for sure.

15 Q Okay. And what is your understanding of the SVR-20?

16 A It is -- it's a dynamic risk assessment tool that has a
17 variety of risk factors. So it's really just -- it's an
18 instrument that has collected the -- I guess the relevant risk
19 factors per those researchers and combined them into a tool.

20 Q And you're talking about the 2010 Mann study, I believe?

21 A No. No, I'm not talking about that.

22 Q Which study are you talking about that identified the
23 dynamic risk factors?

24 A I'm talking about the people who developed the SVR-20,
25 the research that they did to develop their instrument.

1 Q So it took that study into account?

2 A I don't believe that that was a basis for their study
3 necessarily.

4 Q Well, what you do -- you don't use the structured tool.
5 And would you agree that it's a structured tool?

6 A It is a structured tool, yes.

7 Q Okay. So you don't use it. You go through the
8 identified dynamic risk factors from the 2010 meta study;
9 correct?

10 A Meta-analysis.

11 Q Meta-analysis. I'm sorry. I always say the wrong thing.
12 You do that method; right?

13 A Yes.

14 Q Okay. And in your case, you only identified two as
15 applicable to Mr. Curtis; right?

16 A Yes.

17 Q Okay. And those were sexual preoccupation and a lack of
18 emotionally intimate relationships with adults; right?

19 A Yes.

20 Q Okay. Did you identify any grievance and hostility
21 thinking?

22 A No, I didn't see that, no.

23 Q Okay. So him shifting blame for his actions off onto
24 other people, that doesn't -- that doesn't factor into that?

25 A I don't believe that he was blaming other people for -- I

1 don't believe he was doing that, no.

2 Q Well, he told you specifically that the guy that he shot
3 in the back was an accident. Do you remember that?

4 A Yes.

5 Q And yet he was convicted of assault and battery with
6 intent to kill?

7 A That's correct.

8 Q And intent to kill suggests that's no accident.

9 A Okay.

10 Q Is that true or not?

11 A Sure.

12 Q Okay. So he's basically not taking any responsibility
13 for any of his behaviors, and yet he's blaming other people
14 saying his niece falsely accused him, saying that he
15 accidentally shot that guy, saying that he inadvertently
16 exposed himself once to one of two victims that he's been
17 convicted for. So that doesn't suggest any hostile attitudes
18 or behaviors to you?

19 A Not the way that that risk factor's defined, no.

20 Q Okay.

21 A And I don't agree with the way that you're characterizing
22 everything either.

23 Q Okay. So would you say -- and negative social influences
24 is another one of those dynamic risk factors; right?

25 A Yes.

1 Q Okay. Would you say that applies to him?

2 A No.

3 Q He's out running the streets, doing drugs, and engaging
4 in criminal behavior.

5 A That's criminal behavior.

6 Q Okay.

7 A Not negative social influences.

8 Q Okay. But you don't do that kind of thing in isolation,
9 do you? It's generally part of a larger pattern of behavior;
10 is it not?

11 A You can.

12 Q Okay. So lack of emotionally intimate relationships with
13 adults. I think you and Dr. Gottfried both agreed on that;
14 right? His relationship patterns are characterized by
15 short-term relationships, many relationships at the same time,
16 sexual promiscuity. I mean, you would agree that that
17 definitely applies to him?

18 A Yes, I saw a pattern of infidelity and conflict.

19 Q Okay. And poor problem solving is another one; isn't
20 that correct?

21 A Yes.

22 Q Would you say that Mr. Curtis has good problem solving
23 skills?

24 A I didn't see specific deficits in problem solving. I
25 think, you know, people's problem solving -- I don't know if I

1 would define his problem solving as good.

2 Q Okay. But you wouldn't define it as poor?

3 A No, I didn't identify that as respective for him.

4 Q Okay. So despite multiple physical altercations,
5 multiple allegations of physical assaults, convictions for
6 assaults, getting fired from work, failing to show up from
7 work that's -- that suggests to you that his problem solving
8 would be adequate?

9 A I don't think that he has problems with -- or that he has
10 poor problem-solving abilities.

11 Q Okay.

12 A Not a pattern of that, no.

13 Q Okay. And I'm going to go back to the SVR-20 because
14 Dr. Gottfried gave a list of ten factors which are very much
15 related to the dynamic risk factors that she believes apply to
16 Mr. Curtis. And based on the factual history of his behavior,
17 I'm just going to ask you if you think apply. Okay? So --

18 A I'm not going to be able to answer those questions
19 because those risk factors have specific definitions that you
20 need a manual in front of you to answer.

21 Q Okay. And you don't know how to do that?

22 A I know how to do it; I don't have the manual in front of
23 me.

24 Q Well, I'm just going to ask if these are present or
25 absent. How about that?

1 MS. JOHNSON: Well, Your Honor, she's already said she's
2 not going to be able to answer those questions.

3 THE COURT: She's answered it.

4 MS. SHAW: Okay.

5 BY MS. SHAW:

6 Q You said -- so I have a question for you to start with.
7 Can people with personality disorders present well at times?

8 A Possibly. It depends on the circumstances. It depends
9 on the situation. It depends on a lot of factors, yes.

10 Q Okay. And you would not disagree that, in evaluations of
11 this sort, people have very strong motivations not to be
12 forthcoming about their history and their behaviors; right?

13 A Yes.

14 Q Okay. And you said on direct that oftentimes individuals
15 with these types of personality disorders will use that
16 interview process to convince you how wonderful they are?
17 That's your words; right? You remember that?

18 A Yes. If they're narcissistic, yes.

19 Q Okay. And you heard Dr. Gottfried testify that
20 Mr. Curtis has narcissistic personality traits; correct?

21 A That's in her opinion. I do not agree with that.

22 Q Okay. Let's go to that personality disorder, shall we?
23 And you know that the cutoff for narcissistic personality
24 disorder is you have to have five out of approximately nine
25 criteria met; right? Are you aware of that?

1 **A** Yes.

2 **Q** Okay. So No. 5, Sense of Entitlement. Did you observe
3 that in Mr. Curtis?

4 **A** No.

5 **Q** Either through his history or his direct behaviors?

6 **A** No.

7 **Q** And can you explain why he would rape his niece when he
8 had at least two sexual partners in the community?

9 **A** Can I explain why he would rape his niece, in terms of
10 entitlement?

11 **Q** Mm-hmm. He wanted sex, and he was going to go out and
12 get it; isn't that correct?

13 MS. JOHNSON: Your Honor, I object. This calls for
14 speculation.

15 MS. SHAW: He wanted sex. He went out and got it. He
16 had at least two willing partners.

17 THE COURT: I think you can ask the question of her, as
18 an expert.

19 MS. SHAW: I'm sorry?

20 THE COURT: Ask the question again.

21 BY MS. SHAW:

22 **Q** Would you agree that, based on his historical behaviors,
23 that Mr. Curtis has demonstrated a sense of entitlement?

24 **A** No.

25 **Q** Okay. Would you agree whether he has been

1 interpersonally exploitive in the past?

2 **A** I don't think he has a pattern of that, exploiting people
3 in his interpersonal relationships, no.

4 **Q** Okay. Would you agree that he lacks empathy?

5 **A** No, I don't agree with that.

6 **Q** And so you just don't agree that he has any of these
7 features? You don't think that he was attempting to
8 manipulate the process --

9 **A** No.

10 **Q** -- to show his best foot --

11 **A** I don't think that he was attempting to manipulate the
12 process, no.

13 **Q** And so would you agree or disagree that, over time, the
14 allegations against Mr. Curtis in terms of his offending
15 behaviors -- sexual offending behaviors, in particular, have
16 escalated? He went from exposing himself in jail to exposing
17 himself to a teenage girl and her 8-year-old sister and then
18 he went to raping his niece.

19 **A** So whether the allegations have escalated over time?

20 **Q** The behavior allegations -- basically, his behavior has
21 gotten more severe over time and more --

22 **A** Well, I would say that the allegations have -- have
23 increased in severity, yes.

24 **Q** Okay. Thank you. And...

25 MS. SHAW: I have nothing further. Thank you.

1 THE COURT: All right.

2 REDIRECT EXAMINATION

3 BY MS. JOHNSON:

4 Q Dr. Gehle, I'm just going to be very brief. Just going
5 back to the NCIC, even though you have police reports and that
6 sort of thing, why is that NCIC still critical?

7 A Because it's a place where all of that information is
8 recorded -- well, all of the allegations or -- I'm sorry,
9 where all the charges and convictions are reported so the
10 entries that have been submitted to the National Criminal
11 Information Center. So it's a comprehensive list.

12 Q So you need it to be able to know if you even have
13 everything that you're supposed to have?

14 A Correct.

15 Q And given all of the details that opposing counsel went
16 through regarding my client's history or alleged history, is
17 it still your opinion that he does not have a personality
18 disorder?

19 A Yes.

20 Q Is it still your opinion that he does not have paraphilic
21 disorder?

22 A Yes.

23 Q And is it still your opinion that he does not meet the
24 criteria to be a sexually violent predator?

25 A Yes.

1 MS. JOHNSON: I have no further questions, Your Honor.

2 THE COURT: All right. Thank you. You may step down.

3 Please call your next witness.

4 MS. JOHNSON: Your Honor -- may we approach, Your Honor?

5 BENCH CONFERENCE

6 (The following bench conference was held with the attorneys at
7 the bench and outside the hearing of the jury and others:)

8 MS. JOHNSON: Your Honor, the only witness that I may
9 have left is my client.

10 THE COURT: Right.

11 MS. JOHNSON: May I just have a short break to talk to
12 him? Because he had not decided whether he was going to
13 testify.

14 THE COURT: Go ahead and talk to him and see what he
15 says.

16 MS. JOHNSON: Your Honor -- just, I wanted to make sure,
17 because we have not discussed what criminal convictions he'll
18 be using in testimony in your cross-examination if he does
19 testify.

20 MS. SHAW: Well, I'm going to be using anything that he
21 talks about.

22 MS. JOHNSON: Well, Your Honor, I mean, we do have the
23 rules. We have the rule regarding how long we're able to go
24 back and also whether or not you're going to try to go into
25 allegations or just convictions.

1 MS. SHAW: Well, I'm going to go into anything that's
2 relevant. This is a civil proceeding, not a criminal
3 proceeding. And that particular rule about old convictions
4 doesn't apply here because specific questions, the propensity
5 to re-offend. And there's sexual allegations.

6 MS. JOHNSON: But we are still -- I mean, Your Honor, my
7 client is still -- we're still guided by the rules of
8 evidence, and my client still cannot be improperly or unfairly
9 prejudiced during this proceeding.

10 THE COURT: Now, I can tell you right now she's going to
11 cross-examine him to high Heaven and back if he gets on that
12 stand.

13 MS. JOHNSON: Right.

14 THE COURT: That's his choice.

15 MS. JOHNSON: I guess my greater concern is less the
16 convictions and more the non-convictions.

17 THE COURT: That's going to be talked about. I feel very
18 certain about it.

19 MS. SHAW: I'm going to use everything.

20 THE COURT: She's going to use everything that we've
21 heard.

22 MS. SHAW: Do you want to go talk with him?

23 THE COURT: And that's proper and that's relevant in this
24 case.

25 MS. JOHNSON: Yes.

1 THE COURT: If he doesn't testify, she can't talk about
2 it.

3 MS. JOHNSON: Right. I'm still gonna --

4 THE COURT: Well, she can't question him anyway.

5 MS. JOHNSON: Right. I'm still going to need about five
6 minutes to talk to him, so...

7 THE COURT: Sure. Go ahead and talk. We'll wait.

8 MS. SHAW: Thank you, Judge.

9 [Open court resumes:]

10 (Pause in the proceedings while Ms. Johnson confers with
11 the Respondent.)

12 MS. JOHNSON: Your Honor, at this time, we rest.

13 THE COURT: All right. Thank you.

14 Members of the jury, let's take a lunch break until
15 1:45. Be back at 1:45, and we'll finish this case.

16 (The jury exited the courtroom at 12:34 p.m.)

17 MS. JOHNSON: Oh, Your Honor, may my witness be released?
18 May Dr. Gehle be released?

19 THE COURT: Yes.

20 Enjoy your lunch.

21 BENCH CONFERENCE

22 (The following bench conference was held outside the hearing
23 of the jury and others.)

24 THE COURT: It basically says everything that y'all
25 wanted. It's just in my language. It makes it a little

1 easier.

2 MS. JOHNSON: Okay.

3 THE COURT: And I've used it many, many --

4 MS. SHAW: Is the Logan charge in there, Judge?

5 THE COURT: Which one?

6 MS. SHAW: The Logan charge in there?

7 THE COURT: You can read it.

8 MS. SHAW: Okay.

9 MS. JOHNSON: Here it is.

10 THE COURT: Check behind her and see what you think, real
11 quick.

12 [Open court resumes:]

13 MS. JOHNSON: Your Honor, may I make my DV motion?

14 THE COURT: Yeah.

15 MS. JOHNSON: Yes?

16 THE COURT: I'm sorry.

17 MS. JOHNSON: Your Honor, I would just renew my prior
18 motions and injunctions and move for a directed verdict.

19 THE COURT: I'm going to respectfully deny that motion.
20 I think we have a question in fact.

21 MS. SHAW: So I will respectfully renew my objections.

22 THE COURT: Review the charge.

23 (Pause in the proceedings.)

24 THE COURT: Y'all mind if I start holding some hearings
25 while you look at that real quick?

1 (A lunch recess was taken from 12:36 p.m. to 1:51 p.m.)

2 (The jury entered the courtroom at 1:51 p.m.)

3 THE COURT: You're recognized for your closing statement.

4 MS. SHAW: Thank you, Your Honor.

5 THE COURT: Thank you.

6 CLOSING ARGUMENT ON BEHALF OF THE STATE

7 MS. SHAW: All right. Ladies and gentlemen, it is down
8 to the wire. This is the last bit of this trial. So this is
9 the second-to-last time you'll have to hear from me so I'll
10 make it relatively short, and then Ms. Johnson will close and
11 then I will do rebuttal. Okay? If at any time you can't hear
12 me, obviously, just let me know.

13 So this has been a brief trial so I'm not going to
14 belabor the facts. You've all been paying very close
15 attention; I've observed that, and I appreciate you for it.
16 So I'm not going to stand up here and retell the entire story.

17 What I am going to tell you about is why I believe that
18 Dr. Gottfried was right in this situation. And the simplest
19 reason is that she was more thorough. She took into account
20 all of the information that she was given. Dr. Gehle did not
21 do this.

22 You heard her say on cross-examination today that any
23 unconvicted conduct, she did not treat as truth. She
24 disregarded it. That, ladies and gentlemen, is exactly why
25 she did not make the diagnoses that Dr. Gottfried did.

1 You heard the criteria for each of the diagnoses, you've
2 heard the criteria for exhibitionistic disorder, and you've
3 heard the facts. We have a 17-year sex-offending history
4 involving multiple victim types, multiple types of
5 sexual-offending behaviors, and multiple escalating violence
6 in his offending. Originally, he had two indecent exposure
7 charges, sexual conduct, while he was in SCDC, following an
8 assault and battery with intent to kill conviction. Next, in
9 August of 2000, he was charged with criminal sexual conduct
10 with a minor and lewd act which has been -- it's been changed.
11 The name is now "criminal sexual conduct third degree" rather
12 than "lewd act." But that was what he was charged with in
13 August of 2000. That was nolle prossed, but the allegations
14 were that he sexually assaulted a 15-year-old female.

15 Next, February of 2006, he's charged with four counts
16 against two minor females: Indecent exposure, two counts, and
17 contributing to the delinquency of a minor, two counts. The
18 victims were a 15-year-old and an 8-year-old. And he pled it
19 down. There's no indication that he did not commit the
20 offenses that he was charged with, but people plead for
21 various reasons, and that's what he pled to. So you have
22 that.

23 You also have the information from those police reports
24 which indicated he had done this to the 15-year-old 15 to 20
25 times over the past year before he was actually reported. So

1 you have that information, which Dr. Gehle completely ignored.
2 She didn't even remember it, if you recall that testimony. I
3 had to show her the report. She completely disregarded that
4 fact.

5 Next, you have September 2012, which is the most recent
6 offense and the offense that he has been continuously
7 incarcerated for since then. He has not been out of the
8 community and had the opportunity to re-offend. And you see,
9 over time, we go from exposure to exposure to children to
10 violent rape of his own niece; and that is when he had at
11 least two, if not more, willing sexual partners in the
12 community. He had indicated that he went to -- he had sex
13 with his girlfriend, he walked her to work, then he went to go
14 and find his other female friend to see her, but instead, he
15 went to his niece's house where he had no business being. He
16 went in there, he held her down, and he forcibly raped her.
17 She was crying, she was begging him to stop, she was fighting
18 him, she did everything she could to try and get him not to
19 rape her. But you see Mr. Curtis is a very large man. He
20 overpowered her, and he got what he wanted, which was sex.
21 And he didn't care how he got it on that day. And that is
22 what you need to be thinking about when you think about
23 personality disorder.

24 The exhibitionism, we have a clear pattern of six months or
25 more to diagnose. He exposed himself multiple times over a

1 period of 17 years to multiple different types of people. So
2 that diagnosis, I believe -- and Dr. Gottfried believes -- is
3 absolutely relevant, and it is applicable to Mr. Curtis.

4 So the personality disorder is the more complicated
5 thing. He is not diagnosed with antisocial personality
6 disorder. He's diagnosed with other specified, simply for the
7 reason that he did not meet full criteria because he doesn't
8 have evidence -- or we do not have evidence, mostly based on
9 his say-so and lack of records, to show that there was a
10 conduct disorder as a juvenile before age 18 -- or age 15,
11 excuse me. But what we do have is his very first arrest and
12 conviction for assault when he was age 17. So I leave it up
13 to you to decide how that factors into your decision-making,
14 but that's the reason that she didn't diagnose it.

15 You heard Dr. Gottfried say that he believes that Mr. Curtis
16 meets full criteria for antisocial personality disorder but
17 for that fact, and that's why she diagnosed him with "other
18 specified."

19 She also believes that he has multiple features of
20 narcissistic personality disorder. You heard her say you've
21 got to have at least five out of a number of relevant
22 criteria. He has four. And that's her opinion. You heard
23 what she thinks he's got, and it's up to you to decide whether
24 you believe that or not. Will you believe it about Mr. Curtis
25 and if you believe Dr. Gottfried.

1 So what do we have? Undisputed facts, a variety of victims,
2 a variety of offending behaviors. We have clear paraphilia,
3 and we have a criminal history spanning from 1985 to 2012,
4 which is when he was re-incarcerated for the longest period.
5 So, literally, he's not been able to do any more crimes
6 because he's been in prison.

7 So what do we know about that? It's not changing. That is
8 a longstanding pattern of behavior which indicates the
9 presence of severe mental illness; that he knows he's going to
10 get in trouble when he does these things. He knows he's not
11 supposed to expose his penis to unsuspecting people. He knows
12 he's not supposed to expose himself to children, yet he did it
13 anyway. And that's where the personality disorder comes in.

14 You heard Dr. Gottfried say that she believes his sexual
15 offending behaviors, including the exposures, are directly
16 related to that personality disorder. So it's up to you to
17 decide if you believe he's got it or not. You've heard the
18 testimony from both experts so I leave it to your good
19 judgment.

20 So my burden. First, and as always, it's beyond a
21 reasonable doubt. So, basically, I have to firmly convince
22 you that this is the correct decision; and if you are not
23 fully, firmly convinced by the time you're done deliberating,
24 Mr. Curtis is entitled to a verdict of not a sexually violent
25 predator. But I think you should consider these allegations

1 and these conviction records in addition to all of the other
2 testimony you've heard, because this is what gets us to this
3 point to start with. He's got to have a qualifying conviction
4 in order to even begin this process, and he's got it. So read
5 the allegations in these documents, read the narratives, read
6 the affidavits, and take away from the ones you will; but,
7 please, I strongly encourage you because you will have them in
8 the jury room. So that's number one. It's not in dispute
9 that he's got a qualifying conviction.

10 Number two, he's got to have a personality disorder or
11 mental abnormality. It's the State's position that he has
12 both. That makes it likely that he will sexually re-offend.

13 And so how do we get to, okay, if he's got this personality
14 disorder, how do we decide if he's likely to re-offend? And
15 that's where the risk assessment comes in.

16 You heard both experts agree that he scored in the well
17 above average range on the STATIC-99, and there's some
18 disagreement between the two experts on the 2002-R. Dr. Gehle
19 gave him a four. She may have scored it incorrectly. I don't
20 know because she didn't have her rules with her, and she
21 didn't have her notes, so she couldn't tell you exactly what
22 she did or why there was a difference.

23 Dr. Gottfried gave him a five. That's above average. And
24 the bottom line is, though, with that STATIC-99 score, he is
25 almost four times more likely than the average sex offender to

1 re-offend. That is a very high percentage. It is the highest
2 likelihood category to re-offend that there is. So if you
3 start with that, you have a high status.

4 Second, you go through the dynamic risk factors.
5 Dr. Gottfried used the SVR-20, which is a structured clinical
6 tool that keeps her on track and keeps her focused on the
7 things that are important to the question that she has to
8 answer. And she identified no fewer than ten active and
9 relevant risk factors for Mr. Curtis. That is a lot.

10 Conversely, Dr. Gottfried, who -- she didn't do this --
11 you know, using this methodology is not wrong, it's just not
12 as thorough; and it's not as rigid in terms of the actual
13 criteria you have to have. She went and went through the
14 13 -- I believe 13 -- dynamic risk factors identified in the
15 Mann study from -- that's a particular evaluator and
16 researcher in 2010. And she thought about it when she thought
17 about Mr. Curtis, and she only assigned him two dynamic risk
18 factors. But she did that not taking into account all that
19 additional information that she says she just doesn't
20 consider. If it isn't convicted, I don't consider it. So she
21 did not take that into account.

22 And in her own words, the interview process is the
23 offender's best opportunity to sweet talk you. It's the best
24 opportunity to put their best foot forward and convince the
25 evaluator of how wonderful they are. And in Mr. Curtis's

1 case, over the five hours that Dr. Gehle spent with him,
2 apparently, he did that. He presented well. And that's
3 actually a good thing. It speaks well to his ability to
4 modify his behavior if he's in a high-stakes situation where
5 it would behoove him to do so.

6 But what you also have to take into consideration is that
7 Dr. Gottfried had spent three days with this man. She also
8 spent a five-hour clinical interview with him, and she had the
9 opportunity to observe him on each of those three dates. And,
10 in fact, there were two additional dates that he was supposed
11 to have been there; but one date, he was not transported; and
12 the other date, he indicated he was in pain and didn't want to
13 proceed. So she's had no less than five opportunities to meet
14 with him, observe him, and come to conclusions regarding his
15 behavior and presentation. So I would submit to you that her
16 evaluation in that respect as well is far more thorough.

17 So that's what you have to decide. Which expert do you
18 think did the more thorough and more comprehensive job and
19 came to the correct conclusion? The State of South Carolina
20 asks you to find that, yes, Mr. Curtis does have both
21 paraphilia and a personality disorder, and, yes, he is likely
22 to re-offend; thus, qualifying him for sexually violent
23 predator status. Thank you.

24 THE COURT: Respondent's recognized.

25 MS. JOHNSON: Thank you, Your Honor.

1 Your Honor, can we dim the lights?

2 CLOSING ARGUMENT ON BEHALF OF THE RESPONDENT

3 MS. JOHNSON: Can everybody see? Okay. So, normally, I
4 would be in front of you, talking to you about the details of
5 this case, but there were so much that you heard during this
6 trial, and so I thought it would be a disservice if I forgot
7 something, and so I put it in a PowerPoint presentation. If
8 you can't hear me, if you can't see, just raise your hand
9 because I want to make sure you have all of the information
10 you need.

11 I know we're probably all exhausted. I have even changed
12 my shoes; I'm not wearing high heels. That's how much work
13 this trial has been. And I was thinking about it all day
14 yesterday, the day before, weeks, thinking about how
15 exhausting this is, and then I thought about Joseph and how I
16 owed him hard work and I owed him to do my best for him. And
17 so that's what I did: I did my best. And now it's up to you.

18 I want to apologize if I have done anything to offend
19 you or if I have treated anything in this courtroom during
20 this trial like it wasn't important or it wasn't tragic.
21 "Sexual assault," "rape," those words that we use, they're
22 very serious, especially to people who have been harmed by
23 them. They were serious to the victims. And so I don't want
24 you to ever think that I think that they're not important.

25 But even if you feel that way about me, I'd just ask

1 that you not hold it against Joseph, because while I'm here
2 representing him, my mouth is not always his. So, with that,
3 I'm going to get started.

4 So Nelson Mandela said, "A nation should not be judged
5 but how it treats its highest citizens but its lowest ones."
6 And I thought that was really important because I believe that
7 what has happened in this trial is that people don't like the
8 fact that Joseph Curtis committed sex crimes, sex offenses.
9 And the truth is that we even had difficulties getting people
10 to stay in the jury. Thank you for serving because a lot of
11 people didn't even want to deal with it. But the bottom line
12 is we still owe it to every single citizen to treat them
13 responsibly, and so that's why I put that.

14 So speaking of that and his sexual offense past, I
15 would like for you to remember that, although it may be hard
16 to separate his past offenses, you have to do it. You swore
17 an oath. Because this trial, while we brought up these sex
18 offenses, the real question is -- in this trial, is whether he
19 is a sexually violent predator. That's the bottom line.

20 So the State has the burden of proving each element
21 beyond a reasonable doubt, and it's really important because
22 it's the highest burden of the land. And it's really
23 important that you hold their feet to the fire because
24 somebody's liberty is at stake. Joseph's liberty is at stake.

25 You can probably barely see this, but we can see the colors.

1 And it's just a chart that shows you beyond a reasonable
2 doubt. And so when we're talking about reasonable doubt,
3 everything in black, not reasonable doubt. So that means what
4 if you think he's not an SVP or it's impossible he's an SVP or
5 it's unlikely or highly unlikely? Well, obviously, then
6 that's not beyond a reasonable doubt.

7 But what if you actually think to yourself, "Well, he might
8 be a sexually violent predator. Perhaps he is." What if you
9 think, "Oh, I suspect that he is"? What if you think it's
10 likely that he is? What if you think it's highly likely that
11 he's a sexually violent predator? Still not beyond a
12 reasonable doubt.

13 The only way that you can find that he is a sexually
14 violent predator is that you are firmly convinced beyond a
15 reasonable doubt. That's the only way.

16 So who is Joseph? We've learned today -- we've learned
17 during this trial, he's 55 years old. He's a son. He's got
18 siblings. He's in a wheelchair. He has health issues. He
19 made mistakes. Now, nobody specifically said this in the
20 trial, but I think it's okay to believe that he wants to go
21 home.

22 So let's talk about the Sexually Violent Predator Act,
23 and let's break down the elements. So a sexually violent
24 predator is a person who's been convicted of a sexually
25 violent offense and suffers from a mental abnormality or

1 personality disorder that makes the person likely to engage in
2 acts of sexual violence if not confined in a secured facility
3 for long-term care, control, and treatment.

4 So let's get one thing out of the way. The Attorney
5 General's Office has proven that he has been convicted of a
6 sexually violent offense. So we're going to admit that right
7 off the bat. You don't even have to worry about it. In fact,
8 he's had two. He's had the criminal sexual conduct third
9 degree and the incest, the things that he served 12 years of
10 his life for.

11 But I want you to think about this: When you're
12 deciding whether Joseph Curtis is a sexually violent predator
13 or not, should he be institutionalized in a treatment facility
14 because his mental health is so poor because he has this
15 personality disorder, something in him that is so off that it
16 makes him unable to control himself so that he's likely to
17 re-offend and he's a danger to the community? Can he control
18 himself?

19 Now, one of the things that I think is important is this
20 section of the South Carolina law -- of the code; and it
21 says -- it's just about the procedure of this whole thing.
22 And so once a petition is filed in this case against Joseph
23 Curtis to let you-all decide whether he's a sexually violent
24 predator or not, there's various hearings; and, ultimately, if
25 there's a probable cause determination made to say let's go

1 ahead and take this to the very end, let's let a jury decide,
2 then the Court must direct that the person be transported to
3 the South Carolina Department of Mental Health for an
4 evaluation as to whether the person is a sexually violent
5 predator.

6 Why is that important? Because it says the South
7 Carolina Department of Mental Health, they're the ones that
8 the Court has to send anybody who is accused of being a
9 sexually violent predator in a precommitment hearing. They're
10 the ones that the State says go to them.

11 So why are we here? Because Dr. Gehle works for the
12 South Carolina Department of Mental Health, and she said that
13 Joseph Curtis does not meet the criteria to be a sexually
14 violent predator. So then why are we here if the State of
15 South Carolina, South Carolina Department of Mental Health has
16 already said he isn't? Well, Dr. Gehle said he wasn't a
17 sexually violent predator, but that was not enough for the
18 Attorney General. And so they decided they were going to find
19 a doctor who would give them the diagnosis that they wanted so
20 that they could institutionalize Mr. Curtis.

21 Let's talk about these experts. So we've got Dr.
22 Gehle. She works for the Department of Mental Health which is
23 the department that has the statutory authority to do these
24 precommitment evaluations. She's the longest-serving
25 evaluator right now at the Department of Mental Health. She

1 evaluates sex offenders almost exclusively. She evaluates sex
2 offenders as her full-time employment. She has done over 350
3 sexually violent predator evaluations since 2013. And she's
4 not contracted by either side, so she doesn't have the bias.
5 You heard her say that she even testified for the Attorney
6 General's Office before. That's Dr. Gehle.

7 What about Dr. Gottfried? Dr. Gottfried works for MUSC
8 so she does all types of evaluations, not just sexually
9 violent predator ones. And MUSC gets paid quite handsomely to
10 turn these evaluations out. She doesn't have the statute
11 authority, nor does MUSC, to do these precommitment
12 evaluations until possibly after the Department of Mental
13 Health has done them. And she was contacted to do her
14 evaluation after the Attorney General refused to accept
15 Mr. Curtis's initial evaluation.

16 Now, Dr. Gottfried had also relied on Dr. Gehle's
17 opinion. Interestingly, Dr. Gottfried never acknowledged the
18 need for a six-month pattern for antisocial personality
19 disorder. And you might remember me talking to her and asking
20 questions and her referencing, "Well, I'd like to see it over
21 some period of time" or whatever, but there's a rule and six
22 months. And I asked her numerous questions, and she never
23 even said it.

24 Interestingly, Dr. Gottfried did not adhere to the
25 guidelines which require that the evaluator use an official

1 report, an NCIC, for example, to make an actuarial risk
2 assessment. So I know the Attorney General's Office is going
3 to say, "Well, she had all the incident reports plus some,"
4 and that may be. But how do you know you had everything if
5 you don't have the original RAP sheet, the official RAP sheet
6 to tell you what you should be looking for? That's a problem.

7 What about the opinion? Dr. Gehle says no mental
8 abnormality, no personality disorder. Dr. Gottfried said,
9 "Well, he doesn't have antisocial personality disorder. He
10 doesn't have narcissistic personality disorder. But he's got
11 enough traits. You know what I'm going to do? I'm going to
12 say he's got 'other specified personality disorder' and then
13 I'm going to say he's got these traits and then I'm going to
14 say he has 'exhibitionistic disorder.'" That's the opinions.

15 Ultimately, Dr. Gehle said he's not a sexually violent
16 predator. Dr. Gottfried says that he was a sexually violent
17 offender. And so I cannot help but think that, ultimately,
18 the Attorney General's Office wants him committed -- Joseph
19 committed by any means necessary.

20 Now, unless you think I'm attacking the Attorney General,
21 I'm not. I think she's been very professional, and I
22 appreciate the amount of work that she's done in this trial.
23 And I know because I have done a lot of work in this trial.
24 It's not an easy job. But still, I can't help but think that
25 they want him committed by any means necessary, even if it may

1 be contrary to the law.

2 So Dr. Gottfried used everything she could to make her
3 opinion plausible. She used information about things we know
4 he did, like his convictions, like things he pled guilty to.
5 She relied on allegations when there was no conviction, not
6 even an arrest. She used minor convictions. Remember, she
7 said she considered the ABC violation and the seatbelt
8 violation, the traffic violations, to say that Joseph is a
9 sexually violent predator? She even talked about how he
10 cheated on his wife. Since when does infidelity make you a
11 sexually violent predator? Since when does infidelity and a
12 seatbelt violation suggest that you need to be
13 institutionalized?

14 So Dr. Gottfried says that he meets the criteria for a
15 sexually violent predator, even though the Department of
16 Mental Health and Dr. Gehle says that he doesn't. Of course,
17 Dr. Gottfried, via MUSC, I acknowledge, got paid \$5,600 to
18 come up with their opinion and do their evaluation. And,
19 ironically, it was the opinion that the Attorney General's
20 Office was looking for.

21 So when I think about by any means necessary, let's
22 look at some of the things that I think that Dr. Gottfried
23 did. For example -- and, by the way, again, it's not an
24 attack on Dr. Gottfried, but it is, in fact, an attack on the
25 work that she did in this case and her opinion.

1 Now, she used this 99R score, and she talked about this
2 20-year rate of recidivism, even though it's only a statistic
3 and it's not been done on real, live participants. It was a
4 higher number, and she threw it out there anyway. She needed
5 that NCIC report to do the assessment. Well, what did she do?
6 Well, she just used a summary that the Attorney General's
7 Office sent her to do the assessment anyway.

8 So you can't get a diagnosis with his actual listed
9 convictions? All right. That's fine. Well, then let's throw
10 in the charges that didn't lead to convictions. That's not
11 enough? Why don't we throw in allegations that didn't even
12 lead to a charge? That's what she talked about. You want to
13 convince the jury he's not a good person.

14 And this is one of the issues. You may have remembered when
15 I was questioning her, I said, "So you barely used this, if at
16 all, some of this information about these allegations and even
17 incidents that police may have reported to his home, and yet
18 you said you used it almost very little, if none, to come up
19 with your report? But you still went through details to tell
20 the jury about it? Why? Why was it even relevant then?"

21 Well, it was relevant because she wanted to make Joseph look
22 like a bad guy, and so she was going to use every allegation
23 in the community to do it. So every offense, every charge,
24 every arrest, even when law enforcement reported.

25 Remember when said that law enforcement were investigating

1 him for domestic violence and then it turns out that they
2 reported to a home and just read or talked about the criminal
3 domestic violence law? Well, that's not the same thing. And
4 even she admitted it. That's an important distinction.

5 What about this? What about when they wanted to be
6 honest and so they encouraged him to talk about his
7 relationship, and he said, "I've had five to six significant
8 relationships." But then they say "Well, no. Well, that's a
9 sign that you had unstable relationship history and you never
10 had intimate relationships."

11 What about this? What about when he told them the
12 truth, that he had been fired one time, and then Dr. Gottfried
13 said, "Well, that's enough. He's got unstable work history"?

14 What about when he said, "I wish I could be more
15 assertive," and then she said, "You've got a real issue with
16 dominance"? What about when he said good things about
17 himself, and she said, "He exaggerated his positive traits"?
18 I mean, could Mr. Curtis have done anything to convince her
19 that he had changed and that he was better?

20 What about when she testified that Joseph said he was a
21 victim -- that he was the victim in this? And then when I
22 questioned her, she admitted, "Well, he didn't say he was a
23 victim. He just sort of acted like he was the victim in
24 this."

25 What about when she allows him to explain some of the

1 things that he was accused of and he says to her, "Some of
2 these are not true." And then she said, "He has an extreme
3 minimization and denial"?

4 So Dr. Gottfried was on that stand, and she said that you
5 can manage -- and was very clear to say you can potentially
6 cure personality disorders using medication and psychotherapy
7 even if it's in the community and not in a secure facility.
8 Even if it's not institutionalized, it can be managed and it
9 can be cured, she said. But then she said she still wanted
10 Joseph to be in a secured facility.

11 She criticized him for getting infractions in jail, in
12 the Department of Corrections, and yet when we started to talk
13 about the last ten years when there's been no trouble, not
14 even so much as an allegation, barely any attention to that.

15 So what I think is really important is the way that
16 Dr. Gottfried, in my opinion, based on her testimony,
17 backdoored or tried to backdoor an antisocial personality
18 disorder. There was a lot of talk about that. There was a
19 lot of questions on my part. And this is what I was getting
20 at: antisocial personality disorder is a very serious
21 disorder. And because of that, psychiatrists in the DSM-5
22 have a list of qualifications you have to have before somebody
23 can be said that they have antisocial personality disorder.

24 Same thing with narcissistic personality disorder; there are
25 guidelines that you have to meet. And each time Dr. Gottfried

1 admitted he didn't have enough. He does not have antisocial
2 personality disorder. He does not have narcissistic
3 personality disorder.

4 "Well, what does he have then, Dr. Gottfried?" Well, then
5 she said, "He's got traits. And what I'm going to do is I'm
6 gonna use those traits and I'm gonna just make them an 'other
7 specified personality disorder.' And that's the way I'm going
8 to get him."

9 And it's really just another way of her saying, "I think he
10 has antisocial personality disorder." That's what that is.
11 But the guidelines are very clear, and he didn't meet them.
12 He didn't have a personality disorder.

13 So as to Dr. Gottfried's diagnosis of exhibitionistic
14 disorder, Dr. Gehle said he didn't have it. But she did say
15 she considered it very seriously. And I want to point out
16 that never on the stand did Dr. Gehle, who was called by us
17 but not hired by us -- never did she say that Joseph Curtis
18 was an angel. Never. She acknowledged all of the things
19 she'd read, all of the allegations, all of the convictions,
20 all of the arrests, she acknowledged all of them. And she
21 even acknowledged this exhibitionistic disorder. She
22 considered it. And she said he didn't have it.

23 But even if he did, it still is not enough for Mr. Curtis to
24 be considered a sexually violent offender. Why? Well, first
25 of all, it's not a sexually violent offense, and it wouldn't

1 lead to sexually violent recidivism.

2 So perhaps you think that he was going around exposing
3 himself to people. Okay. And it's still not enough.
4 Exhibitionistic disorder, it's not going to carry the day, not
5 to make him a sexually violent predator.

6 So, according to Dr. Gehle, Joseph was calm, he was
7 polite, he was cooperative, he had a consistent work history,
8 and she said he did not meet the criteria for a mental
9 abnormality or personality disorder. Ultimately, she said he
10 did not meet the criteria to be considered a sexually violent
11 predator.

12 So we all agree, even on my side, that some ten-plus
13 years ago, Joseph Curtis did some really bad things. And I'm
14 going to be forthright with you. We all agree -- we can all
15 agree to that. And he was wrong. And even Dr. Gehle
16 testified about how he said how much he hated himself.

17 So I think everybody in agreement -- everybody here is in
18 agreement that the things that he did ten years ago were not
19 good. They were horrible. But that being said, still, what
20 we're saying is that he's changed and that he's different and
21 that he can control himself and that he's not this dangerous
22 person that requires being institutionalized.

23 So before I get to this, I just want to talk about some
24 of his criminal charges. And you heard them all. I'm not
25 even going to go through them again; there's been so much talk

1 about them. But I want us to be very carefully that the
2 burden is not shifted because it's really important that the
3 State still has its burden. There's some really interesting
4 little nuance in the rules of evidence that say when an expert
5 is coming up with an evaluation, they can consider, like in
6 this particular case, lots of evidence. And sometimes that
7 means non-convictions. Sometimes that means just allegations.
8 Sometimes that means things they were investigated for.

9 But the United States of America says for everybody in
10 this country, ultimately, you are innocent until proven
11 guilty. So while it's really great and interesting to bandy
12 about the fact that he may have been accused of one thing or
13 that he may have been charged with one thing or that they
14 reported to his home and talked to him about the criminal
15 domestic violence law, the truth is, everybody in here -- me,
16 the Attorney General, and the jury -- have said that he is
17 innocent until proven guilty and that it is the State's job to
18 prove that he's guilty beyond a reasonable doubt.

19 And I'm not just talking about the sexually violent predator
20 law. I'm talking about the fact that it is insufficient to
21 come into this courtroom and ask the jury to find him a
22 sexually violent predator based on the fact that somebody
23 accused him of something in the '90s. Unacceptable. It's
24 unacceptable for you-all to do; and, frankly, I think it's
25 unacceptable for the Attorney General to ask you to do it. So

1 I just want to make that point very clear.

2 But here's another thing. Do you feel that what you've
3 heard is enough to withhold Joseph Curtis's liberty from him?
4 So is it enough for you to prevent him from waking up in his
5 own bed, from going to sleep when he wants to, from seeing his
6 family every day, from falling in love and marrying, from
7 watching his children get older, from starting his life over
8 again? Are you firmly convinced that this is the only way?
9 Because you can think he needs treatment. That's okay. But
10 are you convinced that the only way is to institutionalize him
11 and take his liberty away from him, or do you have reasonable
12 doubts?

13 Let me go over some of the reasonable doubts I have, and I'm
14 sure some of you have them. How about this? How about we
15 just have two experts saying the exact opposite thing?

16 So remember the opening -- when I talked to you in the
17 opening, I said, "When you come in here, you come in here
18 convinced that my client is innocent. Everything you're going
19 to do, you're going to lean towards him. He gets the benefit
20 of the doubt until they prove beyond a reasonable doubt, until
21 you're firmly convinced that what they're telling you is
22 true."

23 So if we have two experts telling you the exact opposite
24 thing, well, the law says that my client gets the benefit of
25 the doubt. So how about that? Is that not enough for

1 reasonable doubt that there was an expert who came in here and
2 said that this man is not a sexually violent predator?

3 How about the fact that Dr. Gottfried used, in my opinion,
4 unfair information to come up with her diagnosis? That gives
5 me some doubts. How about his myriad of health concerns? Is
6 this man really dangerous, or do you have some doubts about
7 that? And, again, is institutionalization the only way?
8 Because we know it isn't. Both experts talked about that.

9 So I know that there was talk about this 99R and 2002R,
10 and, really, what they're saying is this is his risk of
11 re-offending. And there was some talk of it, especially with
12 Dr. Gottfried and how it was so excessively high, and so I
13 want to address it. That's the chart.

14 So when they say that somebody has 17.6 percent chance
15 of re-offending, let's look at the chart. Do you see all the
16 people in black? And for that, they want you to have
17 Mr. Curtis institutionalized? Only the people in red, that's
18 what that number means with the 99R, five-year risk.

19 Let's look at the 2002R. There is Dr. Gottfried's and
20 there's Dr. Gehle's. A difference, but still not enough. All
21 of these black squares. And they want you to keep Mr. Curtis
22 in a secure, confined facility.

23 Let's talk about all the things that he's done to help
24 himself, the willingness he has to change. Look at all these
25 programs -- Restorative Justice program, where he works with

1 youthful offenders, values clarification, changing life
2 patterns. I mean, the list goes on and on, 12 of them.

3 But I think the main reasonable doubt is that his behavior
4 has changed. How do we know? Because for ten years, we
5 haven't even heard as much as an allegation of wrongdoing.
6 Nine years, three months, whatever, close enough. And I think
7 that's really important.

8 Now, I know if I were on the Attorney General's side, I
9 would probably say, "Well, he's been in prison," and yet, you
10 heard testimony that prison in the '90s did not stop him from
11 having poor behavior. You heard that he got in trouble even
12 when he was being detained or was in the Department of
13 Corrections. But for almost the last ten years, nothing, not
14 any poor behavior.

15 So that says to me that he's controlled himself. If he
16 can do it for ten years, not even a whisper of an allegation,
17 why on earth would the Attorney General ask you to put him in
18 a confined facility because he can't control himself and
19 because he's dangerous; yet for the last ten years, he's
20 proven that he's not?

21 So I'm wrapping up. But Joseph and I are asking you to
22 today for a verdict in his favor that determines beyond a
23 reasonable doubt that he is not a sexually violent predator.

24 One last thing. The jury system has been called "the
25 handmaid of freedom." Very important. Thomas Jefferson once

1 said that, "Jury duty is the only anchor by which a government
2 can be held to the principles of the Constitution." You're
3 the anchor. And many experts say that great civilizations
4 like Rome and Sparta fell because they didn't have a jury
5 system.

6 So I say all that to say thank you for your service, because
7 I know that it is difficult to sit here and to listen, and I
8 know that it must be exhausting, and I know that a lot of
9 people didn't want to do it. But I thank you and Joseph
10 thanks you. Let's send him home. Thank you.

11 THE COURT: Reply?

12 MS. SHAW: Thank you, Your Honor.

13 FINAL CLOSING ARGUMENT ON BEHALF OF THE STATE

14 MS. SHAW: Passionate closing. Very impressive. But it
15 does not negate the fact that Mr. Curtis is a violent person.
16 He is a dangerous person. And just because the facts of these
17 cases and the facts of his offense history are very
18 uncomplimentary to him doesn't mean they can be ignored, and
19 it doesn't mean that he has changed.

20 The list that Ms. Johnson just showed you regarding his
21 prison treatment, did you see sex offender treatment on there?
22 No. Because he's never done it. And he's re-offended
23 multiple times after being incarcerated. So what does that
24 tell you? It tells you that he's either unwilling or unable
25 to control his sexual behaviors.

1 He told Dr. Gottfried during his own interview that he
2 wants to have sex twice a day, at 55 years old. That's his
3 level of sexual preoccupation at this point. He is still
4 focused on it, and he will re-offend.

5 So Ms. Johnson stated correctly that the value of a
6 society is gauged by how it treats its lowest citizens as well
7 as its highest, and they need to be treated responsibly. And
8 she is right, and that is exactly what we have done.

9 There seems to be some insinuation that the AG's Office
10 is somehow out to get Mr. Curtis. We're not. We're
11 statutorily required to file these petitions. When SCDC and
12 the prosecutor's review committee send them through, it's
13 nondiscretionary. I have to file this petition.

14 And when we have a probable cause hearing finding from
15 the judge initially and then we have a second probable cause
16 hearing where another judge will find that it's likely that he
17 meets criteria, that's when we get the order for evaluation,
18 and that's when DMH, who is the statutorily mandated
19 evaluator, gets the case.

20 We send all the information we've been able to accumulate
21 about the individual. We send it over to them, and we say,
22 "Okay, do your interview; let us know what you think." And
23 when we get these reports back and we look at them and we say,
24 "Whoa, hold on a minute. You just disregarded a whole bunch
25 of extraordinarily relevant criminal history and longstanding

1 behavioral patterns." Because, ladies and gentlemen, that's
2 the key here. Look for the longstanding behavioral pattern in
3 Mr. Curtis's conduct, and it will show you that there is, in
4 fact, a personality disorder. It will show you that there is,
5 in fact, exhibitionistic disorder. And then -- so let me back
6 up.

7 So when we see that happening, when we see them
8 ignoring relevant information and not scoring things properly,
9 we are absolutely entitled to seek a second opinion, as is
10 Ms. Johnson and her client if DMH had gone the other way.
11 That's one thing she didn't tell you is that, if either side
12 disagrees with the findings, either side can get a second
13 opinion. And what she also didn't tell you -- and I take some
14 exception to this because it seems to be an insinuation that
15 Dr. Gottfried is somehow bias and gave me the answer I wanted,
16 that's simply not true. What she didn't tell you is that
17 she's hired Dr. Gottfried as well. She --

18 MS. JOHNSON: Your Honor, I object to that -- that is not
19 -- that was not in --

20 THE COURT: Yeah, why don't you rephrase it?

21 MS. SHAW: Fine.

22 Either way, ladies and gentlemen, Dr. Gottfried has no
23 bias. She has no motive to give us an answer other than what
24 she finds, and she does an extraordinarily comprehensive
25 evaluation. She also has no financial benefit from this.

1 MUSC gets paid. It's a contract. That's how it works. I
2 mean, people don't work for free and people don't do these
3 kinds of evaluations which actually costs money -- because as
4 you heard her say, the testing, the actuarial and personality
5 testing, it does cost money. So, yeah, nobody is going to
6 work for free or no one is going to do one of those for free,
7 and the University gets paid. It's the simple.

8 There's no underlying motive to deny Mr. Curtis's
9 freedom. It's a motive to get to the truth and the heart of
10 the matter, which is: does he have a personality disorder, or
11 does he a paraphilia, and is he likely to re-offend?

12 So one other thing counsel said was that Dr. Gottfried
13 acted in violation of the law. Not quite sure what that was
14 referring to, but she said she didn't have the NCIC. She did.
15 She had the summary from my office because we couldn't give
16 her the full thing legally. She had it. She had a full
17 description of Mr. Curtis's entire criminal history as well as
18 his convictions and his sentences. So the suggestion that she
19 did not have that information is factually inaccurate.

20 She also suggested that we were getting this opinion by
21 any means necessary. That's not true. Dr. Gottfried says no
22 all the time. She disagrees with DMH sometimes, and she
23 agrees with them sometimes. This is one of those cases where
24 she did not agree with DMH. And it happens. Reasonable
25 experts can disagree. It's up to you to decide who's right.

1 Now, she also suggested that Mr. Curtis's infidelity .
2 and minor drug problems and his seatbelt violation led to the
3 decision that he somehow has a personality disorder. No,
4 absolutely not. That would be irresponsible and unethical,
5 and that's not what Dr. Gottfried did. She took into account
6 the serious offenses that he's got as well as other offenses
7 she was provided information with. She documented them in her
8 report, and you heard her say that those offenses really
9 didn't make a whole lot of difference. It was really the
10 major sex offenses and the pattern of conduct alleged over
11 time. That's the important thing.

12 So there's no attempt to backdoor antisocial
13 personality disorder. He doesn't meet criteria because we
14 don't have the conduct disorder as a juvenile, but he does
15 meet criteria for another DSM-5 diagnosis, which is "other
16 specified" because he has so many of those features of other
17 relevant personality disorders.

18 So he would have you believe he's changed. We did not
19 hear one word out of him. How do you know that?

20 MS. JOHNSON: Objection, Your Honor. May we approach?

21 MS. SHAW: And, Your Honor, I was very courteous during
22 Ms. Johnson's closing --

23 THE COURT: I understand.

24 MS. JOHNSON: I understand.

25 MS. SHAW: -- and I don't appreciate this.

1 THE COURT: I understand.

2 BENCH CONFERENCE

3 (The following bench conference was held with the
4 attorneys at the bench and outside the hearing of the jury and
5 others:)

6 MS. JOHNSON: But I've got a job to do, Your Honor. And
7 that's burden shifting was what she just did.

8 MS. SHAW: Yeah.

9 MS. JOHNSON: He doesn't have to testify.

10 THE COURT: This is a civil trial. This isn't a criminal
11 trial.

12 MS. JOHNSON: Still, Your Honor -- but it's not a simple
13 civil trial, but it is involving criminal elements.

14 MS. SHAW: Well, she's saying he said he's changed. He
15 didn't say a word. They don't know. And this is a civil
16 trial.

17 THE COURT: It is. Well, how about it? You've already
18 said it and made your point.

19 MS. SHAW: Yeah, I'm done.

20 THE COURT: Okay. Let's do that.

21 MS. JOHNSON: And I'm not trying to interrupt her. It's
22 not that, but I do feel like I needed to object to that.

23 THE COURT: All right. All right.

24 MS. SHAW: That's fine. That's not criminal, though.

25 MS. JOHNSON: Yeah.

1 MS. SHAW: Thanks.

2 [Open court resumes:]

3 MS. SHAW: Ladies and gentlemen, I'm almost done. So
4 there were several things I wanted to go over, but the last
5 thing Ms. Johnson suggested is that Mr. Curtis obviously has
6 some medical issues. He's in a wheelchair today. He wasn't
7 when he met with Dr. Gottfried. He wasn't on other occasions
8 when he met with Dr. Gehle. And she's suggesting that these
9 health problems are some kind of -- him being in a wheelchair
10 is somehow going to prevent him from re-offending.

11 These still work. (Holding up hands.) And just because
12 you're in a wheelchair does not mean you're not going to
13 sexually re-offend. Wheelchairs don't change a person's mind.
14 If anything, they would generally engender more sympathy from
15 people. They would allow him to get closer to new, potential
16 victims. So the suggestion that a medical condition would
17 somehow make it impossible for him to re-offend is just not
18 accurate, so I will leave you to decide what you think is
19 best.

20 I thank you, as Ms. Johnson did. We all appreciate
21 this. As you can tell, we do this a lot; and we really
22 appreciate your service because we could not do this without
23 you. And so I thank you, and I hope that you will render a
24 verdict in the State's favor.

25

JURY CHARGE

JURY CHARGE

496

1 THE COURT: All right. Members of the jury, it is now my
2 duty as the trial judge to instruct you on the law applicable
3 to this case, and it is your duty as jurors to accept and
4 apply the law as I now state it to you.

5 As I told you in the beginning, you and I have separate
6 duties to perform. As the trial judge, it is my
7 responsibility to preside over this trial and to rule upon the
8 admissibility of the evidence offered during the trial. In
9 that regard, you may consider only the evidence before you.
10 You may only consider the testimony which has been presented
11 from this witness stand, together with any exhibits which have
12 been admitted into the record of this case.

13 As mentioned earlier, I have the additional duty to charge
14 you on the law applicable to this case, and it is your duty to
15 accept and apply the law as I now state it to you. Also, as
16 mentioned earlier in this trial, you are the sole and
17 exclusive judge of the facts. The law does not permit me to
18 have an opinion about the facts. Do not infer from anything I
19 have said or done during the course of this trial that I have
20 an opinion about the facts in this case.

21 It is your job as jurors to determine the credibility and
22 believability of the witnesses who have testified in this
23 case. In determining the believability of witnesses who have
24 testified in this case, you may believe one witness over many
25 or many over one. You may believe a part of a testimony of a

1 witness and reject the remaining part. You may believe the
2 testimony of a witness in its entirety or reject it in full.
3 You may consider whether the witness has an interest in the
4 result of the trial, whether the witness is prejudiced toward
5 either party, the opportunity for the witness to have seen the
6 matters and things about which the witness may testify, and
7 the way the witness acts on the witness stand. As mentioned
8 earlier, you have the exclusive duty to determine all issues
9 of fact in this case.

10 Evidence may be direct or circumstantial. Direct
11 evidence is testimony by a witness about what that witness
12 personally saw, heard, or did. Circumstantial evidence is
13 indirect evidence based on inference and not what someone
14 personally saw, heard, or did. It is proof of one or more
15 collateral facts from which you may infer another fact. You
16 are to consider both direct and circumstantial evidence
17 equally.

18 Furthermore, the rules of evidence ordinarily do not
19 permit witnesses to testify to opinions or conclusions. An
20 exception to this rule exists for witnesses we call "expert
21 witnesses." An expert witness, who by education and
22 experience, has become an expert in some art, science, or
23 profession may give an opinion as to the subject the witness
24 claims to be an expert in and may also give the reasons for
25 the opinion. You should consider any expert opinion -- and

1 like any other evidence -- give it the weight you think it
2 deserves.

3 If you decide that an expert witness's opinion is not based
4 on sufficient education or experience or if you decide that
5 the reasons given in support of the opinion are not sound or
6 that the opinion is outweighed by other evidence, you may
7 disregard the opinion entirely. An expert witness's testimony
8 is to be given no greater weight than that of any other
9 witness simply because the witness is an expert. Furthermore,
10 you do not have to accept an expert's opinion, even though it
11 is not contradicted.

12 In this case, there has been a conflict in the testimony of
13 expert witnesses. To that end, you must weight one expert's
14 opinion against the other, and you must consider the reasons
15 given by one as compared with those of the other, and you
16 should consider the relative credibility and knowledge of the
17 experts who have testified. Then you should find in favor of
18 that expert's testimony, which, in your opinion, is entitled
19 to the greater weight.

20 In this case, the State of South Carolina has brought this
21 case under the sexually violent predator law. In this regard,
22 the State seeks the involuntarily civil commitment of Joseph
23 Curtis, Jr., for long-term control, care, and treatment in a
24 secure facility. You need to understand that this is not a
25 criminal proceeding seeking incarceration, but rather, a

1 proceeding seeking civil commitment.

2 The State of South Carolina alleges that Joseph Curtis is a
3 sexually violent predator under the law. Mr. Curtis denies
4 that he is a sexually violent predator; therefore, the burden
5 of proof is on the State to prove by evidence sufficient to
6 satisfy each of you beyond a reasonable doubt that he is a
7 sexually violent predator. In this regard, if the State is
8 unable to meet the burden of proof as to one or more of the
9 elements of the claim, then Mr. Curtis is entitled to a
10 finding that he is not a sexually violent predator.

11 Please understand that he is not accused of committing a
12 crime in this proceeding. As you heard from the testimony, he
13 did have a previous charges for which the Court sentenced him,
14 and he has now completed his service for those charges. The
15 State is now alleging that he is a sexually violent predator.
16 The State has the burden of proof in this case and must prove
17 its case beyond a reasonable doubt. If you find that the
18 State has not met this burden, then Mr. Curtis will be
19 released; however, if you find that the State has met its
20 burden of proof and find that Mr. Curtis is a sexually violent
21 predator, then he will not be released but will be committed
22 to a secure treatment facility in Columbia, operated by the
23 Department of Mental Health.

24 The elements which the State must prove beyond a
25 reasonable doubt are that Mr. Curtis has been convicted of a

1 sexually violent offense. Convicted of a sexually violent
2 offense means a person has been found guilty of a sexually
3 violent offense as stated by the laws of this state. Joseph
4 Curtis, Jr., has been convicted of criminal sexual conduct
5 third degree, in addition to kidnapping and incest. This is a
6 sexually violent offense, and the State has met its burden of
7 proof as to the first element.

8 Now, the State must prove beyond a reasonable doubt
9 that Mr. Curtis suffers from a mental abnormality or
10 personality disorder that makes him likely to engage in acts
11 of sexual violence if not confined in a secure facility for
12 long-term control, care, and treatment.

13 Inherent in these two elements is that the State must prove
14 the requirement that Mr. Curtis's mental abnormality or
15 personality disorder causes him serious difficulty in
16 controlling his behavior. In other words, the State must
17 prove beyond a reasonable doubt that the individual it seeks
18 to commit suffers from a mental illness, which he cannot
19 sufficiently control without the structure or care provided by
20 a mental health facility rendering him otherwise likely to
21 commit a dangerous act.

22 In order for you to better understand the elements of the
23 State's cause of action, I'm going to define for you some of
24 the terms which I have just read.

25 "Mental abnormality" means a mental condition affecting a

1 person's emotional capacity that predisposes the person to
2 commit sexually violent offenses. This mental abnormality or
3 personality disorder must cause the person serious difficulty
4 in controlling his behavior.

5 "Likely to engage in acts of sexual violence" means the
6 person's propensity to commit acts of sexual violence is of
7 such a degree as to pose a menace to the health and safety of
8 others so that he is dangerous to others.

9 In most civil cases tried in the Court of Common Pleas,
10 the burden of proof is by the greater weight of the evidence
11 or the preponderance of the evidence; however, in this type of
12 case under the sexually violent predator statute, the State's
13 burden is higher than that. Here, the State has the burden of
14 proof to prove its case beyond a reasonable doubt.

15 Beyond a reasonable doubt is proof that leaves you
16 firmly convinced that the Respondent is a sexually violent
17 predator. There are few things in this world that we know
18 with absolute certainty, and in this case -- and in this type
19 of case, the law does not require proof that overcomes every
20 possible doubt; however, if, based on your consideration of
21 the evidence, you are firmly convinced that Mr. Curtis is not
22 safe to be at large and if released is likely to commit acts
23 of sexual violence, then you must return a verdict for the
24 State and check "yes" on the verdict form.

25 If on the other hand, you believe there's a real

1 possibility that he has changed and not likely to re-offend,
2 then you must give him the benefit of the doubt and find a
3 verdict for Mr. Curtis by checking "no" on the verdict form.

4 Reasonable doubt may arise from the evidence which is
5 in the case or from the lack or absence of evidence in the
6 case. It is up to you to determine whether or not reasonable
7 doubt exists in this case.

8 Ladies and gentlemen, I'm now drawing near the end of
9 my charge, and I want you to clearly understand that you are
10 not partisans or advocates for the State or the Respondent.
11 You do not serve as jurors to reward your friends or punish
12 your enemies. You have been selected by the parties to be
13 fair and impartial jurors. It is your duty by your joint
14 deliberations to decide a verdict in this case. You should
15 apply the law which as given to you by this Court to the facts
16 which you find and arrive at a verdict. When you have
17 accomplished these responsibilities, you'll have satisfied
18 your oath as jurors, and you will have discharged your duty to
19 this Court.

20 Now, Ms. Clerk, if you would hand the foreman the
21 verdict form. Thank you.

22 THE COURT: Mr. Foreman, I have handed you the verdict
23 form. When the jury arrives at a verdict in this case, you'll
24 write your verdict on the form and sign it. Furthermore, I
25 want you to understand that the verdict that you render in

1 this case must be the verdict of each and every juror,
2 including yourself. It must be a unanimous verdict.

3 Ladies and gentlemen, please understand that, even though
4 I have given the verdict form to the foreman, it is not his
5 verdict alone. I emphasize again: It must be a unanimous
6 verdict.

7 At this time, you may return to the jury room, but do not
8 begin your deliberations until you are told to do so.

9 (The jury exited the courtroom at 2:54 p.m.)

10 THE COURT: Any objection to the charge from the State?

11 MS. SHAW: No, sir.

12 THE COURT: Any objection from the Respondent?

13 MS. JOHNSON: No, sir.

14 THE COURT: All right. Take a look at it and make sure
15 it's appropriate.

16 MS. JOHNSON: I have looked at it.

17 THE COURT: Okay. We'll send it on back. Tell them to
18 begin and bring out the alternate.

19 You both did a good job. Y'all worked hard.

20 MS. JOHNSON: Thank you, Your Honor.

21 MS. SHAW: Thanks, Judge.

22 (Pause in the proceedings.)

23 THE COURT: All right. I want to let you know that your
24 duties are complete. Jury is just like a football team; it
25 takes 12 members. If somebody gets hurt or if somebody gets

1 sick, we have to send somebody in off the sidelines; and you
2 were the one on the sidelines. So you have completed your
3 duties. You are good to go, and I hope you have a good
4 weekend. And thank you.

5 ALTERNATE JUROR: Thank you.

6 (A recess was taken while the jury deliberates from
7 2:58 p.m. to 3:51 p.m.)

8 THE COURT: Let's go ahead and bring in the jury.

9 (The jury entered the courtroom at 3:53 p.m.)

10 VERDICT

11 THE COURT: Okay. Your form is in order. You may
12 publish it.

13 THE CLERK: State of South Carolina, County of Horry, in
14 the Court of Common Pleas, 15th Judicial Circuit,
15 Case No. 2021-CP-26-04774, in the Matter of the Care and
16 Treatment of Joseph Curtis, Jr., has the Petitioner, the State
17 of South Carolina, provided beyond a reasonable doubt that
18 Joseph Curtis, Jr., is a sexually violent predator under the
19 South Carolina Sexually Violent Predator Act? We, the jury,
20 unanimously answered the following question as follows: Yes.
21 Signed by Foreperson, Mark Derflinger, February 9th, 2023,
22 Conway, South Carolina.

23 Ladies and gentlemen of the jury, is this your verdict?
24 If so, please signify by raising your right hand.

25 (All jurors raise hands.)

1 THE COURT: Any further polling from the Respondent?
2 Would you like for the polling?

3 MS. JOHNSON: No, sir.

4 THE COURT: All right. Members of the jury, I want to
5 thank you for your service. You've completed your service.
6 You don't have to come back tomorrow. You've earned a little
7 bit of money, but it, by no means, will compensate you for the
8 effort you have put forth. We appreciate that.

9 You have earned a three-year exemption by being here so
10 you don't have to come back in the next three years if you get
11 called back. And sometimes the lawyers would like to talk to
12 you in the hall just to find out what they can do better and
13 how they can improve. If you want to talk to them, stick
14 around in the hall. If you don't, you're free to go.

15 I hope you have a good week. Thank you again.

16 (Jury exits the courtroom at 3:55 p.m.)

17 THE COURT: Got the order of commitment?

18 MS. SHAW: May I approach?

19 THE COURT: Thank you. And would the Respondent like ten
20 days to make motions, or would like to make them now?

21 MS. JOHNSON: Your Honor, we're just going to make a
22 judgment notwithstanding verdict motion.

23 THE COURT: Okay. If you'd like to make it, I'll be glad
24 to hear it.

25 MS. JOHNSON: Oh, did you want a full? Because I'm not

1 prepared to do a full --

2 THE COURT: Okay.

3 MS. JOHNSON: -- one now. I was doing it for the record.

4 But, yes, I can take some time if Your Honor would prefer.

5 THE COURT: Okay. We have ten days to make post-trial
6 motions.

7 MS. JOHNSON: Okay.

8 MS. SHAW: Thank you, Your Honor.

9 THE COURT: And y'all have a good weekend. It was a
10 pleasure working with y'all.

11 MS. JOHNSON: Thank you, Your Honor.

12 MS. SHAW: A pleasure, always.

13 (At 3:56 p.m., the trial concluded.)
14
15
16
17
18
19
20
21
22
23
24
25

380

WITNESSES

J Gambone Myrtle Beach Police Department

ARREST WARRANT NUMBER

M352762

CDR: 0162 16-03-0654

DOA: 9/26/2012

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: FEB 20 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-26- 00501

The State of South Carolina

County of Horry

Martin D. Spratlin

12H04528

COURT OF GENERAL SESSIONS

FEBRUARY, 2014 TERM

THE STATE

VS.

Joseph Curtis Jr
B/ M

Spivey Ave
Myrtle Beach, SC 29577-5637

DOB:

SSN:

ATTORNEY: Chrisco, William Edward

Indictment for

CRIMINAL SEXUAL CONDUCT 3RD DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

(0-10)
180R)

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on February 20, 2014, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT, THIRD DEGREE

CDR: 0162 16-03-0654

That Joseph Curtis Jr did in Horry on or about September 25, 2012, engage in sexual battery with the victim, [REDACTED], using force or coercion, in violation of Section 16-030-0654, S. C. 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

WITNESSES

J Gambone Myrtle Beach Police Department

ARREST WARRANT NUMBER

2012GS2604986

CDR: 0090 16-15-0020

DOA: 9/26/2012

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: *[Signature]*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-26-04986

The State of South Carolina

County of Horry

Alicia Richardson

12H04528

COURT OF GENERAL SESSIONS

December, 2012 TERM

THE STATE

vs.

Joseph Curtis Jr

B/ M

[REDACTED] Spivey Ave
Myrtle Beach, SC 29577-5637

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Chrisco, William Edward

Indictment for

INCEST

ORIGINAL

J. Gregory Hembree, Solicitor

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

(1-10)
(SOR)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on December 13, 2012, the Grand Jurors of Horry County present upon their oath:

INCEST

CDR: 0090 16-15-20

That Joseph Curtis Jr did in Horry County, State of South Carolina, on or about September 25, 2012 willfully and unlawfully commit the crime of Incest by having carnal intercourse with a person within the following degrees of relationship, to wit: [REDACTED], neice (daughter of defendant's ~~brother~~ *sister. (PMB)*), in violation of Section 16-15-20, S. C. Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 J. GREGORY HEMBREE
 FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
 CLERK OF COURT
 HORRY COUNTY, SC

CERTIFIED COPY

WITNESSES

J Gambone Myrtle Beach Police Department

DOCKET NO. 2012-GS-26- 04985

The State of South Carolina

County of Horry

Alicia Richardson

12H04528

COURT OF GENERAL SESSIONS

December, 2012 TERM

ARREST WARRANT NUMBER

M352763

CDR: 0095 16-03-0910

DOA: 9/26/2012

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: *[Signature]*

VERDICT

Foreperson of Petit Jury
Date:

THE STATE

vs.

Joseph Curtis Jr
B/ M[REDACTED] Spivey Ave
Myrtle Beach, SC 29577-5637
DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: Chrisco, William Edward

Indictment for

KIDNAPPING

ORIGINAL

J. Gregory Hembree, Solicitor

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

(0-30)
(V, MS)

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

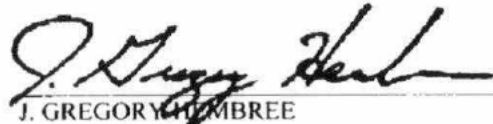
At a Court of General Sessions, convened on December 13, 2012, the Grand Jurors of Horry County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Joseph Curtis Jr did in Horry County on or about September 25, 2012, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one [REDACTED] without authority of law, in violation of Section 16-03-0910, S. C. 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.



J. GREGORY PEMBREE
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

WITNESSES

J Gambone Myrtle Beach Police Department

DOCKET NO. 2012-GS-26-04987

The State of South Carolina
County of Horry

Alicia Richardson

12H04528

COURT OF GENERAL SESSIONS

December, 2012 TERM

ARREST WARRANT NUMBER

2012GS2604987

CDR: 0160 16-03-0652

DOA: 9/26/2012

THE STATE

vs.

Joseph Curtis Jr
B/ MSpivey Ave
Myrtle Beach, SC 29577-5637

DOB:

SSN:

ATTORNEY: Chrisco, William Edward

Indictment for

CRIMINAL SEXUAL CONDUCT, FIRST
DEGREE

ORIGINAL

J. Gregory Hembree, Solicitor

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

NP
11/29/14

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on December 13, 2012, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

CDR: 0160 16-03-0652

That Joseph Curtis Jr did in Horry on or about September 25, 2012, engage in sexual battery with [REDACTED] while the victim was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act, in violation of Section 16-03-0652, S. C. 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.


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

COUNTY OF Horry
STATE VS.
Joseph Curtis Jr

AKA:
Race: BLACK Sex: M Age: 47

DOB: [REDACTED] SS# [REDACTED]

Address: Baypoint Avenue

City, State, Zip: Myrtle Beach, SC 29577

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct - 3rd Degree

INDICTMENT/CASE#: 2014GS2600501

A/W#: M352762

Date of Offense: 9/25/2012

S.C. Code § : 16-03-0654

CDR Code #: 0162

STATE'S NO. 1

DATE: [REDACTED]

Bobbi Fisher, RPR

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0654 of the S.C. Code of Laws, bearing CDR Code # 0162

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

APPEARANCE

Spratlin, Martin D.

SCB77061

SC Bar#

[Signature]
Defendant

[Signature]
Attorney for Defendant

12882
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 Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 667 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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 (Criminal
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: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 36-5-2995 (DUI Assessment)	\$12	\$
§ 36-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

_____ 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 \$ 25.00 beginning 7/25/2014

\$ _____ paid to Public Defender Fund

Other: _____

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2048

Sentence Date: 7/27/2014

COUNTY OF Horry
STATE VS.
Joseph Curtis Jr

AKA: _____
Race: BLACK Sex: M Age: 47
DOB: [REDACTED] SS#: [REDACTED]
Address: Baypoint Avenue
City, State, Zip: Myrtle Beach, SC 29577
DL#: [REDACTED] SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Sex / Incest

INDICTMENT/CASE#: 2012GS2604986A/W#: 2012GS2604986Date of Offense: 9/25/2012S.C. Code §: 16-15-0020CDR Code #: 0090

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-15-0020 of the S.C. Code of Laws, bearing CDR Code # 0090
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ § 17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES: Spratin, Martin D. SCB77061 Joseph Curtis Jr 12886
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2014 GS 26-501 and 2014 GS 26-4985
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

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 \$ 25.00 beginning 7/24/2014

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Natale Dahl

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2048Sentence Date: 7/24/2014

COUNTY OF Horry
 STATE VS.
Joseph Curtis Jr
 AKA:
 Race: BLACK Sex: M Age: 47
 DOB: [REDACTED] SS#: [REDACTED]
 Address: Baypoint Avenue
 City, State, Zip: Myrtle Beach, SC 29577
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2012GS2604985A/W#: M352763Date of Offense: 9/25/2012S.C. Code §: 16-03-0910CDR Code #: 0948

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Kidnapping / Kidnapping, if sentenced for murder☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0948☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Spratlin, Martin D.

SCB77061

SC Bar#

Defendant

Attorney for Defendant

12886
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 Services standard conditions of
 probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 667 days.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.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 (Criminal
 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: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

_____ 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 \$ 25.00 beginning 7/25/2014

\$ _____ paid to Public Defender Fund

Other: _____

Horry County, SC

Appointed PD to appointed other counsel,
 § 14-1-2 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Melanie Huggins Ward

Nadene Dahl

Presiding Judge

Judge Code:

Sentence Date:

7/24/2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	
In the Matter of the Care & Treatment	)	
of Joseph Curtis Jr.,	)	Case No.: 2021-CP-26-4774
<u>Respondent</u>	)	

RESPONDENT'S MOTIONS IN LIMINE

NOTICE IS HEREBY GIVEN that the Respondent, by and through his attorney Kindle K. Johnson, does hereby move the Court in the above-referenced jury trial currently scheduled to commence on the week of February 6, 2023, for an Order:

1. That the Respondent Joseph Curtis, Jr. be referred to as Mr. Curtis at all times.
2. That Mr. Curtis' prior motion to approve costs for an independent evaluator of his choosing be renewed and granted.
3. That a pretrial hearing pursuant to SCRE Rule 104 be permitted in this case, to include testimony of the expert witnesses, in order to determine the admissibility of evidence regarding a Penile Plethysmography administered to Mr. Curtis. In particular, Mr. Curtis seeks to exclude any evidence, testimony or argument regarding the PPG test, including the Real Child Voices and Marshall PPG tests as applicable, because:
 - a. The test fails to meet the threshold reliability requirements for purported scientific evidence; and
 - b. The test violates Mr. Curtis' Fifth Amendment protection against self-incrimination and Fourteenth Amendment Due Process rights.
4. That the State be prohibited from using its expert as a conduit for inadmissible hearsay. While Rules 702 and 703, SCRE, allow an expert to rely on hearsay and explain the bases of her opinion, it does not eliminate the Court's gatekeeping role to ensure that unreliable hearsay or specific details that have not been admitted or verified are transmitted to the jury when doing so would violate Mr. Curtis's Fourteenth Amendment Due Process rights. Moreover, such evidence should be excluded because it is relied upon as truth, indicating to a jury that the expert believes the allegations are credible, truthful and reliable, despite the fact that the statements are not personally known and have not been subject to cross examination.
5. That any testimony concerning Mr. Curtis' ability to petition annually for release from a Sexually Violent Predator secure treatment facility be excluded on the grounds that such testimony is both speculative and irrelevant to the legal issues in this proceeding, and that any minimal probative value of such testimony would be substantially outweighed by the risk of unfair prejudice, confusion of the issues, and misleading the jury.
6. That any testimony concerning Mr. Curtis' likelihood of seeking sexually violent treatment on his own, outside a secure treatment facility, be excluded on the grounds that such testimony is

both speculative and irrelevant to the legal issues in this proceeding, and that any minimal probative value of such testimony would be substantially outweighed by the risk of unfair prejudice, confusion of the issues, and misleading the jury.

7. That any testimony or argument concerning the purported underreporting of sex offenses offered to suggest that the Mr. Curtis' risk to reoffend is actually higher than the actuarial analysis suggests be excluded on the grounds that such testimony is both speculative and irrelevant to the legal issues in this proceeding, and that any minimal probative value of such testimony would be substantially outweighed by the risk of unfair prejudice, confusion of the issues, and misleading the jury.
8. That any testimony or argument concerning Mr. Curtis' prior arrests or charges be excluded where the charges were nolle prossed, dismissed or did not otherwise lead to a conviction.
9. That any testimony or argument concerning Mr. Curtis' prior arrests or charges be excluded where the disposition of the case is unknown, or where an arrest warrant or indictment is unavailable or has not previously been provided.
10. That any testimony or argument concerning Mr. Curtis' lack of care or involvement with his minor children be excluded as irrelevant, misleading and unfairly prejudicial.
11. That any testimony or argument concerning crimes alleged to have been committed by Mr. Curtis be excluded if the allegations did not lead to arrest or conviction.
12. That Mr. Curtis be permitted to wear civilian clothes during the course of the trial.
13. That Mr. Curtis be permitted to remain seated at counsel table without handcuffs and/or shackles while in the presence of the jury.

RESPECTFULLY SUBMITTED BY

 Kindle Johnson, Attorney for the Respondent
 K. JOHNSON LAW FIRM, LLC
 223 E. Main St., Suite 500
 Rock Hill, SC 29730
 (803) 329-1900
kjohnson@kjohnsonlawfirm.com

January 26, 2023
 Rock Hill, South Carolina

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the above Motions was delivered via electronic mail and United States mail to Suzanne J. Shaw, Assistant Attorney General, SC Attorney General's Office, P.O. Box 11549, Columbia, SC 29211, SuzanneShaw@scag.gov, on this 26 January 2023.

 Kindle Johnson
 Attorney for the Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 IN THE MATTER OF THE)
 CARE AND TREATMENT OF;)
)
JOSEPH CURTIS, JR.,)
)
RESPONDENT.)

IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 CASE #: 2021-CP-26-04774

ORDER OF COMMITMENT

RENEE N. ELYS,
 CLERK OF COURT
 HORRY COUNTY, SC

2023 FEB -9 P 11:10
 HORRY COUNTY

The trial of this case was held in the Horry County Court of Common Pleas the week of February 6, 2023. A jury of citizens from Horry County heard this case pursuant to a request for a jury trial filed by the State. Suzanne J. Shaw from the Attorney General's Office represented the State and Kindle K Johnson, Esquire, represented the Respondent. The jury having heard the presentation of the evidence made the following findings of fact pursuant to S. C. Code Ann. §§ 44-48-90 and 44-48-100:

The State has proven beyond a reasonable doubt that Respondent, Joseph Curtis, Jr. is a sexually violent predator as that term is defined in S. C. Code Ann. Section 44-48-30.

NOW, THEREFORE, IT IS ORDERED THAT:

(a) Respondent, Joseph Curtis, Jr. is committed to the South Carolina Department of Mental Health for his long-term control, care and treatment;

(b) Respondent, Joseph Curtis, Jr., is to continue to be detained at the Horry County Detention Center, and then transported to the secure facility of the Department of Mental Health. The Detention Center or the Sheriff's Department is to transport Respondent on such scheduled date as is coordinated with the Department of Mental Health.

AND IT IS SO ORDERED.


 WILLIAM H. SEALS, JR.
 Presiding Judge
 Fifteenth Judicial Circuit
 Court of Common Pleas

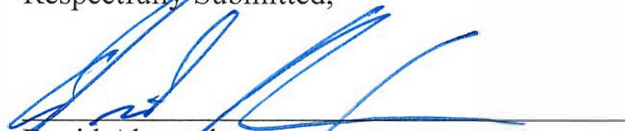
February 7, 2023
 Conway, South Carolina

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**Jul 12 2024****SC Court of Appeals**

Respectfully Submitted,


David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of July, 2024.

RECEIVED

Jul 12 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable William H. Seals, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF JOSEPH CURTIS, JR.

APPELLANT

APPELLATE CASE NO. 2023-000285

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Deborah R.J. Shupe, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of July, 2024.



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

From: [Pollard, Shelby](#)
To: dshupe@scag.gov; [Grace Sommer](#)
Cc: [Alexander, David](#)
Subject: 2023-000285 In the Matter of Joseph Curtis, Jr. - Record on Appeal
Date: Friday, July 12, 2024 3:21:00 PM
Attachments: [Record on Appeal - In the Matter of Joseph Curtis, Jr. - 2023-000285.pdf](#)

Good Afternoon,

Attached for service in the above-referenced case is the Record on Appeal. This will be filed today, July 12, 2024, with the Court of Appeals via email filing.

Thank you,
Shelby

Shelby Pollard

Administrative Assistant
South Carolina Commission on Indigent Defense
Appellate Division
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29201-1589
(803) 734-1330 – Telephone
(803) 734-1397 - Fax